STATUTES OF CALIFORNIA

1977–78

REGULAR SESSION

1978 CHAPTERS

CHAPTER 1

An act to add and repeal Chapter 7 (commencing with Section 41260) and Chapter 7 (commencing with Section 50680) of Part 2 of Division 31 of the Health and Safety Code, to amend Sections 40031, 40032, 40033 and 40034 of, and to add Section 40034.5 to, the Revenue and Taxation Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 23, 1978. Filed with Secretary of State January 23, 1978]

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

SECTION 1. Chapter 7 (commencing with Section 41260) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 7. SOLAR ENERGY DEMONSTRATION LOAN PROGRAM

41260. The department shall conduct a demonstration program of loans, as provided in this chapter, to finance residential installations designed to collect and convert solar energy for provision of domestic hot water or space heating, or both. Eligibility for participation in such loan program shall be limited to owners of dwellings (1) damaged or destroyed by a disaster for which a state of emergency has been proclaimed by the Governor on or after July 1, 1977, pursuant to Article 13 (commencing with Section 8625) of Chapter 7 of Division 1 of Title 1 of the Government Code and (2) located within the area designated in the Governor's proclamation. Solar energy collection and conversion equipment financed pursuant to this chapter shall be installed in conjunction with repair of such damage or replacement of the dwelling on the same site.

41261. (a) Not later than 30 days following the effective date of this chapter, the State Energy Resources Conservation and Development Commission shall adopt criteria for installations to be financed hereunder. Only installations of a type approved by the commission shall be eligible for financing.

(b) Loans made pursuant to this chapter shall not exceed two thousand dollars ($2,000) per dwelling and, except as provided in subdivision (c), shall be repaid in 18 monthly installments commencing 12 months from the date of disbursement of the loan funds. As a condition to making such a loan, the department, if requested by the State Energy Resources Conservation and Development Commission, shall require borrowers to report monthly consumption of energy from conventional energy sources.

(c) As a condition to making a loan pursuant to this chapter, the department may require that any tax credit paid under the laws of this state to a borrower, by reason of the borrower's installation of

solar space or water-heating equipment financed under this chapter, be transmitted or assigned to the department for the purpose of reducing the balance of such loan. The repayment schedule shall be correspondingly shortened in duration to compensate for such a reduction in the loan balance.

(d) The department shall adopt procedures to be followed in the event of default with respect to loans made pursuant to this chapter. Upon default of any obligation under a loan contract executed pursuant to this chapter, the department shall record a certificate of default with the county recorder of the county in which is situated the real property improved with the proceeds of the defaulted loan. The certificate of default shall specify the defaulting party, the legal description of the real property improved with the proceeds of such loan, the principal balance and any portion of the loan origination fee remaining due with respect to such loan, and a declaration that the department has complied with all applicable laws with regard to the enforcement of such obligation. Upon recordation of the certificate of default, such obligation shall constitute a lien upon real property of the borrower improved with the proceeds of the loan, as well as a personal obligation of the borrower. Repeal of this chapter shall not extinguish the loan obligation and shall not impair the lien specified in this subdivision or the authority of the department to pursue appropriate action for collection.

(e) Priority in the allocation of loan funds shall be based exclusively upon the time of submission of loan applications, with the earliest receiving highest priority.

41262. Loans made pursuant to this chapter shall bear no interest. However, the department shall require the borrower to pay a loan origination fee to defray the cost of making and servicing the loan. The loan origination fee shall not exceed 2 percent of the loan amount and may, in the discretion of the department, be deducted from the proceeds of the loan or added to the principal amount of the loan for amortization during the term of the loan.

41263. There is established in the State Treasury a Solar-Energy Revolving Loan Fund. All money in the fund is hereby continuously appropriated to the department for making loans pursuant to this chapter and for defraying the department's costs in administering the loan program. However, except for initial operating expenses authorized by Section 7 of the act enacting this chapter, only such amounts as are received by the department as loan origination fees may be expended for administrative expenses of the department.

All moneys received by the department in repayment of loans made pursuant to this chapter, including loan origination fees paid to the department on account of such loans, shall be deposited in the Solar-Energy Revolving Loan Fund.

41264. The department shall adopt rules and regulations for the implementation of the provisions of this chapter.

41265. This chapter shall remain in effect only until December 31, 1980, and as of such date is repealed, unless a later enacted statute,

which is chaptered on or before December 31, 1980, deletes or extends such date.

SEC. 1.5. Chapter 7 (commencing with Section 50680) is added to Part 2 of Division 31 of the Health and Safety Code, as added by Chapter 610 of the Statutes of 1977, to read:

CHAPTER 7. SOLAR ENERGY DEMONSTRATION LOAN PROGRAM

50680. The department shall conduct a demonstration program of loans, as provided in this chapter, to finance residential installations designed to collect and convert solar energy for provision of domestic hot water or space heating, or both. Eligibility for participation in such loan program shall be limited to owners of dwellings (1) damaged or destroyed by a disaster for which a state of emergency has been proclaimed by the Governor on or after July 1, 1977, pursuant to Article 13 (commencing with Section 8625) of Chapter 7 of Division 1 of Title 1 of the Government Code and (2) located within the area designated in the Governor's proclamation. Solar energy collection and conversion equipment financed pursuant to this chapter shall be installed in conjunction with repair of such damage or replacement of the dwelling on the same site.

50681. (a) The State Energy Resources Conservation and Development Commission shall adopt criteria for installations to be financed hereunder. Only installations of a type approved by the commission shall be eligible for financing.

(b) Loans made pursuant to this chapter shall not exceed two thousand dollars ($2,000) per dwelling and, except as provided in subdivision (c), shall be repaid in 18 monthly installments commencing 12 months from the date of disbursement of the loan funds. As a condition to making such a loan, the department, if requested by the State Energy Resources Conservation and Development Commission, shall require borrowers to report monthly consumption of energy from conventional energy sources.

(c) As a condition to making a loan pursuant to this chapter, the department may require that any tax credit paid under the laws of this state to a borrower, by reason of the borrower's installation of solar space or water-heating equipment financed under this chapter, be transmitted or assigned to the department for the purpose of reducing the balance of such loan. The repayment schedule shall be correspondingly shortened in duration to compensate for such a reduction in the loan balance.

(d) The department shall adopt procedures to be followed in the event of default with respect to loans made pursuant to this chapter. Upon default of any obligation under a loan contract executed pursuant to this chapter, the department shall record a certificate of default with the county recorder of the county in which is situated the real property improved with the proceeds of the defaulted loan. The certificate of default shall specify the defaulting party, the legal description of the real property improved with the proceeds of such

loan, the principal balance and any portion of the loan origination fee remaining due with respect to such loan, and a declaration that the department has complied with all applicable laws with regard to the enforcement of such obligation. Upon recordation of the certificate of default, such obligation shall constitute a lien upon real property of the borrower improved with the proceeds of the loan, as well as a personal obligation of the borrower. Repeal of this chapter shall not extinguish the loan obligation and shall not impair the lien specified in this subdivision or the authority of the department to pursue appropriate action for collection.

(e) Priority in the allocation of loan funds shall be based exclusively upon the time of submission of loan applications, with the earliest receiving highest priority.

50682. Loans made pursuant to this chapter shall bear no interest. However, the department shall require the borrower to pay a loan origination fee to defray the cost of making and servicing the loan. The loan origination fee shall not exceed 3 percent of the loan amount and may, in the discretion of the department, be deducted from the proceeds of the loan or added to the principal amount of the loan for amortization during the term of the loan.

50683. There is continued in existence in the State Treasury a Solar-Energy Revolving Loan Fund. All money in the fund is hereby continuously appropriated to the department for making loans pursuant to this chapter and for defraying the department's costs in administering the loan program. However, except for initial operating expenses authorized by Section 7 of the act enacting this chapter, only such amounts as are received by the department as loan origination fees may be expended for administrative expenses of the department.

All moneys received by the department in repayment of loans made pursuant to this chapter, including loan origination fees paid to the department on account of such loans, shall be deposited in the Solar-Energy Revolving Loan Fund. Upon repeal of this chapter the fund shall be dissolved and all moneys in the fund transferred to the General Fund in the State Treasury. Any moneys thereafter received by the department in repayment of loans made pursuant to this chapter shall be deposited in the General Fund.

50684. The department shall adopt rules and regulations for the implementation of the provisions of this chapter.

50685. This chapter shall remain in effect only until December 31, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered on or before December 31, 1980, deletes or extends such date.

SEC. 2. Section 40031 of the Revenue and Taxation Code is amended to read:

40031. Following submission of the Governor's budget each year by the Governor, the board shall determine, on the basis of expenditures authorized in the budget to be made from the State Energy Resources Conservation and Development Special Account

in the General Fund, the unappropriated balance in that account, and its estimate of kilowatt-hours to which the surcharge will apply, a surcharge rate that it estimates will produce sufficient revenues to fund the expenditures authorized.

SEC. 3. Section 40032 of the Revenue and Taxation Code is amended to read:

40032. The board shall make its determination of such surcharge rate each year no later than February 1st and shall fix the new rate which shall be effective as provided in Section 40034. The rate shall be fixed within the limits of the following schedule.

Schedule

Zero to two-tenths of a mill ($0.0002) graduated in hundredths of a mill increments.

A rate fixed by the board shall continue for successive periods unless changed.

SEC. 4. Section 40033 of the Revenue and Taxation Code is amended to read:

40033. Immediately upon making its determination and fixing the surcharge rate the board shall each year no later than February 1st publish in its minutes the new rate, and it shall notify by mail every electric utility registered with it of the new rate.

SEC. 5. Section 40034 of the Revenue and Taxation Code is amended to read:

40034. The new rate fixed by the board pursuant to Section 40032 shall apply with respect to billing periods beginning on or after March 1 of the year in which the new rate is fixed.

SEC. 6. Section 40034.5 is added to the Revenue and Taxation Code, to read:

40034.5. After enactment of the Budget Act, the board shall review the existing surcharge rate and, upon formal recommendation of the Department of Finance, adjust it if necessary to produce sufficient revenue for expenditures authorized. In the event of an adjusted rate and in the manner provided in Sections 40031, 40032 and 40033, the adjusted rate shall be determined and published no later than August 1st and shall apply with respect to billing periods beginning on or after September 1st.

SEC. 7. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund for transfer to the Solar-Energy Revolving Loan Fund. Not more than twenty thousand dollars ($20,000) of such amount may be used for the initial expenses of the Department of Housing and Community Development in administering Chapter 7 (commencing with Section 41260) and Chapter 7 (commencing with Section 50680) of Part 2 of Division 31 of the Health and Safety Code; provided, that loan origination fees, as authorized by such provisions, shall be utilized to defray further administrative costs thereunder.

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 to provide the State Board of Equalization with sufficient time to prepare to perform the duties which are imposed upon it by this act, it is necessary that the provisions of this act relating to the board take effect immediately.

Also, incorporation of solar energy technology in building practices, as such technology develops, is a promising and vital element in assuring California an adequate supply of energy in the future. The disastrous Santa Barbara fire of July 26, 1977, presents a unique opportunity for installing and demonstrating solar space and water heating, as dwellings are rebuilt, on a scale which can provide significant data relative to the potential of such technology for reducing consumption of energy from conventional sources. However, in order to permit installation of solar equipment during such reconstruction, it is necessary that the provisions of this act relating to loans for solar space and water heating take effect immediately.

CHAPTER 2

An act to amend Section 19621 of, and to add Section 19621.1 to, the Business and Professions Code, to amend Sections 1330 and 1500 of, to add Sections 2507.5, 42241.7, 43001.8, and 85133.1 to, and to repeal Sections 45208 and 88208 of, the Education Code, to amend Section 14310 of the Public Resources Code, and to amend Sections 135, 139, 142.5, 603.5, 610, 622, 629, 639, 677, 702, 704, 705, 707, 710.4, 712, 802, 803, 803.2, 821, 822, 823, 826, 828, 829, 830, 832, 936, 993, 1025, 1029, 1177.5, and 1253.3 of, to amend, add and repeal Sections 605.5, 634.5, 1027, 1585, and 2606 of, to add Sections 682, 711, 713, 804, 821.4, 1032.7, 1264, and 2060 to, to add Article 7 (commencing with Section 841) to Chapter 3 of Part 1 of Division 1 of, to repeal and add Sections 605, 709, 710, 841, 1253.4, 1326.5 and 1326.6 of, to repeal Sections 135.1, 135.3, 135.4, 135.5, 135.6, 135.7, 135.8, 605.1, 605.2, 633, 633.1, 633.2, 633.3, 633.4, 642.5, 710.1, 710.2, 710.3, 710.5, 711.1, 827, 1264.2, 2606.1, 2606.2, and 2606.3, and to repeal Chapter 5.4 (commencing with Section 1441), Chapter 5.5 (commencing with Section 1451), Chapter 5.6 (commencing with Section 1461) and Chapter 5.7 (commencing with Section 1471), of Part 1 of Division 1 of, the Unemployment Insurance Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor January 30, 1978. Filed with Secretary of State January 30, 1978.]

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

SECTION 1. Section 19621 of the Business and Professions Code is amended to read:

19621. The Legislature will appropriate annually out of the fund such sums as it deems necessary for the following purposes:

(a) For the support of the board, including any costs and expenses incurred by the Attorney General in the enforcement of this chapter as shall be authorized by the board.

(b) To the Department of Food and Agriculture for the supervision of all fairs, including citrus fruit fairs, and district agricultural associations receiving money from the fund.

(c) To the Department of Food and Agriculture for the contributions, or the cost of benefits in lieu of contributions, payable to the Unemployment Fund by all fairs receiving funds pursuant to this article, as a result of unemployment insurance coverage pursuant to Section 605 of the Unemployment Insurance Code.

(d) To the Department of Finance for the auditing of all fairs, including citrus fruit fairs, and district agricultural associations receiving money from the fund.

SEC. 2. Section 19621.1 is added to the Business and Professions Code, to read:

19621.1. The Director of Food and Agriculture shall prepare and submit to the Department of Finance an estimate of the contributions, or the cost of benefits in lieu of contributions, that are payable to the Unemployment Fund by all fairs receiving funds pursuant to this article. The Director of Finance shall include such estimates in the Budget Bill submitted to the Legislature.

SEC. 3. Section 1330 of the Education Code is amended to read:

1330. (a) The Superintendent of Public Instruction or the Chancellor of the California Community Colleges, as appropriate, shall represent, and exercise all rights of appeal to the Unemployment Insurance Appeals Board under this part on behalf of school employers held under Section 1336 of the Unemployment Insurance Code.

(b) The Superintendent of Public Instruction or Chancellor of the California Community Colleges is hereby authorized to obtain pertinent personnel records and data from any school employer and to act as an agent individually or collectively for school employers in matters pertaining to unemployment insurance.

(c) Each county superintendent of schools, shall have the responsibility of establishing, coordinating, and maintaining, either directly or by contract, an unemployment insurance management system for each school employer participating in the School Employees Fund under Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code. A management system shall include general administration, claims management, appointment of hearing representatives, representation of school employers at hearings, and other duties related to the unemployment insurance program in their jurisdiction. These duties and responsibilities may be delegated to

any school district, community college district, another county superintendent of schools, or any combination of these entities, including programs under joint powers agreements for the purpose of consolidation for economy and employment of specialists, including the services of a regional data center operated by a county superintendent of schools or the data-processing services of a school district or a community college district. School employers not participating in the School Employees Fund shall be responsible for the development and maintenance of their own unemployment insurance management system required by this subdivision.

(d) Each school employer shall perform pursuant to the type of financing elected, and shall respond to the Superintendent of Public Instruction or Chancellor of the California Community Colleges and the county superintendent of schools or designated agency as soon as possible, in no case later than 48 hours, to inquiries made on behalf of such county superintendent or the Superintendent of Public Instruction or Chancellor of the California Community Colleges in reference to any aspect of eligibility, notice of claim or appeal under the unemployment insurance program. Each county superintendent or agent thereof who is responsible for administering the unemployment insurance program shall be responsible for timely responses to any inquiry by the administrator, Superintendent of Public Instruction, State Treasurer, State Controller, or other officer or person responsible for disbursements from the School Employees Fund in the State Treasury as established by Section 822 of the Unemployment Insurance Code, or the Unemployment Fund in the State Treasury. Any school employer which fails to pay the contributions, interest, charges or levies within the time required shall be liable for interest on moneys due at the rate of 1 percent per month or fraction thereof from and after the date of delinquency until paid. If the school employer fails, without good cause, to pay any sums required within the time required a penalty of 10 percent of the amount noticed, billed or required shall be made by the administrator. The administrator may for good cause waive all or a portion of interest and penalty.

(e) The administrator of the School Employees Fund shall, from available interest earnings, pursuant to investments authorized by Section 822 of the Unemployment Insurance Code, transfer each year an amount equal to two dollars ($2) per covered employee for all districts participating in the School Employees Fund under Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code, to the State Superintendent of Public Instruction or the Chancellor of the California Community Colleges, as appropriate. The State Superintendent of Public Instruction or the Chancellor of the California Community Colleges, as appropriate, shall apportion the two dollars ($2) per covered employee amount, less actual state administrative costs not to exceed five cents ($0.05) per covered employee, to the County Superintendent of Schools to cover costs of

administering the unemployment insurance management system specified in subdivision (c).

(f) For the fiscal year 1977–78, such transfer shall be made by the administrator of the School Employees Fund by April 30, 1978, as the result of a report received from the Superintendent of Public Instruction or Chancellor of the California Community Colleges by March 31, 1978. Such report shall be compiled from the number of covered employees as reported by the county superintendent of schools or community colleges, as appropriate, to the State Superintendent of Public Instruction or the Chancellor of the California Community Colleges by March 1, 1978, based on the number of covered employees employed in the preceding calendar month. Such funds shall be apportioned by the Superintendent of Public Instruction and the Chancellor of the California Community Colleges prior to May 31, 1978, to the county superintendent of schools, less the actual administrative costs of the State Superintendent of Public Instruction or the Chancellor of the California Community Colleges, which shall not exceed an aggregate amount of five cents ($0.05) per covered employee. Funds for the cost of administering the Unemployment Insurance Management System shall be apportioned to each county superintendent of schools according to the number of covered employees in each district reported by him or her, and shall be used only for the purpose of covering actual administrative costs incurred pursuant to Section 1330.

(g) For the fiscal year 1978–79, and each fiscal year thereafter, the administrator of the School Employees Fund shall transfer such funds by December 31 of each year based on the reports received from the Superintendent of Public Instruction or Chancellor of the California Community Colleges by November 30 of each year. Such reports shall be compiled from the number of covered employees as reported by the county superintendent of schools or community colleges, as appropriate, to the State Superintendent of Public Instruction or the Chancellor of the California Community Colleges by November 1 of each year, based on the covered employees employed in the preceding calendar month. Such funds shall be apportioned by the Superintendent of Public Instruction and the Chancellor of the California Community Colleges prior to January 31 of each year to the county superintendent of schools, less the actual administrative costs of the State Superintendent of Public Instruction or the Chancellor of the California Community Colleges, which shall not exceed an aggregate amount of five cents ($0.05) per covered employee. Funds for the cost of administering the Unemployment Insurance Management System shall be apportioned to each county superintendent of schools according to the number of covered employees in each district reported by him or her, and shall be used only for the purpose of covering actual administrative costs incurred pursuant to Section 1330.

(h) If in any fiscal year the available interest earnings are

inadequate to meet the two dollars ($2) per covered employee transfer, the county superintendent of schools may authorize and require all districts participating in the School Employees Fund under Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code, to utilize the provisions of Section 2507.5, 42241.7, 43001.5, or 85133.1 of the Education Code, as appropriate, in the following fiscal year to pay the difference between the actual apportionment to the county superintendent of schools and the two dollars ($2) per covered employee amount as provided in this subdivision.

SEC. 4. Section 1500 of the Education Code is amended to read:

1500. All expenses shall be paid out of the County School Service Fund necessary for the county board of education and the county superintendent of schools to perform the duties, render the services and comply with the provisions of Sections 1250, 1252, 1270, 1297, 1299, 1330, 1601, 1602, 1702, 1925, 5050, 41020, 41360, 42621, 42622, 45035, 45056, 56072, 56720, 60601, 60602, 60605, 84040, 85221, 85222, 78842, 87809, and 87829, and with the provisions of Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code.

The provisions of this section shall not be construed to prohibit support from the county general fund from being provided for duties and services performed pursuant to the sections and part enumerated above.

SEC. 5. Section 2507.5 is added to the Education Code, to read:

2507.5. (a) For the 1978–79 fiscal year, and each fiscal year thereafter, the maximum tax rate for any county superintendent of schools authorized pursuant to Sections 2500 and 2506, and the revenue limit and maximum tax rate authorized pursuant to Section 2502, may be increased by amounts sufficient to provide additional revenue equal to the expenditures estimated to be incurred by the county superintendent of schools in the budget year in complying with the following provisions of the Unemployment Insurance Code: Sections 605 and 803, Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1, and Article 3 (commencing with Section 976) of Chapter 4 of Part 1 of Division 1, less the actual expenditures incurred by the county superintendent of schools in the 1975–76 fiscal year in complying with Section 605.2, and Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

(b) The increase in maximum tax rate and revenue limit provided in subdivision (a) shall be adjusted annually, including plus or minus adjustments for under- or over-estimating expenditures used in determining the increase in maximum tax rate and revenue limit provided by subdivision (a) in the previous fiscal year.

SEC. 6. Section 42241.7 is added to the Education Code, to read:

42241.7. (a) For the 1978–79 fiscal year, and each fiscal year thereafter, the revenue limit of any elementary, high, or unified school district authorized pursuant to Section 42238 may be

increased by an amount sufficient to provide additional revenue equal to the expenditures estimated to be incurred by the district in the budget year in complying with the following provisions of the Unemployment Insurance Code: Sections 605 and 803, Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1, or Article 3 (commencing with Section 976) of Chapter 4 of Part 1 of Division 1, less the actual expenditures incurred by the district in the 1975–76 fiscal year in complying with the following provisions of the Unemployment Insurance Code: Section 605.2 and Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1.

(b) If, at the end of any fiscal year, the actual expenditures of the district specified in subdivision (a) are less than the revenue derived from the increase in revenue limit provided in subdivision (a) for that fiscal year, the difference shall be used in the following fiscal year exclusively for expenditures required pursuant to the Unemployment Insurance Code provisions specified in subdivision (a).

(c) If, at the end of any fiscal year, the actual expenditures of the district specified in subdivision (a) exceed the revenue derived from the increase in revenue limit provided in subdivision (a) for that fiscal year, the difference may be added to the increase in revenue limit, authorized pursuant to this section, in the following fiscal year.

SEC. 7. Section 43001.8 is added to the Education Code, to read:

43001.8. (a) For the 1978–79 fiscal year, and each fiscal year thereafter, the revenue limit per adult foundation program unit of average daily attendance for any high or unified school district, authorized pursuant to Section 43001, may be increased by an amount sufficient to provide additional revenue equal to the expenditures estimated to be incurred by the district in the budget year in complying with the following provisions of the Unemployment Insurance Code: Sections 605 and 803, Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1, or Article 3 (commencing with Section 976) of Chapter 4 of Part 1 of Division 1, less the actual expenditures incurred by the district in the 1975–76 fiscal year in complying with the following section and article of the Unemployment Insurance Code: Section 605.2 and Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1.

(b) The increase in revenue limit provided in subdivision (a) shall be adjusted annually, including plus or minus adjustments for under- or over-estimating expenditures used in determining the increase in revenue limit provided by subdivision (a) in the previous fiscal year.

SEC. 8. Section 45208 of the Education Code is repealed.

SEC. 9. Section 85133.1 is added to the Education Code, to read:

85133.1. (a) For the 1978–79 fiscal year, and each fiscal year thereafter, a district tax may be levied and collected annually pursuant to this section by each community college district at the same time and in the same manner as other district taxes are levied and collected. The tax shall be in addition to any other district tax,

now or hereafter authorized by law, and shall not be considered in fixing the maximum general purpose tax rate specified in Section 85132 or 85133. The tax rate provided by this section shall not exceed five cents ($0.05) per each one hundred dollars ($100) of the assessed value of property within the district.

Revenue from such tax is for the purpose of providing funds equal to the expenditures estimated to be incurred by the district in the budget year in complying with the following provisions of the Unemployment Insurance Code: Sections 605 and 803, Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 or Article 3 (commencing with Section 976) of Chapter 4 of Part 1 of Division 1, less the actual expenditures incurred by the district in the 1975–76 fiscal year in complying with the following provisions of the Unemployment Insurance Code: Section 605.2 and Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1.

(b) Such tax shall be adjusted annually, including plus or minus adjustments for under- or over-estimating expenditures used in determining the tax in the preceding fiscal year.

SEC. 10. Section 88208 of the Education Code is repealed.

SEC. 11. Section 14310 of the Public Resources Code is amended to read:

14310. Notwithstanding any other provision of law, corps participants, other than staff officers and employees, shall not receive state retirement benefits.

SEC. 12. Section 135 of the Unemployment Insurance Code is amended to read:

135. (a) "Employing unit" means any individual or type of organization which has in its employ one or more individuals performing services for it within this state, and includes but is not limited to, the following individuals and organizations:

(1) Any individual or type of organization or public entity which elects coverage pursuant to any provision of this division.

(2) Any joint venture, partnership, association, trust, estate, joint stock company, insurance company, corporation whether domestic or foreign, community chest, fund, or foundation.

(3) Any public entity. As used in this section, "public entity" means the State of California (including the Trustees of the California State University and Colleges), any other state, any instrumentality of this state (including the Regents of the University of California), any political subdivision of this state or any of its instrumentalities, a county, city, district (including the governing board of any school district or community college district, any county board of education, any county superintendent of schools, or any personnel commission of a school district or community college district which has a merit system pursuant to any provision of the Education Code), public authority, public agency, any other political subdivision or public corporation of any state, any instrumentality of more than one of the foregoing, and any instrumentality of any of the foregoing and one or more other states or political subdivisions.

(4) Any instrumentality of the United States required to make payments under this division.

(5) The receiver, trustee in bankruptcy, trustee or successor thereof, and the legal representative of a deceased person.

(b) All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this division.

SEC. 13. Section 135.1 of the Unemployment Insurance Code is repealed.

SEC. 14. Section 135.3 of the Unemployment Insurance Code is repealed.

SEC. 15. Section 135.4 of the Unemployment Insurance Code is repealed.

SEC. 16. Section 135.5 of the Unemployment Insurance Code is repealed.

SEC. 17. Section 135.6 of the Unemployment Insurance Code is repealed.

SEC. 18. Section 135.7 of the Unemployment Insurance Code is repealed.

SEC. 19. Section 135.8 of the Unemployment Insurance Code is repealed.

SEC. 20. Section 139 of the Unemployment Insurance Code is amended to read:

139. "State" includes the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia, as well as each of the states of the United States.

SEC. 21. Section 142.5 of the Unemployment Insurance Code is amended to read:

142.5. "United States" includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. An individual who is a citizen of the Commonwealth of Puerto Rico or the Virgin Islands (but not otherwise a citizen of the United States) shall be considered as a citizen of the United States.

SEC. 22. Section 603.5 of the Unemployment Insurance Code is amended to read:

603.5. "Employment" includes an individual's entire service, wherever performed within the United States or Canada, if such service is not covered under the unemployment compensation law of any other state or Canada, and the place from which the service is directed or controlled is in this state.

SEC. 23. Section 605 of the Unemployment Insurance Code is repealed.

SEC. 24. Section 605 is added to the Unemployment Insurance Code, to read:

605. (a) Except as provided by Section 634.5, "employment" for the purposes of this part and Parts 3 (commencing with Section 3501) and 4 (commencing with Section 4001) of this division includes all service performed by an individual (including blind and

otherwise handicapped individuals) for any public entity, if such service is excluded from "employment" under the Federal Unemployment Tax Act solely by reason of paragraph (7) of Section 3306(c) of that act.

(b) As used in this section, "public entity" means the State of California (including the Trustees of the California State University and Colleges, and the California Industries for the Blind), any other state, any instrumentality of this state (including the Regents of the University of California), any political subdivision of this state or any of its instrumentalities, a county, city, district (including the governing board of any school district or community college district, any county board of education, any county superintendent of schools, or any personnel commission of a school district or community college district which has a merit system pursuant to any provision of the Education Code), public authority, public agency, any other political subdivision or public corporation of any state, any instrumentality of more than one of the foregoing, and any instrumentality of any of the foregoing and one or more other states or political subdivisions.

SEC. 25. Section 605.1 of the Unemployment Insurance Code is repealed.

SEC. 26. Section 605.2 of the Unemployment Insurance Code is repealed.

SEC. 27. Section 605.5 of the Unemployment Insurance Code is amended to read:

605.5. (a) For the purposes of this division, the Department of Rehabilitation shall be considered the employer of blind individuals and otherwise handicapped individuals, who do not hold civil service or permanent tenure positions, in connection with their employment by the State of California for work in the California Industries for the Blind.

(b) The employer and worker contributions, penalties and interest required of the state for services performed under this section shall be paid from the California Industries for the Blind Manufacturing Fund. The State Controller shall determine quarterly the amount of employer and withheld worker contributions, penalties and interest required and shall issue a warrant for such amount which shall be transmitted to the Director of Benefit Payments by the Department of Rehabilitation pursuant to this division.

(c) The Director of Benefit Payments may require from the State Controller and the Department of Rehabilitation such employment, financial, statistical or other information and reports as may be deemed necessary by the director to carry out his or her duties under this section. Such information and reports shall be filed with the director at the time and in the manner prescribed by the director.

(d) The Director of Benefit Payments may tabulate and publish information obtained pursuant to this section in statistical form and may divulge the name of the state agency.

(e) The State Controller and the Department of Rehabilitation

shall keep such work records as may be prescribed by the Director of Benefit Payments for the proper administration of this section.

(f) Except as inconsistent with the provisions of this section, the provisions of this division and authorized regulations shall apply.

This section shall remain in effect only until July 1, 1978, and as of that date is repealed.

SEC. 27.5. Section 605.5 is added to the Unemployment Insurance Code, to read:

605.5. (a) For the purposes of this division, the Department of Rehabilitation shall be considered the employer of blind individuals and otherwise handicapped individuals, who do not hold civil service or permanent tenure positions, in connection with their employment by the State of California for work in the California Industries for the Blind.

(b) The employer and worker contributions, penalties and interest required of the state for services performed under this section shall be paid from the California Industries for the Blind Manufacturing Fund. The State Controller shall determine quarterly the amount of employer and withheld worker contributions, penalties and interest required and shall issue a warrant for such amount which shall be transmitted to the director by the Department of Rehabilitation pursuant to this division.

(c) The director may require from the State Controller and the Department of Rehabilitation such employment, financial, statistical or other information and reports as may be deemed necessary by the director to carry out his or her duties under this section. Such information and reports shall be filed with the director at the time and in the manner prescribed by the director.

(d) The director may tabulate and publish information obtained pursuant to this section in statistical form and may divulge the name of the state agency.

(e) The State Controller and the Department of Rehabilitation shall keep such work records as may be prescribed by the director for the proper administration of this section.

(f) Except as inconsistent with the provisions of this section, the provisions of this division and authorized regulations shall apply.

This section shall become operative on July 1, 1978.

SEC. 28. Section 610 of the Unemployment Insurance Code is amended to read:

610. "Employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada), after December 31, 1971, in the employ of an American employer as defined in Section 125.4 other than service which is deemed "employment" under Section 602 or 603 or the equivalent provisions of another state's unemployment compensation law, if:

(a) The employer's principal place of business in the United States is located in this state; or

(b) The employer has no place of business in the United States,

but:

(1) The employer is an individual who is a resident of this state; or

(2) The employer is a corporation which is organized under the laws of this state, or

(3) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) None of the criteria of subdivisions (a) and (b) of this section is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under this division.

SEC. 29. Section 622 of the Unemployment Insurance Code is amended to read:

622. (a) "Employee" does not include a director of a corporation or association performing services in his or her capacity as a director. This section shall not apply to service included in "employment" pursuant to Sections 605, 608, 709, and 710.

(b) "Services in his or her capacity as a director" includes either:

(1) Presence at meetings of the board of directors, even though no further service is performed at the meeting.

(2) Services customarily performed by directors in attending meetings of the board of directors such as prescribing, regulating, and guiding the policies and administration of the corporation or association.

(c) "Services in his or her capacity as a director" does not include services performed by a director in addition to, or other than those described in subdivision (b) of this section. For example, services performed as an officer of the corporation or association, or as a member of a committee which executes the policies and administrative decisions adopted by the board of directors such as advisory, appraisal, auditing, credit, examining, executive, loan or similar committees are not "services in his or her capacity as a director".

SEC. 30. Section 629 of the Unemployment Insurance Code is amended to read:

629. "Employment" does not include domestic service in a private home, except that "employment" includes domestic service in a private home if performed for an employing unit or a person who paid in cash remuneration of one thousand dollars ($1,000) or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year.

SEC. 31. Section 633 of the Unemployment Insurance Code is repealed.

SEC. 32. Section 633.1 of the Unemployment Insurance Code is repealed.

SEC. 33. Section 633.2 of the Unemployment Insurance Code is repealed.

SEC. 34. Section 633.3 of the Unemployment Insurance Code is repealed.

SEC. 35. Section 633.4 of the Unemployment Insurance Code is repealed.

SEC. 36. Section 634.5 of the Unemployment Insurance Code is amended to read:

634.5. Notwithstanding any other provision of this code or any other code or law, no provision of this code or any other code or law excluding service from "employment" shall apply to any public entity defined by Section 605 or to any nonprofit organization described by Section 608, except as provided by this section. With respect to any public entity defined by Section 605 or any nonprofit organization described by Section 608, "employment" does not include service excluded under Sections 629, 631, 635, and 639 to 648, inclusive, or service performed in any of the following:

(a) In the employ of (1) a church or convention or association of churches or (2) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order.

(c) In the employ of any public entity defined by Section 605, if such service is performed by an individual in the exercise of his or her duties as any of the following:

(1) An elected official.

(2) A member of a legislative body, or a member of the judiciary, of a state or political subdivision thereof.

(3) A member of a State National Guard or Air National Guard.

(4) An employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency.

(5) In a position which, under or pursuant to state law, is designated as either of the following:

(A) A major nontenured policymaking or advisory position.

(B) A policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

(d) Except as provided by Section 605.5, by an individual receiving such rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of either:

(1) Rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury; or

(2) Providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market.

(e) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an

individual receiving such work relief or work training.

(f) By an inmate of a custodial or penal institution.

(g) By an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(h) By an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(i) As a substitute employee whose employment does not increase the size of the employer's normal work force, whose employment is required by law, and whose employment as a substitute employee does not occur on more than 60 days during the base period, except that this subdivision shall not take effect unless and until the United States Secretary of Labor, or his or her designee, finds that this subdivision is in conformity with federal requirements.

This section shall remain in effect only until July 1, 1978, and as of that date is repealed.

SEC. 36.5. Section 634.5 is added to the Unemployment Insurance Code, to read:

634.5. Notwithstanding any other provision of this code or any other code or law, no provision of this code or any other code or law excluding service from "employment" shall apply to any public entity defined by Section 605 or to any nonprofit organization described by Section 608, except as provided by this section. With respect to any public entity defined by Section 605 or any nonprofit organization described by Section 608, "employment" does not include service excluded under Sections 629, 631, 635, and 639 to 648, inclusive, or service performed in any of the following:

(a) In the employ of (1) a church or convention or association of churches or (2) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order.

(c) In the employ of any public entity defined by Section 605, if such service is performed by an individual in the exercise of his or her duties as any of the following:

(1) An elected official.

(2) A member of a legislative body, or a member of the judiciary, of a state or political subdivision thereof.

(3) A member of a State National Guard or Air National Guard.

(4) An employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency.

(5) In a position which, under or pursuant to state law, is designated as either of the following:

(A) A major nontenured policymaking or advisory position.

(B) A policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

(d) Except as provided by Section 605.5, by an individual receiving such rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of either:

(1) Rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury; or

(2) Providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market.

(e) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training.

(f) Except as provided by Chapter 5.8 (commencing with Section 1480) of this part, by an inmate of a custodial or penal institution.

(g) By an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(h) By an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(i) As a substitute employee whose employment does not increase the size of the employer's normal work force, whose employment is required by law, and whose employment as a substitute employee does not occur on more than 60 days during the base period, except that this subdivision shall not take effect unless and until the United States Secretary of Labor, or his or her designee, finds that this subdivision is in conformity with federal requirements.

This section shall become operative on July 1, 1978.

SEC. 37. Section 639 of the Unemployment Insurance Code is amended to read:

639. "Employment" does not include domestic service in a local college club, or local chapter of a college fraternity or sorority, except that "employment" includes domestic service in a local college club, or local chapter of a college fraternity or sorority if performed for a club, chapter, or person who paid in cash

remuneration of one thousand dollars ($1,000) or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year.

SEC. 38. Section 642.5 of the Unemployment Insurance Code is repealed.

SEC. 39. Section 677 of the Unemployment Insurance Code is amended to read:

677. "Employer" also means any employing unit for which service is performed in "employment" as defined by Section 605.

SEC. 40. Section 682 is added to the Unemployment Insurance Code, to read:

682. (a) "Employer" also means any employing unit which employs individuals to perform domestic service in a private home, local college club, or local chapter of a college fraternity or sorority and pays wages in cash of one thousand dollars ($1,000) or more for such service during any calendar quarter in the calendar year or the preceding calendar year.

(b) Any employing unit which qualifies as an employer under this section shall not be treated as an employer with respect to wages paid for any service other than domestic service specified by this section unless such employing unit also qualifies as an employer with respect to such other service under Section 675, 676, 677, 678, 680, or 681.

SEC. 41. Section 702 of the Unemployment Insurance Code is amended to read:

702. Except as provided by Sections 702.1, 709, and 710, any employing unit for which services that do not constitute employment are performed, may file with the director a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of this division for not less than two calendar years. Upon the written approval of the election by the director, such services shall be deemed to constitute employment subject to this division from and after the date stated in the approval.

SEC. 42. Section 704 of the Unemployment Insurance Code is amended to read:

704. The director shall not approve an election under Section 701, 702, 702.1, 702.5, 703, 708, or 708.5 until it has been established to his or her satisfaction that the employing unit or self-employed individual is normally and continuously engaged in a regular trade, business or occupation.

SEC. 43. Section 705 of the Unemployment Insurance Code is amended to read:

705. An elective coverage agreement approved by the director pursuant to any section of this article may be terminated as of January 1st of any calendar year only if the agreement has been in effect for two calendar years and if the employing unit, on or before the 31st day of January of that year, has filed with the director a

written application for termination.

SEC. 44. Section 707 of the Unemployment Insurance Code is amended to read:

707. Every employing unit which files an election to become an employer pursuant to Section 701, 702, 702.1, 702.5, 703, 709, or 710, or an application for termination pursuant to Section 705, shall post and maintain printed notices of such election or application on his or her premises, as prescribed by authorized regulation. Individuals in the employ of any employing unit which files an election to become an employer shall be given a reasonable opportunity to file objections or to be heard in the matter prior to the director's approval of the election.

SEC. 45. Section 709 of the Unemployment Insurance Code is repealed.

SEC. 46. Section 709 is added to the Unemployment Insurance Code, to read:

709. Any local public entity located in this state specified in subdivision (a) (3) of Section 135 may elect to become an employer subject to Part 2 (commencing with Section 2601) of this division with respect to all its employees, including those with civil service or tenure positions, and may file its written election with the director. Such an election may be made on its own motion by the appropriate governing board of the local public entity making the election, or may be made by such governing board pursuant to a petition signed by a majority of the employees (including those with civil service or tenure positions) requesting the governing board to file such an election with the director. Upon the filing of such an election the filing local public 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, it shall withhold from the wages of employees the contributions required for unemployment compensation disability benefits.

SEC. 47. Section 710 of the Unemployment Insurance Code is repealed.

SEC. 48. Section 710 is added to the Unemployment Insurance Code, to read:

710. (a) Any public entity for which services that do constitute employment under Section 605 are performed and for which other services that do not constitute employment are performed may elect to become an employer subject to this part and Parts 3 (commencing with Section 3501) and 4 (commencing with Section 4001) of this division for not less than two calendar years with respect to such other services and to have such other services performed by its employees constitute employment subject to this part and such Parts 3 and 4 for such period. Upon the filing of such an election the filing public entity shall, upon approval by the director, become an

employer subject to this part and such Parts 3 and 4 with respect to the services covered to the same extent as other employers, and such services performed by its employees, including those with civil service or tenure positions, shall constitute employment subject to this part and such Parts 3 and 4 effective on the first day of the calendar quarter following the quarter in which the election is filed.

(b) The public entity may exclude from coverage under an election pursuant to this section any service excluded under Section 634.5.

(c) Any public entity that has elected coverage under this section may elect any method of financing coverage otherwise permitted under Section 803 or Article 6 (commencing with Section 821) of this chapter or Article 7 (commencing with Section 841) of this chapter, but the same method of financing coverage shall apply to all coverage by the public entity. Subdivision (b) of Section 802 shall apply to any such election under Section 803, except that any such election under Section 803 shall be terminated on the effective date of the termination of an election for coverage under this section.

(d) The director may require from the public entity such employment, financial, statistical, or other information and reports, properly verified, as may be deemed necessary by the director to carry out his or her duties under this division, which shall be filed with the director at the time and in the manner prescribed by him or her.

(e) The director may tabulate and publish information obtained pursuant to this section in statistical form and may divulge the name of the public entity.

(f) The public entity shall keep such work records as may be prescribed by the director for the proper administration of this division.

(g) Except as inconsistent with the provisions of this section, the provisions of this division and authorized regulations shall apply to any matter arising pursuant to this section.

SEC. 49. Section 710.1 of the Unemployment Insurance Code is repealed.

SEC. 50. Section 710.2 of the Unemployment Insurance Code is repealed.

SEC. 51. Section 710.3 of the Unemployment Insurance Code is repealed.

SEC. 52. Section 710.4 of the Unemployment Insurance Code is amended to read:

710.4. Notwithstanding the provisions of Section 709, 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 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. 53. Section 710.5 of the Unemployment Insurance Code is repealed.

SEC. 54. Section 711 is added to the Unemployment Insurance Code, to read:

711. No election filed by any public entity, as defined by Section 605, under any provision of this division shall be effective for service performed after December 31, 1977, and included in "employment" pursuant to Section 605. No election filed by any nonprofit organization under any provision of this division shall be effective for service performed after December 31, 1977, and included in "employment" pursuant to Section 608. All such elections for coverage filed prior to January 1, 1978, shall be terminated effective December 31, 1977, except that elections to reimburse benefits shall continue in effect, subject to Section 803, unless terminated by the public entity or nonprofit organization, and it shall remain liable for its proportionate share of the additional cost of benefits paid, or of the cost of benefits (including extended duration benefits and federal-state extended benefits) paid and charged to its account in the manner provided by Section 1026 which are based on wages paid for services during the period of any election for reimbursement of benefits.

SEC. 55. Section 711.1 of the Unemployment Insurance Code is repealed.

SEC. 56. Section 712 of the Unemployment Insurance Code is amended to read:

712. To the extent permitted by federal law, no contributions shall be due from any nonprofit organization which has, prior to April 1, 1972, elected a method of financing and elected to use prior contributions until the additional cost of benefits reimbursable by or the cost of benefits paid and reimbursable by the nonprofit organization together with the benefits charged and chargeable to the reserve account of the nonprofit organization as the result of its prior elective coverage agreement exceed the contributions made

by the nonprofit organization and credited to its reserve account pursuant to its prior elective coverage agreement.

SEC. 57. Section 713 is added to the Unemployment Insurance Code, to read:

713. To the extent permitted by federal law, no contributions shall be due from any nonprofit organization which first became compulsorily subject to this part on January 1, 1978, by reason of the enactment of the federal "Unemployment Compensation Amendments of 1976" (Public Law 94-566) and the amendment to Section 634.5 by the 1978 portion of the 1977–78 Regular Session, which elects a method of financing under Section 803 when such election first becomes available, but not later than April 1, 1978, and which also elects to use contributions paid pursuant to an elective coverage agreement of such nonprofit organization in effect prior to January 1, 1978, until the cost of benefits paid and reimbursable by the nonprofit organization together with the benefits charged and chargeable to the reserve account of the nonprofit organization as the result of its prior elective coverage agreement exceed the contributions made by the nonprofit organization and credited to its reserve account pursuant to its prior elective coverage agreement.

SEC. 58. Section 802 of the Unemployment Insurance Code is amended to read:

802. (a) The State of California, or any other public entity (as defined by Section 605), for which services are performed that do constitute employment under Section 605 may, in lieu of the contributions required of employers, elect to finance its liability for unemployment compensation benefits, extended duration benefits, and federal-state extended benefits with respect to such services by any method of financing coverage that is permitted under Section 803.

(b) Any election under Section 803 for financing coverage under this section shall take effect with respect to services performed from and after the first day of the calendar quarter in which the election is filed with the director, and shall continue in effect for not less than two full calendar years. Thereafter the election under Section 803 may be terminated as of January 1 of any calendar year only if the state or other public entity, on or before the 31st day of January of that year, has filed with the director a written application for termination. The director may for good cause waive the requirement that a written application for termination shall be filed on or before the 31st day of January. In no event shall financing coverage by an election under Section 803 be valid that would establish any different method of financing coverage for any calendar quarter where an election for coverage has also been made by the state or other public entity under any provision of Article 4 (commencing with Section 701) of this chapter.

(c) The director may require from the state and other public entity, including any agent thereof, such employment, financial, statistical, or other information and reports, properly verified, as may

be deemed necessary by the director to carry out his or her duties under this division, which shall be filed with the director at the time and in the manner prescribed by him or her.

(d) The director may tabulate and publish information obtained pursuant to this section in statistical form and may divulge the name of the state or other public entity.

(e) The state and other public entity, including any agent thereof, shall keep such work records as may be prescribed by the director for the proper administration of this division.

(f) Except as inconsistent with the provisions of this section, the provisions of this division and authorized regulations shall apply to any matter arising pursuant to this section.

SEC. 59. Section 803 of the Unemployment Insurance Code is amended to read:

803. (a) As used in this section "entity" means any employing unit that is authorized by any provision of Article 4 (commencing with Section 701) of this chapter or by Section 801 or 802 to elect a method of financing coverage permitted by this section.

(b) In lieu of the contributions required of employers, an entity may elect any one of the following:

(1) To pay into the Unemployment Fund the cost of benefits, including extended duration benefits and federal-state extended benefits, paid based on base period wages with respect to employment for the entity and charged to its account in the manner provided by Section 1026, pursuant to authorized regulations which shall prescribe the rate or amount, time, manner, and method of payment or advance payment or providing a good and sufficient bond to guarantee payment of contributions.

(2) Two or more entities may, pursuant to authorized regulations, file an application with the director for the establishment of a joint account for the purpose of determining the rate of contributions they shall pay into the Unemployment Fund to reimburse the fund for benefits paid with respect to employment for such entities. The members of the joint account may share the cost of benefits, including extended duration benefits and federal-state extended benefits, paid based on the base period wages with respect to employment for such members and charged to the joint account in the manner provided by Section 1026. The director shall prescribe authorized regulations for the establishment, maintenance, and dissolution of joint accounts, and for the rate or amount, time, manner, and method of payment or advance payment or providing a good and sufficient bond to guarantee payment of contributions by the members of joint accounts, on the cost of benefits charged in the manner provided by Section 1026.

(c) Sections 1030, 1031, 1032, and 1032.5, and any provision of this division for the noncharging of benefits to the account of an employer, shall not apply to an election under subdivision (b) of this section. The cost of benefits charged to an entity under this section shall include, but not be limited to, benefits or payments improperly

paid in excess of a weekly benefit amount, or in excess of a maximum benefit amount, or otherwise in excess of the amount which should have been paid, due to any computational or other error of any type by the Employment Development Department or the Department of Benefit Payments, whether or not such error could be anticipated.

(d) In making the payments prescribed by subdivision (b) there shall be paid or credited to the Unemployment Fund, either in advance or by way of reimbursement, as may be determined by the director, such sums as he or she estimates the Unemployment Fund will be entitled to receive from each entity for each calendar quarter, reduced or increased by any sum by which he or she finds that his or her estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the fund. Such estimates may be made upon the basis of such statistical sampling, or other method as may be determined by the director.

Upon making such determination, the director shall give notice of the determination, pursuant to Section 1140, to the entity. The director may cancel any contributions or portion thereof which he or she finds has been erroneously determined. The director shall charge to any special fund, which is responsible for the salary of any employee of an entity, the amount determined by the director for which the fund is liable pursuant to this section. The contributions due from the entity shall be paid from the liable special fund, the General Fund, or other liable fund to the Unemployment Fund by the Controller or other officer or person responsible for disbursements on behalf of the entity within 30 days of the date of mailing of the director's notice of determination to the entity. The director for good cause may extend for not to exceed 60 days the time for paying without penalty the amount determined and required to be paid. Contributions are due upon the date of mailing of the notice of determination and are delinquent if not paid on or before the 30th day following the date of mailing of such notice. Any entity which fails to pay the contributions required within the time required shall be liable for interest on the contributions at the rate of 1 percent per month or fraction thereof from and after the date of delinquency until paid, and any entity which without good cause fails to pay any contributions required within the time required shall pay a penalty of 10 percent of the amount of such contributions. If the entity fails to pay the contributions required on or before the delinquency date, the director may assess the entity for the amount required by the notice of determination. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions, and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions, shall apply to the assessments provided by this section. The provisions of Sections 1177 to 1184, inclusive, relating to refunds and overpayments, shall apply to amounts paid to the Unemployment Fund pursuant to this section.

(e) The director may terminate the election of any entity for

financing under this section if the entity is delinquent in the payment of advances or reimbursements required by the director under this section. After any such termination the entity may again make an election pursuant to this section but only if it is not delinquent in the payment of contributions and not delinquent in the payment of advances or reimbursements required by the director under this section.

(f) Notwithstanding any other provision of this section, no entity shall be liable for that portion of any extended duration benefits or federal-state extended benefits which is reimbursed or reimbursable by the federal government to the State of California.

(g) After the termination of any election under this section, the entity shall remain liable for its proportionate share of the cost of benefits paid and charged to its account in the manner provided by Section 1026, which are based on wages paid for services during the period of the election. Any such liability may be charged against any remaining balance of a prior reserve account used by the entity pursuant to Section 712 or 713. Any portion of such remaining balance shall be included in the reserve account of the entity following any termination of an election under this section which occurs prior to the expiration of a period of three consecutive years commencing with the effective date of such election. For purposes of Section 982, the period of an election under Section 803 shall, to the extent permitted by federal law, be included as a period during which a reserve account has been subject to benefit charges.

SEC. 60. Section 803.2 of the Unemployment Insurance Code is amended to read:

803.2. Notwithstanding any other provision of this article, a nonprofit organization which elected reimbursement financing under Section 803 and which has acquired a previously accumulated favorable reserve account under Section 712 or 713 shall be liable for the reimbursement of benefits pursuant to such election for any benefits chargeable to the reserve account and based upon wages paid prior to such election, to the extent that such benefits exceed the previously accumulated favorable reserve account.

SEC. 61. Section 804 is added to the Unemployment Insurance Code, to read:

804. To the extent permitted by federal law, including Section 121(e) of Public Law 94-566, any nonprofit organization or public entity (as defined by Section 605) which elects a method of financing under Section 803 shall not be liable to reimburse the cost of benefits paid to any individual whose base period wages include wages for services performed prior to January 1, 1978, if such benefits are reimbursable by the federal government under Section 121 of Public Law 94-566 and to the extent that such individual would not have been eligible for such benefits had this state not provided for benefits payable based on services performed prior to January 1, 1978.

SEC. 62. Section 821 of the Unemployment Insurance Code is amended to read:

821. (a) Each school employer may, in lieu of the contributions required of employers, elect to pay into the Unemployment Fund the cost of benefits, including extended duration benefits and federal-state extended benefits, paid based on base period wages with respect to employment for such employing unit and charged to its account in the manner provided by Section 1026, pursuant to authorized regulations which shall prescribe the rate or amount, time, manner, and method of payment or advance payment or providing a good and sufficient bond to guarantee payment of contributions. The provisions of this article shall apply to school employers who have elected financing under this section.

(b) Sections 1030, 1031, 1032, and 1032.5, and any provision of this division for the noncharging of benefits to the account of an employer, shall not apply to an employing unit under subdivision (a) of this section. The cost of benefits charged to a school employer under this section shall include, but not be limited to, benefits or payments improperly paid in excess of a weekly benefit amount, or in excess of a maximum benefit amount, or otherwise in excess of the amount which should have been paid, due to any computational or other error of any type by the Employment Development Department or the Department of Benefit Payments, whether or not such error could be anticipated.

(c) In making the payments prescribed by subdivision (a), there shall be paid or credited to the Unemployment Fund, either in advance or by way of reimbursement, as may be determined by the director, such sums as he or she estimates the Unemployment Fund will be entitled to receive from each employing unit for each calendar quarter, reduced or increased by any sum by which he or she finds that his or her estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the fund. Such estimates may be made upon the basis of such statistical sampling, or other method as may be determined by the director.

Upon making such determination, the director shall mail notice of the determination to the employing unit.

The director may cancel any contributions or portion thereof which he or she finds have been erroneously determined. The contributions due from the employing units shall be paid, transferred or credited from the School Employees Fund established in the State Treasury by Section 822 to the Unemployment Fund by the State Treasurer, State Controller, or other officer or person responsible for disbursements on behalf of the employing unit within 30 days of the date of mailing of the director's notice of determination to the employing unit.

Each employing unit shall send a copy of any and all notices, billings, or correspondence not normally routed to the administrator and the Superintendent of Public Instruction, regarding unemployment insurance for the school employees to the administrator, the Superintendent of Public Instruction, and county superintendent of schools, or agent thereof with timely

documentation of charges or determination. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of this part with respect to the assessment of contributions, and the provisions of Chapter 7 (commencing with Section 1701) of this part with respect to the collection of contributions, shall apply to the assessments provided by this article. The provisions of Sections 1177 to 1184, inclusive, relating to refunds and overpayments, shall apply to amounts paid to the Unemployment Fund pursuant to this section.

(d) Notwithstanding any other provision of this section, no employing unit shall be liable for that portion of any extended duration benefits or federal-state extended benefits which is reimbursed or reimbursable by the federal government to the State of California.

(e) To the extent permitted by federal law, including Section 121(e) of Public Law 94-566, any school employer which elects a method of financing under this article shall not be liable to reimburse the cost of benefits paid to any individual whose base period wages include wages for services performed prior to January 1, 1978, if such benefits are reimbursable by the federal government under Section 121 of Public Law 94-566 and to the extent that such individual would not have been eligible for such benefits had this state not provided for benefits payable based on services performed prior to January 1, 1978.

(f) The administrator and the Superintendent of Public Instruction shall adopt rules and regulations for the administration of their respective functions under this article in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code. Regulations of the administrator shall be subject to the provisions of Article 1 (commencing with Section 301) of Chapter 2 of Part 1 of Division 1. Rules and regulations of the Superintendent of Public Instruction shall not be subject to the provisions of Article 1 (commencing with Section 301) of Chapter 2 of Part 1 of Division 1.

(g) Any election for financing coverage under this section shall take effect with respect to services performed from and after the first day of the calendar quarter in which the election is filed with the director, and shall continue in effect for not less than two full calendar years. Thereafter, the election under this section may be terminated as of January 1 of any calendar year only if the school employer, on or before the 31st day of January of that year, or on or before the 30th day after the effective date of this section, has filed with the director a written application for termination. The director may for good cause waive the requirement that a written application for termination shall be filed on or before the 31st day of January. An election for financing coverage under this section is deemed to have been filed by every school employer effective as of January 1, 1976, is deemed to have been in effect for two calendar years prior to January 1, 1978, and may be terminated as of January 1, 1978, or as of January 1, 1980, or any later January 1 pursuant to this section.

Upon the termination of any election under this section, the school employer shall be and remain liable for all benefits paid based upon wages paid by such school employer during the period of an election under this section.

SEC. 63. Section 821.4 is added to the Unemployment Insurance Code, to read:

821.4. As used in this article, "employing unit" and "school employer" means the governing board of any school district or community college district, any county board of education, any county superintendent of schools, or any personnel commission of a school district or community college district which has a merit system pursuant to any provision of the Education Code, or any instrumentality of the foregoing, or any instrumentality of more than one of the foregoing, which employs one or more employees.

SEC. 64. Section 822 of the Unemployment Insurance Code is amended to read:

822. There is hereby established in the State Treasury the "School Employees Fund." The School Employees Fund is the successor of the "Classified School Employees Fund." Moneys received pursuant to Section 823, together with any charges, notices, fees, interest, penalties, assessments, or other revenue, shall be deposited in this fund. All money in the fund is hereby appropriated to the administrator without regard to fiscal year for carrying out the purposes of this article, for administrative costs, for making refunds, and for investment through the Surplus Money Investment Fund, with any interest or earnings credited to the School Employees Fund. Funds to be used for administrative costs shall be budgeted and expended in accordance with existing state law.

SEC. 65. Section 823 of the Unemployment Insurance Code is amended to read:

823. (a) For the purpose of payment by each school employer of all or part of the charges for unemployment compensation benefits, fees, assessments, interest, penalties, billings, notices, and other expenses of unemployment insurance for school employees pursuant to this part, moneys budgeted pursuant to subdivisions (b) and (c) of this section shall be remitted by the school employer or on the school employer's behalf by the county auditor to the State Treasurer pursuant to this article, and shall be deposited in the School Employees Fund.

(b) For each fiscal year, except as provided in subdivision (c), each school employer shall budget and remit on or before the last day of the calendar month following the close of each calendar quarter to the State Treasurer for deposit in the School Employees Fund in the State Treasury one-half percent of total wages, including taxable wages as well as wages which would be taxable except for the limitation on taxable wages provided under Section 930, but excluding wages paid for specially funded projects, and, to the extent permitted by federal law, excluding wages paid to any individual to the extent that federal law provides for reimbursement to the State

of California for all benefits paid from the Unemployment Fund to such individual based on such wages.

(c) For the 1976–77, 1977–78, and 1978–79 fiscal years only, each school employer shall budget and remit on or before the last day of the calendar month following the close of each calendar quarter to the State Treasurer for deposit in the School Employees Fund in the State Treasury two-tenths of 1 percent of total wages, including taxable wages as well as wages which would be taxable except for the limitation on taxable wages provided under Section 930, but excluding wages paid by specially funded projects, and, to the extent permitted by federal law, excluding wages paid to any individual to the extent that federal law provides for reimbursement to the State of California for all benefits paid from the Unemployment Fund to such individual based on such wages.

SEC. 66. Section 826 of the Unemployment Insurance Code is amended to read:

826. The administrator of the School Employees Fund shall, based on the total number of covered employees reflected on reports received by March 31, 1978, and by November 30, 1978, and each year thereafter by November 30, make a transfer from available interest earnings pursuant to investments authorized by Section 822 to the Superintendent of Public Instruction or Chancellor of the California Community Colleges to support an Unemployment Insurance Management System and appeals program as set forth in Section 1330 of the Education Code. Such transfers shall be equal to two dollars ($2) per covered employee, less administrative costs of the Superintendent of Public Instruction and the Chancellor of the California Community Colleges, and shall be made by April 30, 1978, and by December 31, 1978, and each year thereafter by December 31, to the Superintendent of Public Instruction or Chancellor of the California Community Colleges, as appropriate, and expended only for the purposes set forth in Section 1330 of the Education Code.

SEC. 67. Section 827 of the Unemployment Insurance Code is repealed.

SEC. 68. Section 828 of the Unemployment Insurance Code is amended to read:

828. Each school employer shall be responsible for a quarterly local experience charge as set forth below, together with such charges or penalties set by the administrator for administrative indiscretions including tardiness and error, as well as all costs for benefits and administration resulting from failure to properly cover an employee. Such reimbursement for charges shall be delinquent 30 days from the date of notice and if not paid within the time required the school employer shall pay a penalty of 10 percent of the unpaid amount plus interest at the rate of 1 percent per month or fraction thereof from and after the date of delinquency until paid. The formula to be used for calculating the local experience charge to be levied against each school employer is as follows:

Local Experience Charge

Step (a) The amount of benefits paid, including benefits paid based on wages paid to employees performing services in specially funded projects, during any quarter shall be divided by the number of employees on the school employer's quarterly contribution return and report of wages to the department for that quarter.

Step (b) The amount derived by step (a) shall be distributed in line 1, then 2 and then 3, in accordance with the following table.

That portion of step (a) which is equal to or exceeds column (a) and is not greater than column (b) shall be multiplied by the rate on the same line.

Value derived in step (a) is to be distributed

Line	*Column (a)*	*Column (b)*	*Rate*
1	$0.00 up to $40.00		10%
2	$40.01 up to $80.00		5%
3	$80.01 and over		1%

Step (c) The values in step (b) shall be added.

Step (d) The sum derived in step (c) shall be multiplied by the number of employees on the school employer's last quarterly contribution return and report of wages.

SEC. 69. Section 829 of the Unemployment Insurance Code is amended to read:

829. The total amount derived in step (d) of Section 828 shall be the amount that the school employer, county superintendent of schools or empowered entity shall on behalf of the employers under such jurisdiction reimburse the School Employees Fund in the State Treasury. However, this amount shall not exceed one and seven-tenths percent of the actual annual wages paid by a school employer in the immediately preceding calendar year as indicated in the four quarterly reports to the department.

SEC. 70. Section 830 of the Unemployment Insurance Code is amended to read:

830. (a) For the purpose of financing unemployment insurance coverage for employees employed by the school employers under specially funded projects, the funding agency shall remit to each school employer two and seven-tenths percent, except as provided for in subdivision (b), plus the rate in effect under Section 976.5, of the taxable wages paid to such employees. The school employer or county auditor shall remit on or before the last day of the calendar month following the close of each calendar quarter to the State Treasurer for deposit in the School Employees Fund in the State Treasury such an amount, whether or not received from the funding agency, for deposit. Such funds become the property of the fund and shall not be held exclusively for employees for specially funded projects.

(b) For the 1976–77, 1977–78, and 1978–79 fiscal years only, for the purpose of financing unemployment insurance coverage for employees employed by the school employers under specially funded projects, the funding agency shall remit to each school employer 1 percent of the total wages paid to such employees. The school employer or county auditor shall remit such funds to the State Treasurer as provided in subdivision (a).

SEC. 71. Section 832 of the Unemployment Insurance Code is amended to read:

832. The administrator shall at least annually calculate, as of the close of and for the immediately preceding fiscal year, the experiences of school employers relative to usage of the Unemployment Fund by specially funded employees. Such calculations shall include individual tabulations on the experience of each school employer in relation to expenditures made on behalf of regular funded, specially funded, certificated, and classified employees and the income to the School Employees Fund from the wages paid such employees by such employer and all school employers' participation with special funds shall be listed and ranked by ratio of use and reported annually to the affected school employer and governing board thereof prior to the 15th day of October of each year.

The administrator shall develop experience relationships on all benefits paid to employees via the School Employees Fund and on school employers' experience related to use and exposure. Data shall relate to numbers of employees and types of programs and shall be calculated as of the close of and for the immediately preceding fiscal year. A report by the administrator on the above shall be made each year to the Legislature prior to the 15th of December containing comments and recommendations on improvement to administration, enforcement and financing of the provisions relative thereto.

SEC. 72. Article 7 (commencing with Section 841) is added to Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code, to read:

Article 7. Financing Unemployment Insurance Coverage for Local Public Entity Employees

841. As used in this article:

(a) "Administrator" means the Director of Benefit Payments.

(b) "Department" means the Department of Benefit Payments.

(c) "Director" means the Director of Benefit Payments.

(d) "Fiscal year" means the period of 12 consecutive calendar months ending on June 30th of any year.

(e) "Local public entity" means a county, city or district (except a school employer defined by Section 821.4), any instrumentality of the foregoing, and any instrumentality of more than one of the foregoing.

This section shall remain in effect only until July 1, 1978, and as of that date is repealed.

842. (a) Each local public entity may, in lieu of the contributions required of employers, elect pursuant to this article to pay into the Unemployment Fund the cost of benefits paid, including extended duration benefits and federal-state extended benefits, based on base period wages with respect to employment for such local public entity and charged to its account in the manner provided by Section 1026. Authorized regulations may prescribe the rate or amount, time, manner, and method of payment or advance payment or providing a good and sufficient bond to guarantee payment of contributions. The provisions of this article shall apply to local public entities who have elected financing under this section.

(b) Sections 1030, 1031, 1032, and 1032.5, and any provision of this division for the noncharging of benefits to the account of an employer, shall not apply to any local public entity under subdivision (a) of this section. The cost of benefits charged to a local public entity under this section shall include, but not be limited to, benefits or payments improperly paid in excess of a weekly benefit amount, or in excess of a maximum benefit amount, or otherwise in excess of the amount which should have been paid, due to any computational or other error of any type by the Employment Development Department or the Department of Benefit Payments, whether or not such error could be anticipated.

843. Any election for financing coverage under this article shall take effect with respect to services performed from and after the first day of the calendar quarter in which the election is filed with the director, and shall continue in effect for not less than two full calendar years. Thereafter, the election under this article may be terminated as of January 1 of any calendar year only if the local public entity, on or before the 31st day of January of that year, or on or before the 30th day after the effective date of this section, has filed with the director a written application for termination. The director may for good cause waive the requirement that a written application for termination shall be filed on or before the 31st day of January. An election for financing coverage under this article is deemed to have been filed by every local public entity effective as of January 1, 1976, is deemed to have been in effect for two calendar years prior to January 1, 1978, and may be terminated as of January 1, 1978, or as of January 1, 1980, or any later January 1, pursuant to this section. Upon the termination of any election under this section, the director shall determine the positive balance, if any, in the Local Public Entity Employees Fund attributable to the account of the local public entity terminating such election, following the expiration of the last week for which benefits could be paid based upon wages paid by such local public entity. Not later than 180 days after the last week for which benefits could be paid based upon wages paid by the local public entity terminating an election under this section, the director shall refund from the Local Public Entity Employees Fund to the

local public entity any remaining positive balance after all benefits liability of such local public entity has been charged to such local public entity's account. The local public entity shall be and remain liable to the Unemployment Fund for all benefits paid based upon wages paid by such local public entity during the period of an election under this section. The local public entity shall also be liable to repay the Local Public Entity Employees Fund for any negative balance in the local public entity's account at the time of termination of the election.

The negative balance shall be repaid and deposited in the fund, with interest at the rate of 1 percent per month or fraction thereof from the date of termination of the election until paid, not later than three years after the date of termination of the election. A penalty of 10 percent of the amount not paid, exclusive of interest, shall apply at the expiration of the three-year period for payment and shall be deposited in the fund together with interest on the delinquency at the rate specified by this section.

844. In making the payments prescribed by Section 842, there shall be paid or credited to the Unemployment Fund, either in advance or by way of reimbursement, as may be determined by the director, such sums as he or she estimates the Unemployment Fund will be entitled to receive from each local public entity for each calendar quarter, reduced or increased by any sum by which he or she finds that his or her estimates for any prior calendar quarter were greater or less than the amounts which should have been paid to the fund. Such estimates may be made upon the basis of such statistical sampling, or other method as may be determined by the director.

Upon making such determination, the director shall mail notice of the determination to the local public entity.

The director may cancel any contributions or portion thereof which he or she finds have been erroneously determined. The contributions due from the local public entities shall be paid, transferred or credited from the Local Public Entity Employees Fund established in the State Treasury by Section 847 to the Unemployment Fund by the State Treasurer, State Controller, or other officer or person responsible for disbursements on behalf of the local public entity within 30 days of the date of mailing of the director's notice of determination to the local public entity. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of this part with respect to the assessment of contributions, and the provisions of Chapter 7 (commencing with Section 1701) of this part with respect to the collection of contributions, shall apply to the payments to the Unemployment Fund required by this article. The provisions of Sections 1177 to 1184, inclusive, relating to refunds and overpayments, shall apply to amounts paid to the Unemployment Fund pursuant to this article.

845. Each local public entity shall send a copy of any and all notices, billings, or correspondence not normally routed to the administrator regarding unemployment insurance for local public

entity employees to the administrator, with timely documentation of charges or determination.

846. (a) Notwithstanding any other provision of this article, no local public entity shall be liable for that portion of any extended duration benefits or federal-state extended benefits which is reimbursed or reimbursable by the federal government to the State of California.

(b) To the extent permitted by federal law, including Section 121(e) of Public Law 94-566, any local public entity which elects a method of financing under this article shall not be liable to reimburse the cost of benefits paid to any individual whose base period wages include wages for services performed prior to January 1, 1978, if such benefits are reimbursable by the federal government under Section 121 of Public Law 94-566 and to the extent that such individual would not have been eligible for such benefits had this state not provided for benefits payable based on services performed prior to January 1, 1978.

847. There is hereby established in the State Treasury the Local Public Entity Employees Fund. This fund shall consist of money paid pursuant to Section 848, penalties for delinquent payments to the fund, interest earned upon any money in or otherwise deposited in the fund, any property or securities acquired through the use of money belonging to the fund, all earnings of such property and securities, and all other money received for the fund from any other source. A separate accounting shall be maintained for penalties and interest deposited in the fund. All money in the fund is continuously appropriated to the administrator without regard to fiscal year for carrying out the purposes of this article, for administrative costs, for making refunds, and for investment through the Surplus Money Investment Fund, with any interest or earnings credited to the Local Public Entity Employees Fund. Funds to be used for administrative costs shall be budgeted and expended in accordance with existing state law.

848. (a) For each fiscal year each local public entity, through its city, county, or district auditor or other responsible officer or person, shall remit on or before the last day of the calendar month following the close of each calendar quarter, to the State Treasurer for deposit in the Local Public Entity Employees Fund in the State Treasury, an amount computed by multiplying the tax rate by total wages as defined by Section 940. Notwithstanding any other provision of this article, to the extent permitted by federal law, no payment shall be required from any local public entity with respect to any wages paid to any individual to the extent that federal law provides for reimbursement to the State of California for all benefits paid from the Unemployment Fund to such individual based on such wages.

(b) For the 1978–79 fiscal year, the 1979–80 fiscal year, and the 1980–81 fiscal year, the tax rate under this section shall be eight-tenths of 1 percent, except that if the director finds that the ability of the Local Public Entity Employees Fund to meet its

estimated obligations promptly when due will become endangered, he or she shall increase the tax rate from time to time to protect the solvency of the fund and shall notify local public entities of any increased tax rates under this authority. No payments shall be required from any local public entity under this section prior to the fiscal year 1978–79. The director shall, not later than January 31st preceding each fiscal year commencing with the 1981–82 fiscal year, determine and notify each local public entity of the tax rate to apply for such fiscal year.

(c) As used in this section, "benefit cost ratio" means the quotient obtained by dividing the average annual benefit charges to the account of a local public entity for the three complete fiscal years ending with the second next fiscal year immediately preceding a fiscal year by the average annual wages (as defined by Section 940) paid by such local public entity during such three fiscal years, multiplied by 100 to express a percentage and rounded to the next higher one-tenth of 1 percent.

(d) A local public entity's tax rate shall be eight-tenths of 1 percent until the expiration of the first three complete fiscal years of the entity's participation in the Local Public Entity Employees Fund. A local public entity's tax rate for the fourth fiscal year of such participation shall be its benefits cost ratio, based on average benefit charges and wages for the first two fiscal years, rather than three fiscal years of participation. A local public entity's tax rate for the fifth fiscal year, and each succeeding fiscal year, of its participation in such fund shall be its benefit cost ratio, subject to the following adjustments:

(1) If the local public entity has no positive balance of reserve in its account as of the close of the second next preceding fiscal year, two-tenths of 1 percent shall be added to the benefit cost ratio.

(2) If the local public entity has a positive balance of reserve in its account as of the close of the second next preceding fiscal year in excess of twice the average annual benefit charges for the three fiscal years ending with such second next preceding fiscal year, two-tenths of 1 percent shall be subtracted from the benefit cost ratio, but the tax rate shall not be less than zero.

(3) If there is no positive balance in the Local Public Entity Employees Fund as of the December 31st preceding the fiscal year to which the tax rate applies, two-tenths of 1 percent shall be added to the tax rate otherwise applicable.

(4) If the balance in the Local Public Entity Employees Fund as of the December 31st preceding the fiscal year to which the rate applies exceeds twice the total average annual benefit charges to the fund for the three fiscal years ending with the second next preceding fiscal year, two-tenths of 1 percent shall be subtracted from the tax rate otherwise applicable, but the tax rate shall not be less than zero.

849. Whenever the unencumbered balance of interest deposited in or earned by the Local Public Entity Employees Fund, after the deduction of administrative expenses paid or encumbered, exceeds

one million dollars ($1,000,000) as of the close of a fiscal year, the unencumbered balance shall be credited as of the close of such fiscal year to the account of each local public entity participating in the fund in the proportion that the interest earned on the reserve in its account bears to the total interest earned on the total reserve of local public entities participating in the fund.

850. The administrator shall at least annually calculate, as of the close of and for the immediately preceding fiscal year, the experience of each local public entity as maintained by the administrator under this article. The administrator shall, as soon as feasible after the close of each fiscal year, notify each local public entity of its experience for that fiscal year. The notice of experience shall include the balance in the local public entity's account as of the beginning of the fiscal year, the total amount of payments made into the Local Public Entity Employees Fund by the local public entity during the fiscal year, the amount of payments made from such fund to the Unemployment Fund during the fiscal year relating to wages paid by the local public entity, and the balance in the local public entity's account as of the close of the fiscal year.

851. There is hereby created a City-County-Special District Advisory Committee composed of three representatives appointed by the League of California Cities and three representatives appointed by the County Supervisors Association of California. The members of the advisory committee shall represent local public entities which are participating members of the Local Public Entity Employees Fund, and shall serve without compensation or expenses and at the pleasure of their respective appointing powers. The advisory committee shall select a chairperson. The advisory committee shall advise the director concerning the administration of this article.

852. The administrator shall report to the Legislature prior to the 15th of December of each year the experience and status of the Local Public Entity Employees Fund and shall include comments and recommendations on improvements to the administration, enforcement, and financing of the provisions of this article.

SEC. 72.5. Section 841 is added to the Unemployment Insurance Code, to read:

841. As used in this article:

(a) "Administrator" means the Director of Employment Development.

(b) "Fiscal year" means the period of 12 consecutive calendar months ending on June 30th of any year.

(c) "Local public entity" means a county, city or district (except a school employer defined by Section 821.4), any instrumentality of the foregoing, and any instrumentality of more than one of the foregoing.

This section shall become operative on July 1, 1978.

SEC. 73. Section 936 of the Unemployment Insurance Code is amended to read:

936. "Wages" does not include remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business, except that this section shall not apply to remuneration paid for domestic service in a private home or in a local college club or local chapter of a college fraternity or sorority.

SEC. 74. Section 993 of the Unemployment Insurance Code is amended to read:

993. Every employer who is subject to the tax provided for by Section 3301 of the Federal Unemployment Tax Act, shall, subject to Section 992, pay into the Unemployment Fund in addition to the amounts required by other provisions of this division an amount equal to five-tenths of 1 percent, or such other percentage as applies for a calendar year pursuant to Section 6157 of the Internal Revenue Code of 1954, of all wages paid by him or her in employment and included in the measure of the contributions allowed as the credit against the tax imposed by Section 3301 of the Federal Unemployment Tax Act.

SEC. 75. Section 1025 of the Unemployment Insurance Code is amended to read:

1025. The director shall keep separate records of the amounts paid into the fund by each employer in his or her own behalf, or chargeable to him or her as benefits; but nothing in this division shall be construed to grant any employer or his or her employees prior claims or rights to the amount contributed by him or her to the fund, either on his or her own account or on behalf of his or her employees. The amount of employer contributions, advances or reimbursements under Article 5 (commencing with Section 801) of Chapter 3 of this part or Section 821 or 844, and all other amounts payable to the fund, shall be pooled and available to pay unemployment compensation benefits to any employee entitled thereto, regardless of the source of contributions or any other amounts.

SEC. 76. Section 1027 of the Unemployment Insurance Code is amended to read:

1027. The director shall maintain a balancing account.

(a) Except as provided by Sections 803, 804, 821, and 1032.7, and Article 7 (commencing with Section 841) of Chapter 3 of this part, the balancing account shall be credited with:

(1) Contributions paid pursuant to Section 976.5.

(2) Positive balances in reserve accounts canceled pursuant to Section 1029.

(3) Other items of income not included in active employer reserve accounts.

(b) Except as provided by Sections 803, 804, 821, and 1032.7, and Article 7 (commencing with Section 841) of Chapter 3 of this part, the balancing account shall be charged with:

(1) The amount of negative reserve balances accrued to the computation date for each year.

(2) Benefit payments not charged to employer reserve accounts pursuant to Sections 1032, 1032.5, 1034, 1035, 1036, 1335, 1338, 1380, 1404, and 1406.

(3) Extended duration benefits paid pursuant to Part 3 (commencing with Section 3501) of this division, but only to the extent that such extended duration benefits are not reimbursed or reimbursable by the federal government to the State of California.

(4) Federal-state extended benefits paid pursuant to Part 4 (commencing with Section 4001) of this division, but only to the extent that such federal-state extended benefits are not reimbursed or reimbursable by the federal government to the State of California.

(5) Other items of expense and benefit charges not included in active employer reserve accounts.

This section shall remain in effect only until July 1, 1978, and as of that date is repealed.

SEC. 76.5. Section 1027 is added to the Unemployment Insurance Code, to read:

1027. The director shall maintain a balancing account.

(a) Except as provided by Sections 803, 804, 821, and 1032.7, Article 7 (commencing with Section 841) of Chapter 3 of this part, and Chapter 5.8 (commencing with Section 1480) of this part, the balancing account shall be credited with:

(1) Contributions paid pursuant to Section 976.5.

(2) Positive balances in reserve accounts canceled pursuant to Section 1029.

(3) Other items of income not included in active employer reserve accounts.

(b) Except as provided by Sections 803, 804, 821, and 1032.7, Article 7 (commencing with Section 841) of Chapter 3 of this part, and Chapter 5.8 (commencing with Section 1480) of this part, the balancing account shall be charged with:

(1) The amount of negative reserve balances accrued to the computation date for each year.

(2) Benefit payments not charged to employer reserve accounts pursuant to Sections 1032, 1032.5, 1034, 1035, 1036, 1335, 1338, 1380, 1404, and 1406.

(3) Extended duration benefits paid pursuant to Part 3 (commencing with Section 3501) of this division, but only to the extent that such extended duration benefits are not reimbursed or reimbursable by the federal government to the State of California.

(4) Federal-state extended benefits paid pursuant to Part 4 (commencing with Section 4001) of this division, but only to the extent that such federal-state extended benefits are not reimbursed or reimbursable by the federal government to the State of California.

(5) Other items of expense and benefit charges not included in active employer reserve accounts.

This section shall become operative on July 1, 1978.

SEC. 77. Section 1029 of the Unemployment Insurance Code is amended to read:

1029. (a) Whenever an employer ceases to pay wages in employment the reserve account of the employer, unless it has been transferred under Article 5 (commencing with Section 1051) of this chapter, shall be canceled on the records of the department after a

period of three consecutive years has elapsed following the latest calendar quarter in which the employer paid wages in employment.

(b) Whenever a period of three consecutive years has elapsed commencing with the effective date of an election by any entity to finance benefits pursuant to Section 803, any portion of the reserve account of the entity which has not been subject to use pursuant to Section 712 or 713, unless such portion has been reacquired by the entity by termination of the election under Section 803 prior to the expiration of such three-year period, shall be canceled on the records of the department. Section 982 shall apply to any such entity.

(c) Whenever a period of three consecutive years has elapsed commencing with the termination of an election by a school employer to finance benefits pursuant to Article 6 (commencing with Section 821) of Chapter 3 of this part, any favorable balance in the account of the school employer under such election shall be canceled on the records of the department unless the school employer has reacquired such account by another election under such article prior to the expiration of the three-year period.

SEC. 78. Section 1032.7 is added to the Unemployment Insurance Code, to read:

1032.7. To the extent permitted by federal law under Section 121(d) of Public Law 94-566, no employer's reserve account shall be charged for unemployment compensation benefits paid to any individual whose base period wages includes wages for services performed in domestic service or for a nonprofit organization or public entity prior to January 1, 1978, if such benefits are reimbursable by the federal government under Section 121 of Public Law 94-566 and to the extent that such individual would not have been eligible for such benefits had this state not provided for benefits payable based on services performed prior to January 1, 1978.

SEC. 79. Section 1177.5 of the Unemployment Insurance Code is amended to read:

1177.5. (a) If the director determines that an overpayment has been made to the department by an employing unit or the School Employees Fund because of a reason specified in this subdivision, and the amount of the overpayment has been reimbursed to the state by the federal government pursuant to the federal Comprehensive Employment and Training Act of 1973, then the director shall credit the employing unit or the School Employees Fund with the amount of such overpayment, provided that the director determines that the overpayment was made because of one of the following:

(1) An employing unit paid unemployment insurance contributions after December 31, 1974, based on wages paid to individuals participating in a public service employment program under the federal Comprehensive Employment and Training Act of 1973.

(2) An employing unit paid amounts after December 31, 1975, pursuant to Section 803 of this part, for benefits awarded based on wages paid to individuals participating in a public service employment program under the federal Comprehensive Employment and Training Act of 1973.

(3) Payments were made by the School Employees Fund after December 31, 1975, to the Unemployment Fund pursuant to Section 821 of this part for benefits awarded based on wages paid to individuals participating in a public service employment program under the federal Comprehensive Employment and Training Act of 1973.

(b) No overpayment described in subdivision (a) shall be refunded to an employing unit or to the School Employees Fund.

SEC. 80. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as such benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) of this section based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, with respect to service in an instructional research, or principal administrative capacity for an educational institution shall not be payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(c) Benefits specified by subdivision (a) of this section based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, with respect to service in any other capacity than specified in subdivision (b) for an educational institution (other than an institution of higher education) shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if such individual performs such service in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such service in the second of such academic years or terms.

(d) Benefits specified by subdivision (a) of this section based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, with respect to service in any capacity for an educational institution shall not be payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services

in the period immediately following such vacation period or holiday recess.

(e) For purposes of this section, "institution of higher education" means an educational institution which is a college or university or which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate.

(2) Is legally authorized within this state to provide a program of education beyond high school.

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

(4) Is a public or other nonprofit institution.

(f) For purposes of this section, to the extent permitted by federal law, "reasonable assurance" includes, but is not limited to, an offer of employment made by the educational institution, provided, that such offer is not contingent on enrollment, funding, or program changes.

(g) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

SEC. 81. Section 1253.4 of the Unemployment Insurance Code is repealed.

SEC. 82. Section 1253.4 is added to the Unemployment Insurance Code, to read:

1253.4. Unemployment compensation benefits, extended duration benefits, and federal-state extended benefits shall not be payable to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons, or similar periods, if such individual performed such services in the first of such seasons, or similar periods, and there is a reasonable assurance that such individual will perform such services in the later of such seasons, or similar periods.

SEC. 83. Section 1264 is added to the Unemployment Insurance Code, to read:

1264. (a) Unemployment compensation benefits, extended duration benefits, and federal-state extended benefits shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent

residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act.

(b) Any data or information required of individuals applying for benefits specified by subdivision (a) to determine whether such benefits are not payable to them because of their alien status shall be uniformly required from all applicants for such benefits.

(c) In the case of an individual whose application for benefits specified by subdivision (a) would otherwise be approved, no determination by the department, a referee, or the appeals board that such benefits to such individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

SEC. 84. Section 1264.2 of the Unemployment Insurance Code is repealed.

SEC. 85. Section 1326.5 is added to the Unemployment Insurance Code, to read:

1326.5. If the base period of a claim includes any calendar quarter prior to January 1, 1978, for which wages for domestic service, service for a nonprofit educational institution, or service for any public entity as defined by Section 605 have not been reported to the Department of Benefit Payments, the Director of Employment Development may require that each base period employer shall submit to the Employment Development Department, within 10 days after the mailing of a request by the Director of Employment Development, the amount of wages paid by the base period employer to the claimant in the calendar quarter or quarters specified in the request. The 10-day period may be extended for good cause. If any employer fails to respond to a request for wage information within the period prescribed, the Director of Employment Development shall make a computation based upon available information.

This section shall remain in effect only until July 1, 1978, and as of that date is repealed.

SEC. 86. Section 1326.5 is added to the Unemployment Insurance Code, to read:

1326.5. If the base period of a claim includes any calendar quarter prior to January 1, 1978, for which wages for domestic service, service for a nonprofit educational institution, or service for any public entity as defined by Section 605 have not been reported to the department, the director may require that each base period employer shall submit to the department, within 10 days after the mailing of a request by the director, the amount of wages paid by the base period employer to the claimant in the calendar quarter or quarters specified in the request. The 10-day period may be extended for good cause. If any employer fails to respond to a request for wage information within

the period prescribed, the director shall make a computation based upon available information.

This section shall become operative on July 1, 1978.

SEC. 87. Section 1326.6 is added to the Unemployment Insurance Code, to read:

1326.6. Any employer who fails to furnish wage information required by the Director of Employment Development pursuant to Section 1326.5 shall be subject to a penalty of ten dollars ($10) for each such report not submitted. The Director of Benefit Payments shall assess the penalty and the provisions of this part with respect to assessments, refunds, and collections shall apply. Penalties collected under this section shall be deposited in the Unemployment Fund.

This section shall remain in effect only until July 1, 1978, and as of that date is repealed.

SEC. 87.5. Section 1326.6 is added to the Unemployment Insurance Code, to read:

1326.6. Any employer who fails to furnish wage information required by the director pursuant to Section 1326.5 shall be subject to a penalty of ten dollars ($10) for each such report not submitted. The director shall assess the penalty and the provisions of this part with respect to assessments, refunds, and collections shall apply. Penalties collected under this section shall be deposited in the Unemployment Fund.

This section shall become operative on July 1, 1978.

SEC. 88. Chapter 5.4 (commencing with Section 1441) of Part 1 of Division 1 of the Unemployment Insurance Code is repealed.

SEC. 89. Chapter 5.5 (commencing with Section 1451) of Part 1 of Division 1 of the Unemployment Insurance Code is repealed.

SEC. 90. Chapter 5.6 (commencing with Section 1461) of Part 1 of Division 1 of the Unemployment Insurance Code is repealed.

SEC. 91. Chapter 5.7 (commencing with Section 1471) of Part 1 of Division 1 of the Unemployment Insurance Code is repealed.

SEC. 92. Section 1585 of the Unemployment Insurance Code is amended to read:

1585. There is in the State Treasury a special fund known as the Department of Employment Development Contingent Fund. The Department of Employment Development Contingent Fund is the successor of the Department of Human Resources Development Contingent Fund. There shall be deposited in or transferred to this fund:

(a) All interest on contributions collected under this division, except as provided in Article 6 (commencing with Section 821) of Chapter 3 of this part and Article 7 (commencing with Section 841) of Chapter 3 of this part.

(b) All penalties collected under this division, except as provided in Sections 1326.6, 1958 and 3654.2, and in Article 6 (commencing with Section 821) of Chapter 3 of this part and Article 7 (commencing with Section 841) of Chapter 3 of this part.

(c) Notwithstanding any other provision of law, all penalties and interest collected by the Department of Benefit Payments pursuant to the provisions of the Revenue and Taxation Code relating to the withholding of personal income tax.

(d) Rental payments or proceeds attributable to property derived from amounts expended from this fund.

(e) Interest on amounts expended from this fund.

This section shall remain in effect only until July 1, 1978, and as of that date is repealed.

SEC. 92.5. Section 1585 is added to the Unemployment Insurance Code, to read:

1585. There is in the State Treasury a special fund known as the Department of Employment Development Contingent Fund. The Department of Employment Development Contingent Fund is the successor of the Department of Human Resources Development Contingent Fund. There shall be deposited in or transferred to this fund:

(a) All interest on contributions collected under this division, except as provided in Article 6 (commencing with Section 821) of Chapter 3 of this part and Article 7 (commencing with Section 841) of Chapter 3 of this part.

(b) All penalties collected under this division, except as provided in Sections 1326.6, 1958 and 3654.2, and in Article 6 (commencing with Section 821) of Chapter 3 of this part and Article 7 (commencing with Section 841) of Chapter 3 of this part.

(c) Notwithstanding any other provision of law, all penalties and interest collected by the department pursuant to the provisions of the Revenue and Taxation Code relating to the withholding of personal income tax.

(d) Rental payments or proceeds attributable to property derived from amounts expended from this fund.

(e) Interest on amounts expended from this fund.

This section shall become operative on July 1, 1978.

SEC. 93. Section 2060 is added to the Unemployment Insurance Code, to read:

2060. Notwithstanding any other provision of law, the director shall, upon request of any public agency administering or supervising the administration of a state plan approved under Part A of Title IV of the Social Security Act or of any public agency charged with any duty or responsibility under any program or activity authorized or required under Part D of Title IV of such act, furnish to such agency making the request, from any data contained in the files of the department, information with respect to any individual specified in the request as to:

(a) Whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual.

(b) The current or most recent home address of such individual

(c) Whether such individual has refused an offer of employment

and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor.

SEC. 94. Section 2606 of the Unemployment Insurance Code is amended to read:

2606. "Employment" for the purposes of this part means:

(a) Service included in "employment" as defined by Part 1 (commencing with Section 100) of this division, except that with respect to service for any public entity as defined by Section 605 "employment" for the purposes of this part includes only:

(1) Service for a hospital established, maintained and operated pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code.

(2) Service performed by blind individuals and otherwise handicapped individuals, who do not hold civil service or permanent tenure positions, employed by the State of California for work in the California Industries for the Blind.

(3) Service performed for a public housing administration agency whether operated by state or local governmental subdivisions.

(4) Service performed by a state employee to the extent provided by Section 2781.

(5) Service covered under this part by an elective coverage agreement.

(b) Notwithstanding any other provision of this division, all service performed in the employ of a corporation, community chest, fund, or foundation, in connection with the operation of a hospital as defined in subdivision (b) of Section 1250 of the Health and Safety Code including the institutions described in subdivisions (c), (e), and (g) of Section 1312 of the Health and Safety Code but not including county hospitals or those described in subdivisions (a) and (b) of Section 1312 of the Health and Safety Code, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office and which is exempt from income tax under Section 501(a) of the Internal Revenue Code of 1954, except service performed by an individual as a duly ordained priest, clergyman, rabbi, rector, vicar, pastor, or minister of religion, or by a practitioner who heals the sick by prayer in the practice of religion, or by a reader whose duty it is to conduct regular religious services of a religious organization, or by a member of a religious order in the exercise of duties required by the order, or by any other individual performing service in the practice of religion by designation of the governing body of a religious organization and subject to discipline by, including removal by, such governing body.

This section shall remain in effect only until July 1, 1978, and as of that date is repealed.

SEC. 94.5. Section 2606 is added to the Unemployment Insurance

Code, to read:

2606. "Employment" for the purposes of this part means:

(a) Service included in "employment" as defined by Part 1 (commencing with Section 100) of this division, except that with respect to service for any public entity as defined by Section 605 "employment" for the purposes of this part includes only:

(1) Service for a hospital established, maintained and operated pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code.

(2) Service performed by blind individuals and otherwise handicapped individuals, who do not hold civil service or permanent tenure positions, employed by the State of California for work in the California Industries for the Blind.

(3) Service performed for a public housing administration agency whether operated by state or local governmental subdivisions.

(4) Service performed by a state employee to the extent provided by Section 2781.

(5) Service performed by an inmate of a state prison or institution under the jurisdiction of the Department of Corrections to the extent provided by Chapter 5.8 (commencing with Section 1480) of Part 1 of Division 1.

(6) Service covered under this part by an elective coverage agreement.

(b) Notwithstanding any other provision of this division, all service performed in the employ of a corporation, community chest, fund, or foundation, in connection with the operation of a hospital as defined in subdivision (b) of Section 1250 of the Health and Safety Code including the institutions described in subdivisions (c), (e), and (g) of Section 1312 of the Health and Safety Code but not including county hospitals or those described in subdivisions (a) and (b) of Section 1312 of the Health and Safety Code, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office and which is exempt from income tax under Section 501 (a) of the Internal Revenue Code of 1954, except service performed by an individual as a duly ordained priest, clergyman, rabbi, rector, vicar, pastor, or minister of religion, or by a practitioner who heals the sick by prayer in the practice of religion, or by a reader whose duty it is to conduct regular religious services of a religious organization, or by a member of a religious order in the exercise of duties required by the order, or by any other individual performing service in the practice of religion by designation of the governing body of a religious organization and subject to discipline by, including removal by, such governing body.

This section shall become operative on July 1, 1978.

SEC. 95. Section 2606.1 of the Unemployment Insurance Code is

repealed.

SEC. 96. Section 2606.2 of the Unemployment Insurance Code is repealed.

SEC. 97. Section 2606.3 of the Unemployment Insurance Code is repealed.

SEC. 98. The provisions of Sections 139, 142.5, and 603.5 of the Unemployment Insurance Code as amended by this act shall be operative on the day after the day on which the Secretary of Labor approves for the first time, under Section 3304(a) of the Internal Revenue Code of 1954, an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval, and the provisions of such sections as in effect prior to the amendments made by this act shall remain applicable prior to such operative day. The provisions of Section 610 of the Unemployment Insurance Code as amended by this act shall be operative on January 1 of the year following the year in which the Secretary of Labor approves the unemployment compensation law of the Virgin Islands under Section 3304(a) of the Internal Revenue Code of 1954, and the provisions of such section as in effect prior to the amendment made by this act shall remain applicable prior to such January 1.

SEC. 99. For the purposes of unemployment insurance, the provisions of Section 605 of the Unemployment Insurance Code as added by this act, and the provisions of Sections 629, 634.5, 639, and 936 of such code as amended by this act shall be operative with respect to wages paid on and after July 1, 1976, except that no person who has an established claim under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974, shall be eligible to receive benefits pursuant to this section until his or her benefit award under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 has been exhausted, his or her benefit year has ended, or until June 30, 1978, whichever occurs earlier.

No employer contributions shall be payable based on remuneration paid prior to January 1, 1978, for service which first becomes covered for unemployment insurance pursuant to this act; the maximum benefit amount of all claims which include wages paid prior to January 1, 1978, for such service shall be reduced by an amount equal to the smallest amount of benefits based on such service that, due to the prior payment of assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974, is not reimbursable by the federal government pursuant to a uniform reimbursable formula approved by the federal government under Section 121 of Public Law 94-566 and only the reduced balance of benefits, if any, shall be payable; and no valid claim based on wages paid prior to January 1, 1978, for such service may be filed with an effective date commencing prior to the effective date of this act. For the purposes of disability insurance, the provisions of Sections 629, 634.5, 639, 936, and 2606 of the Unemployment Insurance Code as amended by this act shall be operative with respect to wages paid on and after the first day of the first complete calendar quarter

beginning on or after the first day of the first complete calendar quarter beginning on or after the effective date of this act.

SEC. 100. It is the intent of the Legislature that the amendments to Sections 605.5, 634.5, 1027, 1585, and 2606 of the Unemployment Insurance Code which are made by Sections 27, 36, 76, 92, and 94 of this act shall remain in effect only until July 1, 1978, and on that date Sections 27.5, 36.5, 76.5, 92.5, and 94.5, of this act shall become operative to incorporate the changes made in these provisions by, or made necessary by, Chapter 1149 and Chapter 1252 of the Statutes of 1977.

It is the intent of the Legislature that the additions of Sections 841, 1326.5, and 1326.6 to the Unemployment Insurance Code which are made by Sections 72, 85, and 87 of this act shall remain in effect only until July 1, 1978, and on that date Sections 72.5, 86, and 87.5 of this act shall become operative to incorporate the changes in these provisions made necessary by Chapter 1149 and Chapter 1252 of the Statutes of 1977.

Further, Section 634.5 of the Unemployment Insurance Code, as amended by Section 36.5 of this act shall also be operative with respect to wages as provided by Section 99 of this act.

SEC. 101. Except as provided by Sections 98, 99, and 100 of this act, this act shall become operative on January 1, 1978.

SEC. 102. No right or cause of action founded upon any provision of law amended or repealed by this act as the provisions existed prior to such amendment or repeal shall be abolished or impaired by this act.

SEC. 103. In any action brought by cities, counties, and states coordinated by the National Institute of Municipal Law Officers or brought by the National Institute of Municipal Law Officers on behalf of cities, counties, and states, in the United States District Court for the District of Columbia or the United States Court of Appeals for the District of Columbia or the Supreme Court of the United States, if the court stays the operation, implementation of enforcement of Public Law 94-566, then the terms of the stay automatically shall apply to this act and to all public agencies in California, including the state, counties, cities, districts, political subdivisions, and instrumentalities of any of the foregoing.

SEC. 104. If the Supreme Court of the United States declares Public Law 94-566 unconstitutional or invalid insofar as it applies to unemployment insurance coverage for employees of the State of California or of local government in the State of California, then on the date the judgment or order of the court becomes final, except as otherwise ordered by the court, and to the extent permitted by federal law:

(a) The provisions of this act to the extent that they relate solely or in part to unemployment insurance coverage for such employees shall to such extent be inoperative wholly or in part.

(b) The provisions of this act to the extent that they do not apply to unemployment insurance coverage for such employees shall

remain to that extent operative wholly or in part.

(c) The provisions of law in effect prior to the changes made by this act shall become operative as of January 1, 1978, to the extent that they relate to unemployment insurance coverage for such employees.

(d) Local agency tax rates levied to meet costs of coverage provided for such employees shall not continue to be levied.

(e) Assets acquired and moneys collected under and as a result of the provisions of this act which would not otherwise have been acquired or collected under the law in effect pursuant to subdivision (c) of this section and deposited in or held by the School Employees Fund or its predecessor, and assets acquired and moneys collected and deposited in or held by the Local Public Entity Employees Fund, shall be refunded to the local entities which contributed to the funds. Entities which increased tax rates to provide coverage shall use the refund to reduce the property tax rate by the amount of the tax rate increase to meet costs of coverage. The remaining balance in the Classified School Employees Fund may be used pursuant to the law in effect under subdivision (c) of this section.

(f) No individual shall be liable for any overpayment of benefits which arises solely because prior law again becomes operative under subdivision (c) of this section. Any benefit award computed pursuant to a claim establishing a benefit year under the provisions of law in effect prior to the application of subdivision (a) of this section shall, if the benefit award is applicable on the date the judgment or order of the court becomes final, be recomputed under the provisions of law in effect pursuant to subdivision (c) of this section. Any benefits paid pursuant to such benefit award prior to the recomputation shall be deducted from the maximum amount of unemployment compensation benefits payable as determined by the recomputation. If there remains a balance of the maximum amount as recomputed it shall be payable at the weekly benefit amount resulting from the recomputation if the claimant is otherwise eligible.

SEC. 105. It is the intent of the Legislature in enacting this measure that, in view of the substantial impact of the unemployment insurance program on local governments, the program shall be reviewed during 1978. The review shall include an examination of eligibility requirements for, and levels, duration, and financing of benefits under the program, with special reference to the impact on local government and the property taxpayer.

SEC. 106. This act is necessary to implement Public Law 94-566, which is hereby deemed to be a "federal mandate" within the meaning of Sections 2206 and 2271 of the Revenue and Taxation Code.

SEC. 107. 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 through action by the federal government.

SEC. 108. 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 California enacts this act to be operative not later than January 1, 1978, California's unemployment insurance program will be out of conformity with the mandates of federal law under Public Law 94-566. This would seriously disrupt California's economy by the imposition of burdensome federal taxes on California employers and imperil the payment of unemployment benefits by the denial of federal funds to pay for the administration of the payment of such benefits to unemployed claimants in California. In order to preserve California's unemployment insurance system and assure uninterrupted payment of unemployment benefits in the interest of the public peace, health, or safety, it is necessary that this act take effect immediately.

CHAPTER 3

An act to amend Sections 701, 10007.5, and 10010.1 of, and to add Article 6 (commencing with Section 800) to Chapter 2 of Division 1 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 3, 1978. Filed with Secretary of State February 3, 1978.]

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

SECTION 1. Section 701 of the Elections Code is amended to read:

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.

(g) Upon the receipt of a postal notice received pursuant to Sections 801 and 803, indicating that mail is not deliverable to the voter's registered address.

SEC. 2. Article 6 (commencing with Section 800) is added to

Chapter 2 of Division 1 of the Elections Code, to read:

Article 6. Residency Confirmation

800. In lieu of the cancellation of affidavits of registration for failure to vote as provided for in Sections 706 and 706.2, the county clerk may conduct a preelection residency confirmation procedure as provided in this article. Such procedure shall be initiated by mailing a postcard to each registered voter of the county preceding the direct primary election. Postcards mailed pursuant to this article shall be sent "Address Correction Requested, Return Postage Guaranteed," and shall be in substantially the following form:

"We are requesting your assistance in correcting the addresses of voters who have moved and have not reregistered.

1. If you have not moved, and receive this postcard at your registered address, please disregard this notice.

2. If the person named on this postcard is not at this address, please return this postcard to your mail carrier."

801. Based on the postal notices on the returned residency confirmation postcards received pursuant to Section 800, the county clerk shall take the following actions:

(a) The affidavits of registration of persons whose residency confirmation postcards are returned by the post office as undeliverable and who have no forwarding address shall be canceled. Blank affidavits of registration shall immediately be mailed to the addresses at which such canceled voters were registered.

(b) The affidavits of registration of persons for whom forwarding addresses within the county are received shall be corrected to reflect the new address provided by the post office. A special voter notification card shall be sent to all voters whose registered addresses are changed pursuant to this section. This card shall be in substantially the same form as provided by Section 505, but shall state that the voter's registered address has been corrected to reflect address correction information received from the post office. Blank affidavits of registration shall immediately be mailed to the addresses at which such voters formerly were registered.

(c) The affidavits of registration of persons for whom forwarding addresses outside of the county are received shall be canceled. Such persons shall be sent a notice of the cancellation at their out-of-county address. Blank affidavits of registration shall immediately be mailed to the addresses at which such canceled voters were registered.

All address corrections and cancellations of affidavits of registration made pursuant to this article shall be reflected on the voter index as required by subdivision (a) of Section 607.

802. If the county clerk conducted the preelection residency confirmation mailing provided for in this article, on completion of the canvass of the returns of the general election the clerk shall:

(a) Examine the absent voters list and the roster of voters that was

maintained by the precinct board in each precinct in the county at the general election.

(b) No later than the first week of the following January, mail a notice by means of first-class, nonforwardable postcard, prepaid by the clerk, to every person who failed to vote at the general election, stating substantially the following:

"We are requesting your assistance in correcting the addresses of voters who have moved and have not reregistered.

1. If you still live at the address noted on this postcard your voter registration will remain in effect.

2. If the person named on this postcard is not at this address, please return the postcard to your mail carrier."

803. Within 30 days of the mailing of postcards pursuant to subdivision (b) of Section 802, the county clerk shall take the following actions

(a) Correct the address on the nonvoter's affidavit of registration if the nonvoter has moved to a different stated residence within the county.

(b) Cancel the affidavit of registration if the nonvoter has moved to an address outside the county.

(c) Cancel the affidavits of registration for all nonvoters for whom the nonvoter residency confirmation postcard is undeliverable.

The effective day of cancellation shall be the 30th day following the date the notice is mailed to the nonvoter. Upon such cancellations, an affidavit of registration shall immediately be mailed to the address at which such canceled nonvoters were registered. All address corrections and cancellations made pursuant to this section shall be reflected on the voter index within 60 days of the nonvoter residency confirmation mailing.

804. Before every election and on election day the county clerk shall:

(a) Assign a sufficient number of qualified persons in the office of the clerk to receive and verify claims of erroneous cancellations of affidavits of registration, and cause said affidavits to be immediately reinstated or,

(b) Supply each polling place with a list of voters in the precinct whose affidavits of registration were canceled as the result of postal notifications received by the clerk preceding the direct primary or statewide general election, whichever occurred last.

At every election the clerk shall provide a page in the Roster of Voters for the signature, under oath, attesting to continuous residency in the precinct, of any voter whose affidavit may have been canceled because of erroneous postal notification. Canceled affidavits of registration of voters whose signatures appear on said roster page shall be reinstated by the clerk.

SEC. 3. Section 10007.5 of the Elections Code is amended 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".

The provisions of this section shall not apply to counties utilizing the procedure set forth in Article 6 (commencing with Section 800) of Chapter 2 of Division 1.

SEC. 4. Section 10010.1 of the Elections Code is amended to read:

10010.1. When mailing sample ballots for the general election pursuant to Section 10010, 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".

With the approval of the county board of supervisors, the procedure set forth in this section and Section 706 may be used at any local election.

The provisions of this section shall not apply to counties utilizing the procedure set forth in Article 6 (commencing with Section 800) of Chapter 2 of Division 1.

SEC. 5. In lieu of the preelection residency confirmation mailing provided for in Section 800, and for purposes of the conduct of the statewide general election in November of 1978, counties may elect to mail the residency confirmation notice described in Sections 800 and 801, to primary election nonvoters by July 1, 1978, and the provisions of Section 801 of the Elections Code shall be completed by September 1, 1978.

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:

In order that the provisions of this act, permitting counties to adopt a prescribed procedure regarding the cancellation of affidavits of registration, may go into effect for the June 1978 primary and November 1978 general elections, it is necessary that this act take effect immediately.

CHAPTER 4

An act relating to school district governing boards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 6, 1978. Filed with Secretary of State February 6, 1978.]

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

SECTION 1. In any case where a unified school district having an average daily attendance of 50,000 or more as of April 15, 1977, is governed by a city board of education which serves also as the governing board of a community college district pursuant to Section

74141 of the Education Code, such board may, by a resolution adopted by a majority of the members of the board on or before March 15, 1978, establish a new separate community college district governing board effective July 1, 1978. The new community college district governing board shall be elected, organized, and otherwise governed in accordance with the statutory law. The governing board of the unified school district shall continue in existence and be subject to the provisions of the city charter pertaining to its organization and composition as heretofore provided. The resolution of the board shall require each member of the governing board to elect irrevocably, on or before March 15, 1978, at a public meeting of the board, upon which of the boards the member shall serve. The community college district governing board so created shall be composed of the same number of members as the city board of education.

(a) If an individual serving on the governing board of such unified school district elects to serve on the new community college district governing board, such election shall be deemed to have created a vacancy in such individual's membership on the city board of education, effective April 1, 1979. Such vacancy shall be filled in the manner prescribed by the city charter of the city in which the unified district is located, in whole or in part.

(b) If an individual serving on the governing board whose term expires in April of 1979 elects to serve on the new community college district governing board, then the term of office on the community college board shall be deemed to expire on March 31, 1979, and if an individual serving on the governing board whose term expires in April of 1981 elects to serve on the new community college district governing board, then the term of office on the community college board shall be deemed to expire on March 31, 1981.

(c) If an individual serving on the board elects to continue to serve as a member of the city board of education, he shall nevertheless continue to serve also on the community college district governing board but only until his successor on such college board is elected at the special election for members of the community college district governing board provided for herein and has assumed office. On June 6, 1978, an election shall be held in the community college district to elect members to the community college district governing board to fill the positions of the governing board members whose terms pursuant to the city charter are scheduled to expire in April of 1979, and other governing board members, if any, whose terms pursuant to the city charter are scheduled to expire in April of 1981, and who have elected, pursuant to this section to serve as members of the city board of education only.

(d) If the term of office of an individual who elects to serve on the city board of education expires in April 1979, in accordance with the terms of the city charter mentioned in subdivision (a), then the term of office on the community college district board shall be deemed to

expire on March 31, 1979. The member's successor on the community college district board, elected at the June 6, 1978, election, shall be elected to serve the unexpired remainder of such term beginning July 1, 1978, and ending on March 31, 1979, and for an additional year until March 31, 1980. On March 11, 1980, an election shall be held in the community college district to elect members to the community college district governing board to fill positions of the governing board whose terms are scheduled to expire on March 31, 1980. The terms of members so elected shall expire on March 31, 1983. Subsequent vacancies for these positions shall be filled on a regular four-year basis.

(e) If the term of office of an individual electing to serve on the city board of education expires in April 1981, in accordance with the terms of the city charter mentioned in subdivision (a), then the terms of office in the community college district board shall be deemed to expire on March 31, 1981, and the member's election to continue to serve on the city board of education shall be deemed to have created a vacancy in the member's membership on the community college district board commencing on July 1, 1978. The member's successor to the community college district board, elected at the June 6, 1978, election as provided herein, shall serve the remainder of such unexpired term ending on March 31, 1981.

(f) Of the members elected to the governing board of the community college district at the first election on June 6, 1978, those receiving the lowest number of votes shall be deemed to have been elected to the positions, if any, held by members whose terms would otherwise have expired on March 31, 1979, and who elected to serve on the city board of education only and those receiving the highest number of votes shall be deemed to have been elected to the positions, if any, held by members whose terms would otherwise have expired on March 31, 1981, and who elected to serve on the city board of education only.

(g) Notwithstanding any provisions of this act to the contrary, following the first election of members to the newly created community college district board, all subsequent regular elections for members of the community college district governing board may be held on the same date upon which the election for members of the city board of education is held pursuant to city charter and Article 3 (commencing with Section 5340) of Chapter 3 of Part 4 of the Education Code.

SEC. 2. The provisions of Section 74150 of the Education Code shall be applicable to 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:

An immediate effective date will enable the community college district governing board to consolidate the election of board members with the primary election to be held in June of 1978 and,

thereby, save the expense of a separate election, and it is for this reason that this act should become effective immediately and as early as possible in 1978.

CHAPTER 5

An act to add Chapter 5.5 (commencing with Section 36454) to Part 6 of Division 13 of the Water Code, relating to California water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 7, 1978. Filed with Secretary of State February 7, 1978]

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

SECTION 1. Chapter 5.5 (commencing with Section 36454) is added to Part 6 of Division 13 of the Water Code, to read:

CHAPTER 5.5. ALTERNATIVE PROVISIONS FOR THE CONSOLIDATION OF COTERMINOUS IMPROVEMENT DISTRICTS

36454. This chapter provides an alternative method for the consolidation of coterminous improvement districts formed pursuant to Chapter 4.9 (commencing with Section 36410) of this part. This chapter shall not apply to or affect any other provisions of this division.

36454.1. Pursuant to the procedure set forth in this chapter, two or more existing coterminous improvement districts formed pursuant to the provisions of Chapter 4.9 (commencing with Section 36410) of this part may be consolidated into one improvement district. In such instance the consolidated improvement district may be designated in such manner as the board may designate. Any authorized but unissued bonds of any of the coterminous improvement districts may be issued and sold as the bonds of the consolidated improvement district. Such bonds, as well as any funds on hand from bonds previously issued by any of the improvement districts consolidated into one improvement district as hereinafter provided or any other funds of any such improvement districts, shall be used in the manner provided by law for the original authorized purposes. However, any such use of funds shall be to accomplish the plan of works originally established or as subsequently amended.

Any bonds which were issued by any of the coterminous improvement districts prior to their consolidation and which remain outstanding at the time of consolidation shall be assumed by and become the liability of the consolidated improvement district.

To the extent assessment, standby charges, or other charges are necessary to be levied or collected by reason of any such

improvement districts consolidated hereunder into one improvement district, such assessment, standby charges, or other charges may be collected by the consolidated improvement district provided for hereunder. Thereafter, the amount so collected shall be utilized to satisfy the obligations for which such assessments or standby charges were levied and collected, except that any amount over and above that necessary to satisfy said obligations may be used for any of the purposes of the consolidated improvement district.

36454.2. For purposes of Section 2270 of the Revenue and Taxation Code, bonds authorized by any of the coterminous improvement districts which remain outstanding or unissued at the time the districts are consolidated shall be treated as having been authorized by the consolidated district. Further, for purposes of Section 2270 of the Revenue and Taxation Code, bonds authorized by the voters of the coterminous improvement districts which remain outstanding or unissued at the time the districts are consolidated shall be treated as having been authorized by the voters of the consolidated improvement district.

36454.3. In the event that the board determines it to be in the best interests of the district to consolidate any two or more existing coterminous improvement districts formed under Chapter 4.9 (commencing with Section 36410) of this part, it may, by resolution adopted by a four-fifths vote, declare its intention to consolidate such improvement districts. The resolution so adopted shall identify the improvement districts to be consolidated and shall set forth the total amount of authorized bonds, as well as the amount of outstanding bonds, of each of the improvement districts proposed to be consolidated, the purposes of each such improvement district, and the designation of the proposed consolidated improvement district. The resolution of intention shall set forth a legal description of the existing coterminous improvement districts to be consolidated and provide that notice be given in a manner provided in Section 36414. Additionally, the resolution shall fix a date, time, and place for a public hearing on the proposed consolidation.

36454.4. At the conclusion of the hearing on the resolution of intention provided for in Section 36454.3, the board may adopt a resolution declaring the existing coterminous improvement districts described in the resolution of intention to be consolidated in one improvement district which shall be designated therein. The resolution shall contain the legal description thereof as well as a statement of the purposes of the consolidated improvement district. If the parent district has adopted the alternative method for the levy, collection and enforcement of district assessment by the county and is operating under the provisions of Part 7.5 (commencing with Section 37200) of this division, it shall file a statement as required by Chapter 8 (commencing with Section 54900) of Part 1, Division 2, Title 5 of the Government Code. The resolution shall contain a determination that such consolidation is in the best interests of the present and future property owners and taxpayers. Any such

resolution shall be subject to referendum held within the boundaries described in the resolution adopted as provided for herein.

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:

Many California water districts have established coterminous improvement districts which respectively provide water or sewer services or facilities therefor.

Existing law does not adequately provide for the outstanding indebtedness of the separate coterminous improvement districts to be borne by a consolidated improvement district.

As a result, it is impossible to consolidate such coterminous improvement districts, leading to unnecessary development expenditures of money relative to the operations of the separate but coterminous improvement districts.

In order to eliminate such unnecessary and wasteful expenditures and unnecessary continued commitment of the development resources of California water districts, it is necessary, therefore, that this act take effect immediately.

CHAPTER 6

An act to add and repeal Sections 2710 and 2711 of the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 7, 1978. Filed with Secretary of State February 7, 1978.]

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

SECTION 1. Section 2710 is added to the Unemployment Insurance Code, to read:

2710. (a) Claims for the benefits provided in Section 2801 shall be made in accordance with authorized regulations of the Director of Employment Development and shall be supported by a certificate signed by the physician of the claimant or by a practitioner duly authorized by any bona fide church, sect, denomination or organization whose principles or teachings call for dependence for healing entirely upon prayer or spiritual means stating the date the physician or duly authorized practitioner ordered the confinement and the duration of such confinement. With respect to any eligible claimant who is hospitalized in a county hospital in this state or is hospitalized by said county hospital in another hospital, a certificate stating the date that the physician ordered the confinement of the claimant and the duration of such confinement signed by the

registrar of the hospital shall satisfy the requirements of this section. With respect to any eligible claimant who is hospitalized pursuant to court order or physician's or health officer's certificate, a statement from the superintendent or registrar of the hospital stating the dates of such confinement shall satisfy the requirements of this section.

(b) 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. 2. Section 2711 is added to the Unemployment Insurance Code, to read:

2711. (a) Where an individual eligible for additional benefits during confinement in a hospital or nursing home has first given his written consent with respect to a particular claim, the additional benefits shall be paid by the Department of Employment Development directly to the hospital or nursing home in which he is confined in accordance with authorized regulations adopted by the Director of Employment Development prescribing procedure governing such payments. Any additional benefits during such confinement in excess of the daily rate of charge for care, including special care or treatment by a hospital or nursing home, shall be paid by the Department of Employment Development to the disabled individual as otherwise provided in this division.

(b) 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. 3. All claims for hospital benefits, including requests for payment directly to a hospital or nursing home, filed on or after January 1, 1978, under Chapter 3 (commencing with Section 2800) of Part 2 of Division 1 of the Unemployment Insurance Code shall be processed pursuant to Sections 2710 and 2711 of that code as they existed prior to January 1, 1978, as re-enacted by this act.

SEC. 4. 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:

Sections 2710 and 2711 of the Unemployment Insurance Code relate specifically to Chapter 3 (commencing with Section 2800) of Part 2 of Division 1 of the Unemployment Insurance Code. All these provisions are repealed by Chapter 1143 of the Statutes of 1977. The operative provisions of Chapter 1143 repeal such Chapter 3 with respect to periods of disability commencing after January 1, 1979, but do not refer to Sections 2710 and 2711. Therefore, the operative date for repeal of those provisions is January 1, 1978. The intent of Chapter 1143 is to provide for hospital benefits to disability insurance claimants until January 1, 1979 under Chapter 3. Section 2710 permits the filing of claims for such benefits, and Section 2711 permits assignment of benefits to hospital facilities. The repeal of those sections prior to January 1, 1979, may deny the right to file claims for or to allow assignments of hospital benefits during 1978 when the

hospital benefit provisions continue in effect. In order to prevent the denial of hospital benefits during 1978 to claimants whose rights should continue without deprivation until January 1, 1979, it is necessary that this act take immediate effect.

CHAPTER 7

An act to amend Section 1157 of the Evidence Code, relating to discovery and admissibility of evidence, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 10, 1978. Filed with Secretary of State February 10, 1978.]

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

SECTION 1. Section 1157 of the Evidence Code is amended to read:

1157. Neither the proceedings nor the records of organized committees of medical or medical-dental staffs in hospitals having the responsibility of evaluation and improvement of the quality of care rendered in the hospital or medical or dental review or chiropractive review committees of local medical, dental, or chiropractic societies shall be subject to discovery. Except as hereinafter provided, no person in attendance at a meeting of any such committee shall be required to testify as to what transpired thereat. The prohibition relating to discovery or testimony shall not apply to the statements made by any person in attendance at such a meeting who is a party to an action or proceeding the subject matter of which was reviewed at such meeting, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

The prohibitions contained in this section shall not apply to medical, dental, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any such committee if any person serves upon the committee when his own conduct or practice is being reviewed.

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 proceedings and records of review committees of local chiropractic societies may be afforded the same protection against discovery as is currently provided to similar medical and dental societies at the earliest possible time, it is imperative that this act take effect immediately.

CHAPTER 8

An act making an appropriation for the state park system, and in this connection to amend and supplement the Budget Act of 1977 (Chapter 219, Statutes of 1977) by adding Section 2.8N thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 10, 1978. Filed with Secretary of State February 10, 1978.]

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

SECTION 1. Section 2.8N is added to the Budget Act of 1977 (Chapter 219, Statutes of 1977), to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

SEC. 2.8N. The following sum of money is hereby appropriated for expenditure during the 1977–78, 1978–79, and 1979–80 fiscal years. Such appropriation shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

CAPITAL OUTLAY
RESOURCES

435N—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivision (e) of Section 5096.85 of the Public Resources Code, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974 3,000,000

Schedule:

(a) Pan Pacific Park, acquisition 3,000,000

provided, that none of the funds which are appropriated by this item for the project set forth herein shall be available for expenditure unless and until such project is recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency; and provided, further, that such acquisition shall be accomplished in cooperation with the County of Los Angeles; and provided further, the County of Los Angeles shall agree to operate and maintain the park as a unit of the state park system at no cost to the state; and provided further that the Los Angeles Flood

Control District shall agree to hold the state harmless from any liability which may arise from the anticipated construction and operation of a flood control facility within such park site.

SEC. 2. The acquisition authorized by this act shall be made pursuant to the Property Acquisition Law (commencing with Section 15850 of the Government Code).

SEC. 3. Any action which has been taken by any state agency, including, but not limited to, any action taken by the State Park and Recreation Commission and the Secretary of the Resources Agency, with respect to the acquisition of Pan Pacific Park pursuant to Chapter 787 of the Statutes of 1975 shall be applicable to the acquisition of Pan Pacific Park pursuant to 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:

Chapter 787 of the Statutes of 1975 amended and supplemented the Budget Act of 1974 to appropriate funds for the acquisition of Pan Pacific Park in the County of Los Angeles. When Chapter 787 was enacted as an urgency measure in September, 1975, nearly one-half of the three-year period provided by the Budget Act of 1974 for expenditure of the appropriation had elapsed. The appropriation made by Chapter 787 has now reverted and in order to provide for the early acquisition of these greatly needed lands for the state park system, it is necessary that this act take effect immediately.

CHAPTER 9

An act to amend Sections 121, 122, and 124 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), relating to the Monterey Peninsula Water Management District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 10, 1978 Filed with Secretary of State February 10, 1978]

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

SECTION 1. The Legislature hereby finds and declares that the cost of election to authorize the Monterey Peninsula Water Management District to function and exercise its powers, presently required to be held between March 16 and April 10, 1978, could be reduced to one-third of the present estimated cost if the election is consolidated with the direct primary election on June 6, 1978

The Legislature intends by this act to authorize the county to

consolidate such elections, and to authorize use of election filings, ballot arguments, and other preparations made, or being made, for the formation election required by existing law, the same as if such actions had been, are, or will be made for an election date of June 6, 1978.

SEC. 2. Section 121 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 121. The board of supervisors of the county, on or before March 15, 1978, shall call and give notice of an election to be held in the district for the purpose of determining whether it shall begin to function and exercise its powers and for the selection of persons who shall serve as directors of the district if it shall begin to function and exercise its powers.

SEC. 3. Section 122 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 122. The election shall be held not less than 75 days, nor more than 180 days, after January 1, 1978. The election shall be conducted and the first elective directors, and those succeeding, shall be nominated and elected pursuant to the provisions of the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code) as nearly as may be practicable, including, in the discretion of the board of supervisors of the county, use of all-mailed ballots. Such first elective directors shall be registered to vote within the district.

SEC. 4. Section 124 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

Sec. 124. There shall be printed on the ballot, together with the names of the candidates for elected director, the following question: "Shall the Monterey Peninsula Water Management District begin to function and exercise its powers in accordance with the provisions of the Monterey Peninsula Water Management District Law?" following which question shall be the words "Yes" and "No" on separate lines, with a voting square at the right of each, in which the voter shall indicate by stamping a cross (+) his vote for or against the proposition.

If a majority of the voters voting on the proposition vote in its favor, the board of supervisors of the county shall canvass the returns for directors and those five persons receiving the highest number of votes shall be declared elected. The district shall begin to function and shall exercise its powers, and the board of supervisors of the county within 28 days after the election, shall by resolution enter on its minutes a declaration that the district has begun to function and exercise its powers, giving the name of the district, the purposes for which it is formed, and describing its boundaries.

No informality in any proceedings, including informality in the conduct of any election not substantially affecting adversely the legal

rights of any person, shall invalidate the organization of the district.

SEC. 5. The election for the purpose of determining whether the Monterey Peninsula Water Management District shall begin to function and exercise its powers and for the selection of persons who shall serve as directors of the district if it shall begin to function and exercise its powers shall be conducted in accordance with the provisions of the Uniform District Election Law (Part 3 (commencing with Section 23500), Division 14, Elections Code), except as otherwise provided by law or this act and insofar as may be practicable to achieve the purposes of law and this act. For such purpose, and notwithstanding any other provisions of law, the filing dates and other requirements of such provisions of the Elections Code shall not apply and reasonable dates to comply with the requirements of this act, as determined by the Registrar of Voters of the County of Monterey, for such purposes shall apply. For such purposes, any actions heretofore or hereafter taken under the law as it existed prior to this act for such authorizing election are ratified, acknowledged, and validated for the election to be conducted on June 6, 1978, and actions, including, but not limited to, filings for election and ballot arguments shall not be required to be refiled. No irregularities or informality in any proceedings, including informality in the conduct of any election not substantially affecting adversely the legal rights of any person, shall invalidate the organization of the district.

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

The election to authorize the Monterey Peninsula Water Management District to begin to function and exercise its powers is required to be held 75 to 100 days after January 1, 1978. It has been determined that two-thirds of the cost of that election can be saved, substantially greater involvement of the electorate may occur, and sufficient time for notice and preparation of ballot arguments will be made available if that formation election, required by existing law, is postponed the few weeks necessary to permit its consolidation with the direct primary election on June 6, 1978. The effect of such delay will not seriously hamper the functioning of this new water management district in conserving and augmenting the supplies of water in this area of unique scenic, cultural, and recreational resources.

In order to permit this election to be consolidated with the direct primary election it is, therefore, necessary that the provisions of this act go into immediate effect.

CHAPTER 10

An act making an appropriation in support of public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 17, 1978. Filed with Secretary of State February 18, 1978.]

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

SECTION 1. The sum of seventy thousand dollars ($70,000) is hereby appropriated from the General Fund to the State Department of Health for expenditure in the 1977–78 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. The expenditure of thirty-five thousand dollars ($35,000) of the amount appropriated by this section shall be subject to the approval of the Director of Finance.

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 funds to continue programs for developmentally disabled persons during the current fiscal year, it is necesary for this measure to have immediate effect.

CHAPTER 11

An act to amend Sections 8247 and 8382 of the Education Code, relating to children's centers and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 17, 1978. Filed with Secretary of State February 18, 1978.]

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

SECTION 1. Section 8247 of the Education Code is amended to read:

8247. The Superintendent of Public Instruction, with the approval of the Director of Finance, shall provide the State Controller with a basic plan for the filing of claims and for the

allocation of state and federal funds appropriated for child development services. The plan shall establish necessary procedures and controls which permit advanced payments of state and federal funds for subsidized child development services to the various school districts and other public and private organizations.

SEC. 2. Section 8382 of the Education Code is amended to read:

8382. Any money appropriated to be apportioned by the Department of Education, for the purposes of this chapter, to school districts, community college districts, or county superintendent of schools or other public or private agencies maintaining child development programs pursuant to this chapter and to the governing authorities of state institutions maintaining child development programs, shall be apportioned to such districts, county and governing authorities solely in accordance with the provisions of this chapter.

The frequency with which state allocations or apportionments shall be made to authorized public and private child development agencies shall be as prescribed by the basic plan adopted and approved under the provisions of Section 8247.

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 unique fiscal characteristics of some child care provider agencies necessitates an advance cash flow system which is regular and predictable in order to keep such agencies operating effectively and efficiently. In order to permit the Department of Education to authorize needed cash advances to child care provider agencies immediately, it is necessary that this act go into immediate effect.

CHAPTER 12

An act to repeal Section 2030 of, and to add Sections 2030 and 2033 to, the Code of Civil Procedure, relating to discovery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 17, 1978. Filed with Secretary of State February 18, 1978.]

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

SECTION 1. Section 2030 of the Code of Civil Procedure is repealed.

SEC. 2. Section 2030 is added to the Code of Civil Procedure, to read:

2030. (a) Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or

association, or body politic, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may be served upon any other party at any time after service of the summons or the appearance of such other party and without leave of court except that, if service of interrogatories is made by the plaintiff within 10 days after such service of summons or appearance, leave of court granted with or without notice must first be obtained. The interrogatories shall be answered separately and fully in writing under oath. The answers shall be signed by the person making them; and the party upon whom the interrogatories have been served shall serve the answers on the party submitting the interrogatories within 30 days after the service of the interrogatories, unless the court, on motion and notice and for good cause shown, enlarges or shortens the time. For good cause and without notice, the court may enlarge the time not to exceed 15 days. Such answers shall respond to the written interrogatories; or, if any interrogatory be deemed objectionable, the objections thereto may be stated by the party addressed in lieu of response. If the party who has submitted the interrogatories deems that further response is required, he may move the court for an order requiring further response. Such motion must be upon notice given within 30 days from date of service of the answers or objections unless the court, on motion and notice, and for good cause shown, enlarges the time. Otherwise, the party submitting the interrogatories shall be deemed to have waived the right to compel answer pursuant to this section. Copies of all interrogatories and of all answers thereto shall be served upon all other parties to the action who have appeared; but the court on motion with or without notice may waive this requirement if the court determines that enforcement thereof would be unduly expensive, oppressive or burdensome. At any time prior to final judgment and upon written request, the party originating interrogatories or responses thereto shall provide within 30 days of such request a copy thereof to any other party for any reason not previously served.

(b) The written interrogatories and any responses thereto shall not be filed unless the court, on motion and notice and for good cause shown, so orders. Any party may lodge with the court the original or a copy of any written interrogatories or responses thereto, but these shall not be filed unless the court determines that their contents have become relevant to an issue in a trial or other proceeding.

(c) Interrogatories may relate to any matters which can be inquired into under subdivision (b) of Section 2016 of this code, and the answers may be used to the same extent as provided in subdivision (d) of Section 2016 of this code for the use of the deposition of a party. Interrogatories may be served after a deposition has been taken, and a deposition may be sought after interrogatories have been answered, but the court, on motion of the deponent or the party interrogated, may make such protective order as justice may require. The number of interrogatories or of sets of interrogatories to be served is not limited except as above provided

and except as justice requires to protect the party from annoyance, expense, embarrassment or oppression. The provisions of subdivision (b) of Section 2019 of this code are applicable for the protection of the party from whom answers to interrogatories are sought under this section.

(d) When in order to answer an interrogatory it is necessary to make a compilation, abstract, audit or summary of the business records of a party, and such a compilation, abstract, audit or summary does not exist, or if it does exist, it is not in the possession or under control of such party, it shall be a sufficient answer to such interrogatory to so state and to specify the records from which the answer may be derived or ascertained and to afford to the party by whom the interrogatory was proposed reasonable opportunity to examine, audit or inspect such records and to make copies thereof or compilations, abstracts or summaries therefrom.

(e) Service of interrogatories and responses under this section may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

SEC. 3. Section 2033 is added to the Code of Civil Procedure, to read:

2033. (a) After service of summons or the appearance of a party, any other party who has appeared in the action may serve upon such party who has been served or who has appeared a written request for the admission by the latter of the genuineness of any relevant documents described in the request or of the truth of any relevant matters of fact set forth in the request. If a plaintiff desires to serve a request within 10 days after such service of summons or appearance, leave of court, granted with or without notice, must be obtained. Copies of the documents shall be served with the request unless copies have already been furnished, and upon request the originals shall be made available for inspection. Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than 20 days after service thereof or within such shorter or longer time as the court may allow on motion and notice, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part, together with a notice of hearing the objections at the earliest practicable time. For good cause and without notice, the court may enlarge the time not to exceed 15 days. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part or a qualification of a matter of which an admission is requested, he

shall specify so much of it as is true and deny only the remainder. If the party who has submitted the requests for admissions deems that further response is required, he may move the court for an order requiring further response. Such motion must be upon notice given within 30 days from date of service of the responses unless the court, on motion and notice, and for good cause shown, enlarges the time. Otherwise, the party submitting the requests for admissions shall be deemed to have waived the right to compel further responses pursuant to this section. Copies of all requests for admissions and of all responses thereto shall be served upon all other parties to the action who have appeared; but the court on motion with or without notice may waive this requirement if the court determines that enforcement thereof would be unduly expensive, oppressive or burdensome. At any time prior to final judgment and upon written request, the party originating requests for admissions or responses thereto shall provide within 30 days of such written request a copy thereof to any other party for any reason not previously served.

(b) The requests for admissions and any responses thereto shall not be filed unless the court, on motion and notice and for good cause shown, so orders. Any party may lodge with the court the original or a copy of any requests for admissions or responses thereto, but these shall not be filed unless the court determines that their contents have become relevant to an issue in a trial or other proceeding.

(c) The number of requests for admissions or of sets of requests for admissions to be served is not limited except as justice requires to protect the party from annoyance, expense, embarrassment or oppression. The provisions of subdivision (b) of Section 2019 are applicable for the protection of the party from whom the admissions are requested under this section.

(d) Any admission made by a party pursuant to such request is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may be used against him in any other action.

(e) Service upon a party of any request for admission or response under this section may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

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:

Chapter 500 of the Statutes of 1977 inadvertently contained ambiguous provisions which create uncertainties and difficulties regarding the form and service of propounding documents, the service of responding documents, and the maintenance of both propounding and responding documents by the counsels of the parties, which, until resolved, can only be alleviated expeditiously by the reinstatement of previously existing statutory procedures.

In order that the expeditious alleviation of these uncertainties and

difficulties affecting civil discovery can be resolved at the earliest possible time, it is necessary that this act shall go into immediate effect.

CHAPTER 13

An act to add Sections 987.655 and 987.656 to the Military and Veterans Code, relating to mobilehome purchases by veterans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 23, 1978. Filed with Secretary of State February 24, 1978.]

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

SECTION 1. Section 987.655 is added to the Military and Veterans Code, to read:

987.655. The maximum purchase price for a mobilehome which is to be sited in a mobilehome park as defined in Section 18214 of the Health and Safety Code, shall be twenty-two thousand five hundred dollars ($22,500), with an amortization period not to exceed 25 years. For purchases under the provisions of this section, the department shall charge a rate of interest 1 percent higher than that which is charged to purchasers of conventional housing or of a mobilehome sited on a lot owned by the purchaser.

SEC. 2. Section 987.656 is added to the Military and Veterans Code, to read:

987.656. A mobilehome which is purchased under this act shall not be moved from its original site to any other location, without first obtaining prior authorization from the department.

Any person who moves or causes to be moved a mobilehome under this act, without first obtaining approval from the department, shall be jointly and severally liable to the department for the full amount of the mobilehome loan balance.

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

In order that the benefits of this act shall be available to veterans as soon as possible, this act must take effect immediately.

CHAPTER 14

An act to add Section 12823 to the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor February 23, 1978. Filed with Secretary of State February 24, 1978]

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

SECTION 1. Section 12823 is added to the Public Utilities Code, to read:

12823. (a) A district furnishing light, heat, or power may engage in activities to reduce wasteful, uneconomical or unnecessary uses of energy, including, but not limited to, public information programs, the sale of insulation, the sale, rental and lease of materials or equipment for the purpose of conserving energy or reducing the need for the installation of electric generating facilities, and the adoption of voluntary and mandatory load management programs, and may also engage in activities to accelerate and participate in the development of alternative sources of energy including, but not limited to, the supply of equipment for use in connection therewith, and may do all things necessary or convenient to the full exercise of the powers herein granted. The interest rates charged on extended payment contracts for such materials or equipment shall not exceed that necessary to cover the district's full cost of money plus its administrative costs and anticipated losses due to nonpayment on such contracts.

(b) This section does not constitute a change in, but is declaratory of, the existing law.

CHAPTER 15

An act to amend Sections 39149 and 81139 of the Education Code, relating to school building construction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 23, 1978 Filed with Secretary of State February 24, 1978]

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

SECTION 1. Section 39149 of the Education Code is amended to read:

39149. (a) Except as otherwise provided in subdivision (c) or (d), persons employed as inspectors of record to inspect the construction, reconstruction or alteration of any school building shall be either (1) persons who are registered as construction inspectors

in the divisions in which they are to be used, as defined by Section 9101 of the Business and Professions Code or (2) persons who are regularly employed for building code enforcement by the local agency having responsibility for such inspection, and are qualified to perform such inspections under the civil service laws or regulations of such local agency.

(b) Except as otherwise provided in subdivision (c) or (d), persons employed as assistants to inspectors of record shall be registered construction inspectors or shall be enrolled as inspectors-in-training in the divisions in which they are to be used, as defined by Section 9101.1 of the Business and Professions Code.

(c) Subdivisions (a) and (b) shall not apply to any architect, structural engineer, civil engineer, land surveyor, mechanical engineer, engineering geologist, or electrical engineer, who holds a valid certificate of registration in this state, insofar as he is practicing within the provisions of the law under which he is registered.

(d) Subdivisions (a) and (b) shall not apply to an inspector approved by the Office of Architecture and Construction and employed pursuant to a particular building contract prior to January 1, 1980, during the performance of that building contract.

SEC. 2. Section 81139 of the Education Code is amended to read:

81139. Except as otherwise provided in subdivision (c) or (d), persons employed as inspectors of record to inspect the construction, reconstruction or alteration of any school building shall be either (1) persons who are registered as construction inspectors in the divisions in which they are to be used, as defined by Section 9101 of the Business and Professions Code or (2) persons who are regularly employed for building code enforcement by the local agency having responsibility for such inspection, and are qualified to perform such inspections under the civil service laws or regulations of such local agency.

Except as otherwise provided in subdivision (c) or (d), persons employed as assistants to inspectors of record shall be registered construction inspectors or shall be enrolled as inspectors-in-training in the divisions in which they are to be used, as defined by Section 9101.1 of the Business and Professions Code.

(c) Subdivisions (a) and (b) shall not apply to any architect, structural engineer, civil engineer, land surveyor, mechanical engineer, engineering geologist, or electrical engineer, who holds a valid certificate of registration in this state, insofar as he is practicing within the provisions of the law under which he is registered.

(d) Subdivisions (a) and (b) shall not apply to an inspector approved by the Office of Architecture and Construction and employed pursuant to a particular building contract prior to January 1, 1980, during the performance of that building contract.

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:

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In order that essential school and community college construction will not be delayed due to a shortage of building inspectors having qualifications which would otherwise be required on and after January 1, 1978, it is essential that this act take effect immediately.

CHAPTER 16

An act to amend Section 23358 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor February 23, 1978. Filed with Secretary of State February 24, 1978.]

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

SECTION 1. Section 23358 of the Business and Professions Code is amended to read:

23358. Licensed winegrowers, notwithstanding any other provisions of this division, may also sell wine and brandy to any person holding a license authorizing the sale of wine or brandy, and to consumers for consumption off the premises where sold, and may also sell all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place as defined in Section 23038 of this code, which is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and which is operated by and for the licensee. At such bona fide public eating place wine and brandy may be used in the preparation of food and beverages to be consumed on the premises. A winegrower shall actually produce on his licensed premises by conversion of grapes, berries or other fruit, into wine, not less than 50 percent of all wines sold to consumers on his licensed premise or premises and any licensed branch premise or premises.

The department may, if it shall determine for good cause that the granting of such privilege would be contrary to public welfare or morals, deny the right to exercise the on-sale privilege authorized by this section in any bona fide eating place the main entrance to which is within 200 feet of a school or church.

CHAPTER 17

An act to amend Sections 24004 and 24004.5 of the Government Code, relating to county officers.

[Approved by Governor February 23, 1978 Filed with Secretary of State February 24, 1978]

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

SECTION 1. Section 24004 of the Government Code is amended to read:

24004. (a) Except as otherwise provided in this section and Section 24004.5, a sheriff, clerk, or constable, or any of their deputies, shall not do any of the following:

(1) Practice law or have as a partner a lawyer or anyone who acts as a lawyer for a collection agency.

(2) Act as a collector or for any collection agency or have as a partner a collector or anyone who acts as a collector for a collection agency in the county where he resides and holds office.

(b) Paragraph (1) of subdivision (a) shall not apply to a reserve or auxiliary deputy sheriff who is admitted to practice law in this state. However, a reserve or auxiliary deputy sheriff may not represent any person in any matter concerning an event or transaction if the reserve or auxiliary deputy sheriff has performed or knows he will perform any act relating to the event or transaction in performance of his duties as a reserve or auxiliary deputy sheriff.

SEC. 2. Section 24004.5 of the Government Code is amended to read:

24004.5. Nothing in Section 24004 shall be construed to prohibit a deputy sheriff who is otherwise qualified to practice law from: (a) giving legal advice to his or her employer when directed to do so within the course and scope of his or her employment, or (b) representing any person; provided, that the deputy shall not represent any person in any criminal matter, in any matter concerning an event or transaction if the deputy has performed or has reason to know he or she will perform any act relating to such event or transaction in the performance of his or her duties, or in any matter adverse to his or her employing agency.

Nothing in this section shall prohibit the employing agency from taking appropriate disciplinary action against any deputy sheriff whose practice of law exceeds the above limitations.

CHAPTER 18

An act to amend Section 359 of the Water Code, and to amend and repeal Section 3 of Chapter 86 of the Statutes of 1977, relating to water supplies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 24, 1978 Filed with Secretary of State February 24, 1978.]

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

SECTION 1. Section 359 of the Water Code is amended to read:

359. Notwithstanding any other provision of law which requires an election for the purpose of authorizing a contract with the United

States, or for incurring the obligation to repay loans from the United States, and except as otherwise limited or prohibited by the Constitution of the State of California, a public water agency may, as an alternative procedure to submitting the proposal to an election, upon affirmative vote of four-fifths of the members of the governing body thereof, apply for, accept, provide for the repayment together with interest thereon, and use funds made available by the federal government pursuant to Public Law 95-18, pursuant to any other federal act subsequently enacted during 1977 which specifically provides emergency drought relief financing, or pursuant to existing federal relief programs receiving budget augmentations in 1977 for drought assistance, and may enter into such contracts as are required to obtain such federal funds pursuant to the provisions of such federal acts; provided the following conditions exist:

(a) The project is undertaken by state, regional, or local governmental agency.

(b) As a result of the severe drought now existing in many parts of the state, the agency has insufficient water supply needed to meet necessary agricultural, domestic, industrial, recreational, and fish and wildlife needs within the service area or area of jurisdiction of the agency.

(c) The project will develop or conserve water before October 31, 1978, and will assist in mitigating the impacts of the drought.

(d) The agency affirms that it will comply, if applicable, to Sections 1601, 1602, and 1603 of the Fish and Game Code.

(e) The project will be completed on or before the completion date, if any, required under the federal act providing the funding, but not later than March 1, 1978.

Any obligation to repay loans shall be expressly limited to revenues of the system improved by the proceeds of the contract.

No application for such federal funds pursuant to the authority of this section shall be made on or after March 1, 1978.

Notwithstanding the provisions of this section, a public agency shall not be exempt from any provision of law which requires the submission of such proposal to an election if a petition requesting such an election signed by 10 percent of the registered voters within the public agency is presented to the governing board within 30 days following the submission of an application for such federal funds.

Notwithstanding the provisions of this section, a public water agency which applied for federal funds for a project prior to January 1, 1978, may make application to the Director of the Drought Emergency Task Force for extension of the required completion date specified in subdivision (e). Following receipt of an application for extension, the Director of the Drought Emergency Task Force may extend the required completion date specified in subdivision (e) to a date not later than September 30, 1978, if the director finds that the project has been delayed by factors not controllable by the public water agency. If the Drought Emergency Task Force is dissolved, the Director of Water Resources shall exercise the

authority vested in the Director of the Drought Emergency Task Force pursuant to this section.

For the purposes of this section, "public water agency" means a city, district, agency, authority, or any other political subdivision of the state, except the state, which distributes water to the inhabitants thereof, which is otherwise authorized by law to enter into contracts or agreements with the federal government for a water supply or for financing facilities for a water supply, and which is otherwise required by law to submit such agreements or contracts or any other project involving long-term debt to an election within such public water agency.

SEC. 2. Section 3 of Chapter 86 of the Statutes of 1977 is amended to read:

Sec. 3. Notwithstanding any other provision of law to the contrary, a drought relief project shall be exempt from the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code, if all of the following conditions exist:

(a) The project is undertaken by a state, regional, or local governmental agency.

(b) The project is funded pursuant to Public Law 95-18, pursuant to any other federal act subsequently enacted during 1977 which specifically provides drought relief financing, or pursuant to existing federal relief programs receiving budget augmentations in 1977 for drought assistance.

(c) As a result of the severe drought now existing in many parts of the state, the agency has insufficient water supply needed to meet necessary agricultural, domestic, industrial, recreational, and fish and wildlife needs within the service area or area of jurisdiction of the agency.

(d) The project will develop or conserve water before October 31, 1978, and will assist in mitigating the impacts of the drought.

(e) The construction of the project will be completed on or before the completion date, if any, required under the federal act providing the funding, but not later than March 1, 1978.

(f) The agency affirms that it will comply, where applicable, with Sections 1601, 1602, and 1603 of the Fish and Game Code.

Notwithstanding the provisions of this section, an agency which applied for federal funds for a project prior to January 1, 1978, may make application to the Director of the Drought Emergency Task Force for extension of the required completion date specified in subdivision (e). Following receipt of an application for extension, the Director of the Drought Emergency Task Force may extend the required completion date specified in subdivision (e) to a date not later than September 30, 1978, if the director finds that the project has been delayed by factors not controllable by the public water agency. If the Drought Emergency Task Force is dissolved, the Director of Water Resources shall exercise the authority vested in the Director of the Drought Emergency Task Force pursuant to this section.

This section shall remain in effect only until September 30, 1978, and as of such date is repealed, unless a later enacted statute, which is chaptered before September 30, 1978, deletes or extends such date.

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:

Existing drought conditions are causing hardships and crises in many areas of the state. Many public water agencies which have entered into agreements with the federal government for the financing of drought relief projects in accordance with existing provisions of law will be unable to complete such projects by March 1, 1978, as required under existing law, due to delays beyond the control of such agencies. In order to permit the required completion date for the construction of such projects to be extended in appropriate cases beyond March 1, 1978, and to thereby permit the effective implementation of federal drought relief programs in this state, it is necessary that this act go into immediate effect.

CHAPTER 19

An act to add Section 1268.5 to the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 24, 1978. Filed with Secretary of State February 24, 1978.]

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

SECTION 1. Section 1268.5 is added to the Health and Safety Code, to read:

1268.5. Notwithstanding the provisions of Section 1268 requiring full compliance with the provisions of this chapter and the rules and regulations of the state department as a condition to the issuance of a license or special permit, the state department may issue a provisional license upon a change of ownership of a licensed skilled nursing facility or intermediate care facility if the initial relicensure inspection reveals the following:

(a) The facility and the applicant for licensure substantially meet the standards specified by this chapter and regulations adopted pursuant to this chapter.

(b) No violation of such provisions or regulations exists in the facility which jeopardizes the health or safety of patients.

(c) The applicant has adopted a plan for correction of any existing violations which is satisfactory to the state department.

A provisional license issued under this section shall expire not later than six months after the date of issuance, or at such earlier time as

determined by the state department at the time of issuance, and may not be renewed.

It is the intent of the Legislature in enacting this section to additionally provide for continuity of reimbursement under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, whenever ownership of a skilled nursing facility or intermediate care facility is transferred.

SEC. 2. (a) The Legislature hereby finds and declares that a high rate of turnover among staff in intermediate care facilities 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 facilities and intermediate care facilities, to the extent feasible, be set at levels sufficient to allow such 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.

(b) The Legislature further finds that the rates for wages contained in this act were developed with recognition of the costs of increased wages and related benefits. It is the intent of the Legislature that the funds resulting from the Medi-Cal rate increases provided in this section be used for wage increases and for costs of normal benefit increases related to the wage and salary increases.

(c) Notwithstanding any other provision of law, the Director of Health shall establish and implement regulations effective March 1, 1978, that establish a payment rate for intermediate care facilities and skilled nursing facilities as defined in Section 1250 of the Health and Safety Code, which is sufficient to provide an increase of two dollars and twenty-eight cents ($2.28) per patient-day with respect to skilled nursing facilities and one dollar and eighty-four cents ($1.84) per patient-day with respect to intermediate care facilities, for wages and benefits of nonadministrative employees. The increase required by this section shall be in addition to any future mandatory increases required by federal or state law. Such rate shall provide funding for the portion of additional costs necessary to implement the wage and benefit 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 the total patients in the facility.

(d) Each skilled nursing facility or intermediate care facility shall certify that funds received pursuant to this section for the period commencing March 1, 1978, to and including June 30, 1978, are expended for employee wages and benefits, except if the entry level wages of the lowest paid nonadministrative employee of a skilled nursing facility or an intermediate care facility exceeds three dollars

and ninety-seven cents ($3.97) per hour on the effective date of this section, the funds received pursuant to regulations adopted pursuant to this section shall be used to ensure the continued delivery of quality care in such facility. The base, from which employee wages and benefits are increased pursuant to this section, shall be the facility payroll for the month of December, 1977, but including only nonovertime hours worked by covered employees, plus any amount received pursuant to Section 1439.7 of the Health and Safety Code. For purposes of determining the amount of Medi-Cal funds to be distributed for employee wages and benefits, the total Medi-Cal patient-days recorded by the facility in the month of December, 1977, shall be multiplied by the amount per patient-day specified in subdivision (b) of this section.

(e) The director shall inspect relevant payroll and personnel records of skilled nursing facilities and intermediate care facilities which are reimbursed for Medi-Cal patients under the rate of reimbursement established pursuant to subdivision (b) of this section to insure that the wage and benefit increases provided for have been implemented.

(f) Any facility which is paid under the rate provided for in which the director finds has not made the wage and benefit increases provided for shall be liable to the state for the amount of funds paid to such facility based upon the wage and benefit requirements provided for by this section but not distributed to employees for wages and benefits plus a penalty equal to 10 percent of the funds not so distributed.

(g) On or before July 1, 1978, and annually thereafter, each skilled nursing facility or intermediate care facility shall certify to, and in the manner prescribed by, the director, all of the following:

(1) All nonadministrative employees of such facility employed less than three months receive at least an entry level wage amounting to the prevailing federal minimum wage rate plus 50 percent of the average hourly wage increase established pursuant to this section for that facility during the period March through June, 1978.

(2) All nonadministrative employees of such facility employed three months or more receive at least the prevailing federal minimum wage rate plus the average hourly wage increase established pursuant to this section for that facility during the period March through June, 1978; provided, however, that no employee then employed shall receive a wage less than that which such person received pursuant to this section for the period March through June, 1978, after July 1, 1978.

(3) Any wage increase required pursuant to Section 1439.7 of the Welfare and Institutions Code is in addition to any minimum wages provided in this subdivision.

SEC. 3. The sum of seven million dollars ($7,000,000), or as much thereof as may be necessary, is hereby appropriated from the General Fund to the State Department of Health, for costs incurred during the 1977–78 fiscal year, for allocation by the Department of

Finance to carry out the provisions of 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 to insure the continued availability of medical services to Medi-Cal beneficiaries, it is essential that this act take effect immediately.

CHAPTER 20

An act to repeal, add, and repeal Section 19614.1 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 24, 1978. Filed with Secretary of State February 24, 1978.]

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

SECTION 1. Section 19614.1 of the Business and Professions Code, as amended by Chapter 764 of the Statutes of 1977, is repealed.

SEC. 2. Section 19614.1 is added to the Business and Professions Code, to read:

19614.1. Notwithstanding Section 19614, any association other than the California State Fair and Exposition or a district or county fair which handles thirty million dollars ($30,000,000) or less in the parimutuel pools operated by it during the course of a racing meeting shall be exempt from the requirements of Sections 19611, 19612, and subdivisions (c) and (d) of Section 19615.

Any such association shall deduct from the total amount handled in parimutuel pools related to its meeting 15.75 percent thereof to be distributed as license fees, commissions, and purses, and shall pay a license fee of 5½ percent on the amount handled by it in lieu of any other base rate, or rates, otherwise provided for. The remaining 10.25 percent so deducted shall be distributed as commissions and purses.

This section shall apply to all racing meetings held on or after the effective date of this section and shall remain in effect until September 1, 1978, and on such date is repealed.

SEC. 3. It is the intent of the Legislature in enacting this act to clarify the status of Section 19614.1 of the Business and Professions Code as having been in effect from March 21, 1977, to September 1, 1977, pursuant to Chapter 11 of the Statutes of 1977, and having effect from January 1, 1978, to September 1, 1978, pursuant to Chapter 764 of the Statutes of 1977.

SEC. 4. Sections 1, 2, and 3 of this act do not constitute a change in, but are declaratory of, the existing law.

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 resolve a conflict over the status of existing law on the payment of purses, license fees, and payments to owners and breeders by certain racing associations, and to carry out the legislative intent of Chapter 11 and Chapter 764 of the Statutes of 1977, it is necessary for this act to take effect immediately.

CHAPTER 21

An act to amend Section 6505 of the Government Code, relating to joint exercise of powers.

[Approved by Governor March 1, 1978 Filed with Secretary of State March 1, 1978.]

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

SECTION 1. Section 6505 of the Government Code is amended to read:

6505. The agreement shall provide for strict accountability of all funds and report of all receipts and disbursements.

In addition, and provided a separate agency or entity is created, the public officer performing the functions of auditor or controller as determined pursuant to Section 6505.5, shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every agency or entity, except that such officer need not make or contract for such audit in any case where an annual audit of the accounts and records of such agency or entity by a certified public accountant or public accountant is otherwise made by any agency of the state or the United States only as to such accounts and records which are directly subject to such a federal or state audit. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code and shall conform to generally accepted auditing standards.

Where an audit of an account and records is made by a certified public accountant or public accountant, a report thereof shall be filed as public records with each of the contracting parties to the agreement and also with the county auditor of the county in which each of the contracting parties is located. Such report shall be filed within 12 months of the end of the fiscal year under examination.

Where a nonprofit corporation is designated by the agreement to administer or execute the agreement and no public officer is required to perform the functions of auditor or controller as determined pursuant to Section 6505.5, an audit of the accounts and

records of the agreement shall be made at least once each year by a certified public accountant or public accountant, and a report thereof shall be filed as a public record with each of the contracting parties to the agreement. Such reports shall be filed within 12 months after the end of the fiscal year under examination.

Any costs of the audit, including contracts with, or employment of certified public accountants or public accountants, in making an audit pursuant to this section shall be borne by the agency or entity and shall be a charge against any unencumbered funds of the agency or entity available for the purpose.

All agencies or entities whose annual budget does not exceed five hundred dollars ($500), may, by unanimous request of the governing body thereof, with unanimous approval of the contracting parties replace the annual special audit with an audit covering a two-year period.

CHAPTER 22

An act to amend Section 5328 of the Education Code, relating to school and community college elections.

[Approved by Governor March 1, 1978. Filed with Secretary of State March 1, 1978.]

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

SECTION 1. Section 5328 of the Education Code is amended to read:

5328. If pursuant to Section 5326 a district election is not held, the qualified person or persons nominated shall be seated at the organizational meeting of the board, or if no person has been nominated or if an insufficient number is nominated, the governing board shall appoint a qualified person or persons, as the case may be, at a meeting prior to the day fixed for the election, and such appointee or appointees shall be seated at the organizational meeting of the board as if elected at a district election.

CHAPTER 23

An act to amend Section 1750.5 of the Insurance Code, relating to fees for nonresidents.

[Approved by Governor March 1, 1978 Filed with Secretary of State March 1, 1978.]

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

SECTION 1. Section 1750.5 of the Insurance Code is amended to read:

1750.5. The fee for filing application for a nonresident broker's license shall be that established in Section 1750 for a resident broker, except that if the applicant's state, commonwealth or Canadian province of residence has fees for any nonresident insurance license greater than for a like resident license the fee for filing an application for a nonresident broker's license shall not be less than the amount a California resident would be required to pay to obtain a like license for a like term in the applicant's state, commonwealth or Canadian province of residence.

Where another state, commonwealth or Canadian province by statute imposes any restrictions or limitations on a California resident, such restrictions or limitations shall apply to a resident of that state, commonwealth or Canadian province in California. This section shall not be construed to require a countersignature on a policy or contract, or the payment of a countersignature fee.

CHAPTER 24

An act to amend Section 27421 of the Government Code, to amend Sections 2260, 2264, 2265, 2305, 2306, 2307, 2308, 2309, 2325, 2325.1, 2611.5, 11401, 11403, 17053.5, 17505, 20542, 20543, and 20544 of, to add Sections 37, 253.6, 401.6, 1603.5, 2187.5, 2261, 2263, and 20505.2 to, to add Article 10 (commencing with Section 2350) to Chapter 3 of Part 4 of Division 1 of, to add Division 3 (commencing with Section 50000) to, and to repeal Sections 2261, 2262, 2263, 2263.1, 2263.2, 2266, and 2267 of, the Revenue and Taxation Code, and to amend Sections 11008.4, 12400, and 14150 of the Welfare and Institutions Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 3, 1978. Filed with Secretary of State March 3, 1978.]

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

SECTION 1. Section 27421 of the Government Code is amended to read:

27421. The county assessor in each county who is designated to perform the duty of assessing property for a local taxing jurisdiction shall, upon request of the governing body of such jurisdiction, excluding a school district, furnish not later than May 15th of each year an estimate of:

(a) The assessed value of owner-occupied dwellings, as defined in Section 2261 of the Revenue and Taxation Code, on the secured roll

which will be common to both the next succeeding fiscal year's secured roll and the current roll, as defined by such section; and

(b) The assessed value of all property, other than owner-occupied dwellings, on the secured roll which will be common to both the next succeeding fiscal year's secured roll and the current roll, as defined in such Section 2261.

Such request shall be made on or before February 20th of each year. The estimate required herein shall contain estimates of the total of each of the items contained on the assessment roll, including total assessed valuation of all owner-occupied dwellings and total assessed valuation of all properties, other than owner-occupied dwellings.

SEC. 2. Section 37 is added to the Revenue and Taxation Code, to read:

37. Any reference to property tax rate used in this code shall be deemed to refer, where applicable, to the differential tax rates established by Chapter 3 (commencing with Section 2201) of Part 4 of Division 1.

SEC. 4. Section 253.6 is added to the Revenue and Taxation Code, to read:

253.6. Any person who is not receiving or is not eligible for the homeowners' exemption who is the owner of an owner-occupied dwelling may file with the assessor an affidavit of eligibility for a separate valuation pursuant to Section 401.6, giving any information required by the board. Such information shall include, but not be limited to, the name of the person making the claim, the address of the property, and a statement to the effect that the claimant owned and occupied the property as his or her principal residence on the lien date.

The affidavit shall be filed with the assessor any time convenient to the taxpayer during normal working hours of the assessor, but no later than 5:00 p.m. on April 15 preceding the fiscal year for which the claim is first effective.

The board shall prescribe the form of the affidavit.

SEC. 5. Section 401.6 is added to the Revenue and Taxation Code, to read:

401.6. For each parcel of land for which the homeowners' property tax exemption is claimed pursuant to Section 218 or for which an affidavit of eligibility under Section 253.6 has been filed, the assessor shall assess the land and improvements on the entire parcel of property and shall, if necessary, make a determination of the value attributable to the residential dwelling as defined in Section 20508 of this code, and a separate determination of the value of the remainder of the property.

The board shall prescribe rules and regulations to govern assessors when making separate valuations of such residential dwellings.

The assessor shall transmit the separate valuation or valuations of the residential dwelling and of the remainder of the property to the auditor, who shall enter the description or descriptions and the

valuation or valuations of the parcel on the roll, and shall compute the amount of tax due thereon.

SEC. 7. Section 1603.5 is added to the Revenue and Taxation Code, to read:

1603.5. When an applicant requests a reduction in the separate valuations made pursuant to Section 401.6, whether the reduction is requested on grounds of valuation of the entire parcel, on grounds of misclassification of property attributable to the residential dwelling, or for any other cause, the county board shall make a determination of the full cash value of the whole property and shall order a change in the separate valuation or valuations only if the assessed value of the whole requires equalization, or shall adjust the separate valuations so that each is equalized and the value of the whole property is accounted for.

The board shall be bound by the same principles of separate valuation that are applicable to the assessor.

SEC. 8. Section 2187.5 is added to the Revenue and Taxation Code, to read:

2187.5. Whenever separate valuations are made pursuant to Section 401.6 the lien for unpaid taxes against any one of the valuations shall be a lien against the entire valuation of the property subject to separate valuation which is under the same ownership.

SEC. 8.8. Section 2260 of the Revenue and Taxation Code is amended to read:

2260. The maximum property tax rates for local agencies shall be those established pursuant to the provisions of this article or of Article 6, 7 or 8 of this chapter (commencing with Section 2201) and shall exclude the following from the determination thereof: (1) any property tax rate levied pursuant to Article 5 of this chapter; (2) any property tax rate levied pursuant to a city charter procedure ordinance for the purpose of paying principal and interest on assessment bonds or for the purpose of paying annual costs of maintenance and operation of improvements financed pursuant to city charter procedure, when the levy is made in relation to benefits derived and not in accordance with the last equalized city or county assessment roll; and (3) any property tax rate levied on behalf of a county superintendent of schools.

SEC. 9. Section 2261 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 2261 is added to the Revenue and Taxation Code, to read:

2261. (a) The maximum property tax rate which may be levied by, or on behalf of, a local agency on owner-occupied dwellings shall be a property tax rate which, if applied to common dwellings on the current fiscal year's secured roll would produce an amount of property tax revenue equal to the amount which would have been received in the prior fiscal year had the prior year's secured tax rate for owner-occupied dwellings been applied to the prior year's assessed value of common dwellings adjusted by the percentage

change in price deflator.

A local agency may levy a property tax rate on owner-occupied dwellings lower than the maximum rate computed pursuant to this subdivision, but no lower than a rate which would produce the same amount of property tax revenue from common dwellings as was derived from such dwellings in the prior year. If a local agency wishes to levy a tax rate on owner-occupied dwellings lower than that provided for in this subdivision, it must do so pursuant to subdivision (d).

(b) The maximum property tax rate which may be levied by, or on behalf of, a local agency on other property shall be a property tax rate which, if applied to all properties on the current fiscal year's secured roll (including owner-occupied dwellings) which are common properties, would produce an amount of property tax revenue, when added to the revenue produced by the unsecured roll, equal to the sum of (1) the amount which would have been received in the prior fiscal year had the prior year's secured tax rate for other property been applied to the prior year's assessed valuation of all common properties adjusted by the percentage change in price deflator, plus (2) the revenue received in the prior year from the unsecured roll adjusted by the percentage change in price deflator.

(c) Whenever the tax rate computed under subdivision (a) exceeds the tax rate computed under subdivision (b), the tax rate computed under subdivision (a) shall be reduced to equal the tax rate computed under subdivision (b).

(d) A local agency may levy property tax rates lower than the rates provided in subdivisions (a) or (c), and (b), of this section, in which case the two tax rates shall be below their respective rates established pursuant to subdivisions (a) or (c), and (b), by the same percentage.

(e) If the total amount of property tax revenue which would be produced for a local agency from levying the maximum property tax rates pursuant to subdivisions (a) and (b) on common dwellings, and other common properties, when added to the revenue from the unsecured roll, is less than the prior year's property tax revenue from such properties and the unsecured roll adjusted by the percentage change in price deflator, the maximum tax rate computed pursuant to subdivision (b) may be increased to produce, when added to the revenue from the unsecured roll, no more than the amount of property tax revenue received in the prior year from common properties other than common dwellings, when added to the revenue from the unsecured roll, adjusted by the percentage change in price deflator. If the maximum property tax rate computed pursuant to this subdivision exceeds the prior year's secured tax rate on other property, then such rate shall be reduced to the prior year's secured tax rate on other property.

(f) If the maximum property tax rates computed pursuant to subdivision (a) or (c), and (b) or (e) would produce a total amount of property tax revenue for a local agency from common dwellings, and other common properties, when added to the amount of

revenue from the unsecured roll, which is less than the prior year's revenue from such properties, including revenue from the unsecured roll, adjusted by a percentage equal to the percentage change in cost-of-living (as determined pursuant to Section 2212), the maximum tax rate determined pursuant to subdivisions (a) or (c) may be increased so that the total amount of property tax revenue which would be produced from common dwellings, and other common property, when added to the amount of revenue from the unsecured roll, is equal to the revenue received in the prior year from such properties, including revenue from the unsecured roll, adjusted by a percentage equal to the percentage change in cost-of-living.

If the computations pursuant to this subdivision produce a higher property tax rate on owner-occupied dwellings than on other property, then the tax rate on owner-occupied dwellings shall be reduced to a rate equal to the rate computed for other property. Then the local agency may increase both tax rates by an equal number of cents per one hundred dollars ($100) of assessed valuation in order to derive the amount of revenue authorized by this subdivision.

Before using this subdivision, a local agency shall first compute its maximum tax rate on other property pursuant to subdivision (e), if applicable.

(g) If there is a dissolution of a local agency and the services provided by such agency are assumed by another local agency, the local agency assuming the new responsibilities shall include in its prior year's revenue for the purposes of computing maximum tax rates pursuant to this section the revenue of the dissolved agency which was attributable to the performance of such assumed service by the dissolved agency in that year.

(h) The county auditor shall be responsible for computing maximum tax rates pursuant to this article and shall transmit such rates to the governing board of each local agency within 15 days of the completion of the local roll.

Final responsibility for setting such rates shall rest with the local agency.

(i) In computing tax rates pursuant to this section, a city which used the city assessment roll in 1977–78, may use either the city or county assessment roll applicable to that city in such year.

(j) As used in this section:

(1) "Property tax revenue" includes revenue received from state reimbursements for the homeowners' exemption, and excludes all revenues attributable to taxation of business inventories, including state reimbursements.

(2) "Owner-occupied dwelling" means a property which has qualified for a homeowner's exemption, or that portion thereof for which a separate assessment is made pursuant to subdivision (a) of Section 401.6, and for which a timely filing for such exemption, or the affidavit described in Section 253.6, has been made. For the

provisions of this chapter, for a "cooperative housing corporation" as defined in Section 17265, the ratio of owner-occupied units in the cooperative to the total number of units shall be determined. Such ratio shall be applied to the total assessed value of the cooperative, to determine the assessed value of the owner-occupied dwellings.

(3) "Common to both the current and prior year's secured rolls":

(A) Means, for owner-occupied dwellings, property receiving the homeowners' exemption on both rolls;

(B) Means, for other property, those properties for which the improvement valuation has increased by less than 50 percent of the prior year's total improvement valuation. Personal property on the secured roll shall be considered common to both the current and prior year's secured rolls if the real property to which it is secured is common to the current and prior year's secured rolls; however, personal property of banks shall not be considered common to both the current and prior year's secured rolls;

(C) Excludes state-assessed property;

(D) Excludes property which was contained within the boundaries of the local agency for purposes of the current year's roll, but was not contained within the boundaries of the local agency for purposes of the prior year's roll, due to a change in the local agency's boundaries from the prior to the current year;

(E) Excludes the entire assessed valuation of a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code;

(F) Excludes those properties requiring two separate valuations pursuant to Section 401.6.

(4) (A) "Common dwellings" means owner-occupied dwellings common to both the current and prior years' secured rolls.

(B) "Common properties" means properties common to both the current and prior years' secured rolls.

(5) "Other property" means properties other than owner-occupied dwellings.

(6) "Prior year's secured tax rate" means:

(A) For 1978–79, the secured property tax rate actually levied pursuant to this article for 1977–78;

(B) For fiscal years after 1978–79, the maximum authorized secured tax rate computed pursuant to this article for the prior year.

(7) "Percentage change in the price deflator" means:

(A) For computation of maximum property tax rates for fiscal years 1978–79 and 1979–80, a percentage equal to the percentage change from the first calendar quarter of the prior year to the first calendar quarter of the current year in the Gross National Product deflator for goods and services purchased by state and local government, as published by the United States Department of Commerce;

(B) For computation of maximum property tax rates for fiscal years after 1979–80, a percentage equal to the percentage change from the first calendar quarter of the prior year to the first calendar

quarter of the current year in the California Local Agency Price Deflator, a statewide index which the California Department of Industrial Relations shall prepare for local agencies in California in a manner similar to that used by the United States Department of Commerce in preparing the Gross National Product deflator for goods and services purchased by state and local government, and shall make available to local agencies in May of each year. There shall be established in the Department of Industrial Relations a California Local Agency Price Deflator Advisory Commission, composed of a representative from the Assembly, or designee, as appointed by the Speaker, a representative of the Senate, or designee, as appointed by the Senate Rules Committee, the Legislative Analyst or his designee, the Director of Finance or his designee, League of California Cities, County Supervisors Association of California, and the California Special Districts Association. The Advisory Commission shall advise and assist the department in preparing the price deflator and shall report to the Legislature its independent evaluation of the department's progress no later than June 30, 1979, and of the department's final proposal.

(k) For the computation of maximum property tax rates for the 1978–79 fiscal year only, if the amount of property tax revenue received in 1977–78 by a local agency with respect to common properties (defined as in paragraph (4) of subdivision (j), but with "1977–78" substituted for "current", and "1976–77" substituted for "prior year's"), when added to the amount of revenue produced in 1977–78 from the unsecured roll, is less than the amount of property tax revenue received in 1976–77 by such agency with respect to such common property, when added to the amount of revenue produced in 1976–77 from the unsecured roll, then the local agency may use alternate maximum property tax rates for 1978–79 computed by making the following adjustments in the formula contained in this section:

In subdivisions (a) to (j), inclusive, except for subdivision (j) (7) (A) "prior year", "prior year's", "prior fiscal year" and "1977–78" shall each refer to the 1976–77 fiscal year.

If the computations pursuant to this subdivision produce a higher tax rate for 1978–79 on other property than levied on other property in 1977–78, and a lower tax rate on owner-occupied dwellings for 1978–79 than levied on such property in 1977–78, then the rate for other property shall be reduced to a rate no higher than that levied in 1977–78.

SEC. 11. Section 2262 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 2263 of the Revenue and Taxation Code is repealed.

SEC. 13. Section 2263 is added to the Revenue and Taxation Code, to read:

2263. For cities and special districts formed after July 1, 1978, the maximum property tax rate for the first fiscal year in which a

property tax is levied or could be levied, shall be the rate approved by the voters when the city or district was formed; provided, however, that the maximum property tax rate for a maintenance district formed pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) or the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code) may be established prior to or concurrently with the formation of such district by any petition or by supplemental written consent executed by property holders owning at least 60 percent of the land to be benefited. The procedures for such petition or supplemental written consent shall follow the procedures in the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800) of the Streets and Highways Code).

SEC. 14. Section 2263.1 of the Revenue and Taxation Code is repealed.

SEC. 15. Section 2263.2 of the Revenue and Taxation Code is repealed.

SEC. 16. Section 2264 of the Revenue and Taxation Code is amended to read:

2264. In the event that a local agency elects to follow the provisions of Part 3.5 (commencing with Section 2131) of this division, for levying a property tax rate in certain special districts, the maximum property tax rate for such districts shall be determined as provided in this section. For all purposes of this chapter, such maximum property tax rate shall be applied to the total assessed value within such district. In such situations the actual property tax rate for such a district shall be levied in each county in which the district is situated as provided in Part 3.5 without regard to the limitations provided elsewhere in this article.

As used in this section, "total assessed value within the district" means all assessed value in each county in which the district is located which is subject to ad valorem property taxation by, or on behalf of, such district; plus the assessed value in each such county which is attributable to the homeowners' property tax exemption and which otherwise would have been subject to ad valorem property taxation by, or on behalf of, such district.

SEC. 17. Section 2265 of the Revenue and Taxation Code is amended to read:

2265. In lieu of the maximum property tax rates established by other provisions of this article, the voters of a local agency may establish a maximum property tax rate for such agency pursuant to the provisions of Article 6 (commencing with Section 2285).

If voted maximum property tax rates are established for a local agency, the voted property tax rates shall both exceed the maximum property tax rates computed pursuant to Section 2261 by the same number of cents per one hundred dollars of assessed valuation.

After the first year in which any voted maximum rate established

pursuant to this section is effective, the maximum property tax rates shall be established pursuant to Section 2261.

SEC. 18. Section 2266 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 2267 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 2305 of the Revenue and Taxation Code is amended to read:

2305. As used in this article "functional consolidation" means the transfer, from one local agency to another, of both of the following: (1) the responsibility for providing a program or a service to an area within the jurisdiction of the transferring agency and (2) the responsibility for levying a property tax rate or rates within such area to pay the cost of such service or program. Functional consolidation does not refer to any transfer of responsibility for providing a program or a service when such transfer occurs as a result of a "governmental reorganization" as such term is defined in Section 2295; in such event, the maximum property tax rates for any affected local agency shall be determined solely as provided in Article 7 (commencing with Section 2295) of this chapter.

SEC. 21. Section 2306 of the Revenue and Taxation Code is amended to read:

2306. Whenever a functional consolidation occurs, the maximum property tax rate or rates for any local agency affected by such functional consolidation shall be determined as provided in this article.

SEC. 22. Section 2307 of the Revenue and Taxation Code is amended to read:

2307. The local agency which transfers a program or service shall reduce its maximum property tax rate as provided in this section. Such reduction shall be effective beginning with the fiscal year after the transfer has occurred.

(a) The local agency shall determine the actual cost of providing the transferred program or service during the last full fiscal year in which such function or service was provided.

(b) The local agency shall determine the amount of the costs determined pursuant to subdivision (a) which are attributable to expenses for general administration and capital outlay and which cannot be transferred to the agency assuming the responsibility for providing the program or service; provided that such amount shall not exceed 10 percent of the amount determined pursuant to subdivision (a).

(c) The local agency shall subtract the amount determined pursuant to subdivision (b) from the amount determined pursuant to subdivision (a).

(d) The local agency shall determine the property tax rate which would have been required to produce the amount determined pursuant to subdivision (c) during the last full fiscal year in which the transferred program or service was provided and shall reduce its

maximum property tax rate thereby. If a local agency has a property tax rate for owner-occupied dwellings and a different rate for other property, the amount calculated on each rate shall maintain the same proportionate relationship between the two rates.

SEC. 23. Section 2308 of the Revenue and Taxation Code is amended to read:

2308. The maximum property tax rate for a local agency assuming the responsibility for providing a program or service and for levying a tax to pay the cost thereof, as a result of a functional consolidation, shall be the maximum property tax rate for such agency established prior to the functional consolidation plus such additional rate as may be necessary to pay the actual costs of providing such program or service. If a local agency has a property tax rate for owner-occupied dwellings and a different rate for other property, the amount calculated on each rate shall maintain the same proportionate relationship between the two rates.

The Controller may audit any rate imposed under this section and if he determines that the rate exceeds a rate which would be necessary to pay the actual costs incurred as a result of functional consolidation, he shall immediately notify the local agency of such determination and the local agency shall reduce its property tax rate by an appropriate amount for the next succeeding fiscal year. In the event that a local agency fails to make such a reduction in its property tax rate, the Controller shall request the Attorney General to bring an action under Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to force a reduction in the rate.

SEC. 24. Section 2309 of the Revenue and Taxation Code is amended to read:

2309. Any adjustment in the maximum property tax rate or rates of a local agency made pursuant to Section 2308 shall only be made in the first full fiscal year after the functional consolidation has occurred.

SEC. 25. Section 2325 of the Revenue and Taxation Code is amended to read:

2325. Annually, no later than 15 days after the property tax rate for a local agency has been fixed, each local agency shall report to the Controller, on a form to be specified by the Controller, the property tax rate levied by, or on behalf of, the agency for the current fiscal year. Such information shall show the amount of the rate, if any, levied pursuant to Sections 2260, 2261, 2263, 2264, 2265, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279 and 2280. Such information shall also show any property tax rate authorized or levied pursuant to the provisions of Article 6 (commencing with Section 2285), Article 7 (commencing with Section 2295), and Article 8 (commencing with Section 2305). Information with respect to any rate levied pursuant to Section 2270 shall also indicate the rate levied to pay interest and redemption charges on bonded indebtedness, the rate levied to pay the cost of retirement and pension benefits and the

rate levied to make payments to special funds as required by charter. The Controller shall, by regulation, require any tax rate exempt from rate limitations imposed by this chapter to be reported in the manner specified by this section.

SEC. 26. Section 2325.1 of the Revenue and Taxation Code is amended to read:

2325.1. In the event that the Controller determines that an error has occurred in establishing a property tax rate or rates levied pursuant to any provision of this chapter, he shall immediately notify the local agency of such error and the local agency shall reduce its property tax rate by an appropriate amount for the next succeeding fiscal year. In the event that a local agency fails to make such a reduction in its property tax rate, the Controller shall request the Attorney General to bring an action under Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to force a reduction in the rate.

SEC. 27. Article 10 (commencing with Section 2350) is added to Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, to read:

Article 10. Tax Rate Reductions for Homeowners

2350. Notwithstanding any other provisions of the law, for fiscal years 1978–79 and thereafter, with respect to owner-occupied dwellings as defined in Section 2261, the total levied county tax rate shall be reduced by:

(1) A tax rate computed by dividing the amount for the fiscal year determined under Section 12400 of the Welfare and Institutions Code by the total taxable assessed value for the county for the fiscal year, and multiplying the quotient by 100;

(2) A tax rate computed by dividing the amount determined for the fiscal year under Section 14150 of the Welfare and Institutions Code by the total taxable assessed value for the county for the fiscal year, and multiplying the quotient by 100; and

(3) A tax rate computed by dividing the county cost, as estimated each year by the Department of Benefit Payments and supplied to each county auditor prior to August 1 of each fiscal year, and increased or decreased by any error in the prior year's estimate, of grants for AFDC and BHI, not including the offset for collections received from absent fathers, pursuant to Section 11457 of the Welfare and Institutions Code, by the total taxable assessed value for the county for the fiscal year, and multiplying the quotient by 100.

2351. The amounts payable by each county pursuant to Section 12400 and Section 14150 of the Welfare and Institutions Code shall be reduced by the actual reductions in tax levy caused by the tax rate reductions provided in subparagraphs (1) and (2) of Section 2350.

The state's share of AFDC and BHI funding shall be increased by the amount of actual reduction in tax levy caused by the tax rate reduction provided in subparagraph (3) of Section 2350.

2352. As used in this article "taxable assessed value" means the assessed value of all property, including unsecured property, on the county roll, plus state assessed property, net of all exemptions except the homeowners' exemption and the business inventory exemption, and increased by the assessed value equivalent of the timber yield tax as determined for each county by the Board of Equalization.

2353. For the provisions of this chapter, for a "cooperative housing corporation" as defined in Section 17265, the ratio of owner-occupied units in the cooperative to the total number of units shall be determined. Such ratio shall be applied to the total assessed value of the cooperative. The special lower tax rates applied to owner-occupied dwellings shall only be applied to the assessed value of the cooperative attributable to owner-occupied units.

2354. If the reduction in the total ad valorem property tax rate levied on owner-occupied dwellings due to application of Section 2350 is less than 30 percent of the tax rate which would apply to owner-occupied dwellings before the application of Section 2350, then the total ad valorem property tax rate shall be further reduced by an amount which will result in a total tax rate reduction, due to application of this section and Section 2350, of 30 percent.

2355. The county auditor shall compute the total amount of revenue loss by each taxing agency due to the tax rate reductions provided in Section 2354 and shall file for reimbursement for this amount with the Controller no later than November 15 of each year. The Controller shall transmit to each county auditor one-half of the total reimbursement amount no later than December 10 of each year, and the remaining reimbursement amount no later than April 10 of each year. The county auditor shall allocate the reimbursement amounts to local agencies as though the amounts had been paid by the taxpayers.

SEC. 29.5. Section 2611.5 of the Revenue and Taxation Code is amended to read:

2611.5. (a) The following information shall be included either in each county tax bill or in a separate statement accompanying the tax bill:

(1) The full value and the assessed value of locally assessed property; if in addition thereto a different assessment is required for irrigation district purposes pursuant to Section 26625.1 of the Water Code, the assessed value for such purpose.

(2) The assessment ratio used to determine the assessed value.

(3) The tax rates or the dollar amounts of taxes levied by each revenue district and taxing agency on the property covered by the tax bill. An asterisk, or other distinctive mark, shall appear before the names of all special districts for which the county board of supervisors serves as the governing body.

(4) In lieu of itemizing the information required by paragraph (3) of this subdivision, the tax rates or dollar amounts of taxes levied on the property covered by the bill for county and city purposes. The tax rates or dollar amounts of taxes levied on the property for other

purposes shall be itemized. This option is available only if the information is included on the tax bill.

(b) With respect to any property for which the homeowners' property tax exemption is granted, the tax bill or accompanying statement shall include, in addition to the information required by subdivision (a), the following:

(1) The assessed value of the property;

(2) The amount of the homeowners' exemption;

(3) The total tax rate applicable on the property covered by the tax bill;

(4) The gross taxes prior to the application of the homeowners' exemption;

(5) The amount of tax reduction attributable to the homeowners' exemption;

(6) The amount of tax reduction attributable to rate reductions pursuant to Article 10 (commencing with Section 2350) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code; and

(7) The total taxes due on the property covered by the tax bill.

(c) The information required by subdivision (b) for single-family homes shall be in the form of the following example:

(1) Assessed value of the property	$12,000
(2) Homeowners' exemption	$1,750
(3) Total tax rate applicable to the property	$10
(4) Gross taxes prior to the application of the homeowners' exemption	$1,200
(5) Tax reduction attributable to the state-financed homeowners' property tax relief program	$175
(6) Tax reduction attributable to state financed program of cutting tax rates by 30%	$307
(7) Total taxes due	$718

(d) In any year in which all of the assessments on the local secured roll have been raised or lowered as a result of a board order adopted pursuant to Section 18, Article XIII of the California Constitution, the full value may be omitted or, if shown, the tax bill shall include an explanation of the inconsistency of that figure with the equalized assessed value and the announced assessment ratio. The explanation required by this subdivision may be printed on an enclosure accompanying such bill.

SEC. 30. Section 11401 of the Revenue and Taxation Code is amended to read:

11401. On or before October 1, the board shall levy upon private cars assessed under this part, for each year, a tax computed at the next preceding year's average rate of general property taxation in the state and shall enter the tax upon a record maintained by the board for that purpose.

For taxes imposed on private cars on October 1, 1979, and thereafter, the preceding year's average tax rate on property other

than owner-occupied dwellings shall be used.

SEC. 31. Section 11403 of the Revenue and Taxation Code is amended to read:

11403. The board shall compute the average rate of general property taxation in the state by (a) adding the county, city, school district, and other general taxes, but not the special taxes on intangibles, aircraft, baled cotton or any other property which is subject to a uniform statewide tax rate, nor special assessments, and (b) dividing the amount obtained by the total assessed valuation in the state as shown by the county tax rolls for the same year.

"Total assessed valuation," as used in this section, does not include the assessments of property which is subject to a uniform statewide tax rate.

"Special assessments," as used in this section, mean any amount levied solely against real estate or real estate and improvements.

For taxes imposed on private cars on October 1, 1979, and thereafter, the computations shall use taxes on property other than owner-occupied dwellings, rather than general taxes and the total assessed value of property other than owner-occupied dwellings, rather than total assessed value.

SEC. 32. Section 17053.5 of the Revenue and Taxation Code is amended to read

17053.5. (a) For taxable years beginning after December 31, 1975, in the case of qualified renters, there shall be allowed credits against the tax computed under this part, minus all other credits provided for in this part except the credit provided in Section 18551.1 (relating to withholding credit) and the credit provided in Section 17061 (relating to excess tax credit). The credit shall be in the amount of seventy-five dollars ($75).

Except as provided in subdivision (b) of this section a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed the full credit.

(B) If both spouses were nonresidents for part of the taxable year, the credit shall be divided equally between them subject to the proration provided in subdivision (d) of this section.

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed the full credit provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who on March 1 of the taxable year—

(1) Was a resident of this state, as defined in Section 17014, and

(2) On such date rented and occupied premises in this state which constitute his principal place of residence.

The term "qualified renter" does not include an individual who on

March 1 of the taxable year rented and occupied premises which were exempt from property taxes, except (A) those premises on which the owner pays possessory interest taxes, or makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value, and except (B) that an individual, otherwise qualified, shall be deemed a qualified renter if he is required to pay property taxes on his possessory interest in a residence that is otherwise tax exempt during the taxable year.

The term "qualified renter" does not include an individual whose principal place of residence is with any other person who claimed such individual as a dependent for income tax purposes.

The term "qualified renter" does not include an individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(d) Any individual who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of such credits for each full month such individual resided within this state during the taxable year.

(e) Every person claiming the credit provided in this section shall, as part of such claim, and under penalty of perjury, furnish such information as the Franchise Tax Board prescribes on a form supplied by such board.

(f) The credit provided in this section shall be claimed on returns in such form as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board on the date prescribed by Section 18432.

(g) For the purposes of this section, 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.

(h) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part, minus all other credits provided for in this part except the credits provided in Section 18551.1 and Section 17061, the qualified renter shall be allowed a credit to the extent of his tax liability plus a refund in excess of that amount up to a combined credit and refund equal to the credit otherwise provided in this section.

SEC. 39. Section 20505.2 is added to the Revenue and Taxation Code, to read:

20505.2. The unmarried surviving spouse of a "claimant," as defined in Section 20505, shall be eligible for assistance under this chapter, regardless of age; provided, that such unmarried surviving spouse maintains as his or her principal place of residence the same residential dwelling upon which assistance was last claimed by the

claimant, except in such cases where the unmarried surviving spouse must move from or sell such dwelling pursuant to the order of a court, condemnation, or involuntary conversion.

SEC. 39.2. Section 20542 of the Revenue and Taxation Code is amended to read:

20542. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 20561), of this chapter, shall provide assistance to the claimant based on the property tax accrued and paid by the claimant on the residential dwelling as provided in Section 20543 or the statutory property tax equivalent pursuant to Section 20544. 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 chapter. 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 20563.

SEC. 39.4. Section 20543 of the Revenue and Taxation Code is amended to read:

20543. The amount of assistance for a claimant owning his residential dwelling shall be based on claimant's household income for the period set forth in Section 20503. In no event shall the amount of assistance exceed fifteen hundred dollars ($1,500).

The percentage of assistance for which each claimant owning his residential dwelling 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 used to provide assistance is:
$4,000	96%
4,200	94
4,400	92
4,600	90
4,800	88
5,000	86
5,200	84
5,400	82
5,600	80
5,800	78
6,000	76
6,200	73
6,400	70
6,600	67
6,800	64
7,000	61
7,200	58
7,400	55
7,600	52
7,800	49
8,000	46
8,200	43
8,400	40
8,600	38
8,800	36
9,000	34
9,200	32
9,400	30
9,600	28
9,800	26
10,000	24
10,500	22
11,000	20
11,500	18
12,000	15
12,500	12
13,000	10

SEC. 40. Section 20544 of the Revenue and Taxation Code is amended to read:

20544. 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 20503.

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:
$4,000	$250	96%
4,200	250	94
4,400	250	92
4,600	250	90
4,800	250	88
5,000	250	86
5,200	250	84
5,400	250	82
5,600	250	80
5,800	250	78
6,000	250	76
6,200	250	73
6,400	250	70
6,600	250	67
6,800	250	64
7,000	250	61
7,200	250	58
7,400	250	55
7,600	250	52
7,800	250	49
8,000	250	46
8,200	250	43
8,400	250	40
8,600	250	38
8,800	250	36
9,000	250	34
9,200	250	32
9,400	250	30
9,600	250	28
9,800	250	26
10,000	250	24
10,500	250	22
11,000	250	20
11,500	250	18
12,000	250	15
12,500	250	12
13,000	250	10

SEC. 40.5. Division 3 (commencing with Section 50000) is added to the Revenue and Taxation Code, to read:

DIVISION 3. STATE REVENUE LIMITS
PART 1. GENERAL PROVISIONS

50000. "State" shall mean State of California.

50001. "Current year revenue" for 1978–79 shall mean all revenue from "major taxes and licenses" for 1978–79 as reported on Schedule 2 of the 1979–80 Governor's Budget.

For years after 1978–79, "current year revenue" shall mean maximum amount of revenue within the maximum state revenue limit plus any additional revenue added pursuant to any legislation enacted in 1978 which reduces or repeals business inventory tax.

PART 2. STATE REVENUE LIMIT
CHAPTER 1. MAXIMUM STATE REVENUE LIMIT

50010. For the 1979–80 fiscal year and each year thereafter the maximum state revenue limit shall be the amount of revenue equal to the current year revenue for the prior fiscal year increased by a percentage equal to the percentage increase in California personal income for the calendar year beginning within the current fiscal year, as estimated in the Governor's Budget, multiplied by a 1.2 revenue elasticity factor.

CHAPTER 2. EXCESS REVENUES

50015. If, in the preparation of the budget or in the May revenue revisions, the Governor projects that state revenues will exceed the maximum state revenue limit, the Governor in such budget shall identify the amount of revenue in excess of the limit.

50016. There is hereby established in state government the Excess Revenue Fund, in which the Controller shall deposit any and all revenues above the state revenue limit for any fiscal year.

50017. Revenues in excess of the maximum state revenue limit may be used only upon the following circumstances:

(a) Upon a separately recorded ⅔ vote of both houses of the Legislature, recorded in the journal, and concurred in by the Governor, such vote to be accompanied by an explanation of the reasons for the state retaining and using such revenues rather than their being returned to the taxpayers as provided in subsection (b).

(b) All revenues not appropriated pursuant to subsection (a) shall be used exclusively for the following purposes:

(1) To pay for "additional" property tax relief programs funded by the state;

(2) To reduce state taxes below current statutory levels;

(3) To maintain a "prudent" surplus not to exceed 3 percent of total revenues;

(e) For emergencies, if the Governor declares an emergency and such emergency is concurred in by the Legislature by concurrent resolution; or

(5) To fund a revenue sharing program with local government.

SEC. 40.6. Section 11008.4 of the Welfare and Institutions Code is amended to read:

11008.4. (a) Property taxes (1) as defined in Section 20584 of the Revenue and Taxation Code, which are postponed by a person pursuant to Chapter 2 of Part 10.5 (commencing with Section 20581) of Division 2 of the Revenue and Taxation Code, and (2) as defined in Section 20511 and 20512 of the Revenue and Taxation Code, on which a person is granted assistance pursuant to Chapter 1 of Part 10.5 (commencing with Section 20501) of Division 2 of the Revenue and Taxation Code, and (b) renters credits as defined in Section 17053.5 of the Revenue and Taxation Code, shall not be considered as income or resources in determining the amount payable to any person under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

This section shall not be construed to limit the provisions of Section 11008 or 11008.1.

SEC. 41. 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) Beginning with the fiscal year 1978–79, the amount payable by each county shall be determined by adjusting the amount payable in the prior fiscal year by the lesser of:

(1) The percentage change from the prior fiscal year to the current fiscal year in the amount of property tax derived from tax rates levied pursuant to Article 4 of Chapter 3 of Part 1 of Division

1 of the Revenue and Taxation Code; or

(2) The percentage change in modified assessed value from the prior fiscal year.

(c) The term "modified assessed value" for the current year 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 term "modified assessed value" for the base year means the total of (1) the taxable 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 factor certified for the base year under Section 17261 of the Education Code for the local roll of the county. The factor referred to herein is as corrected pursuant to subdivision (b) of Section 1819 of the Revenue and Taxation Code. 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.

(d) The counties' share toward the cost of care and administration provided under this chapter shall be paid to the state monthly.

SEC. 42. 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.

Beginning with the 1978–79 fiscal year, the amount payable by each county shall be determined by adjusting the amount payable in the prior fiscal year by the lesser of:

(1) The percentage change from the prior fiscal year to the current fiscal year in the amount of property tax derived from tax rates levied pursuant to Article 4 of Chapter 3 of Part 1 of Division 1 of the Revenue and Taxation Code; or

(2) The percentage change in modified assessed value from the prior fiscal year.

(b) The term "modified assessed value" for the current year 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 term "modified assessed value" for the base year means the total of (1) the taxable 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 factor certified for the base year under Section 17261 of the Education Code for the local roll of the county. The factor referred to herein is as corrected pursuant to subdivision (b) of Section 1819 of the Revenue and Taxation Code. 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.

(d) Notwithstanding the provisions of Sections 5707, 5709.5, 5710, and 5714, payment for the costs of health care services provided under Part 2 (commencing with Section 5600), Division 5, of this code, the Short-Doyle Act, shall be made in accordance with the provisions of this section.

(e) Notwithstanding the provisions of Section 7511, payment for the share of costs of health care services provided under Chapter 4 (commencing with Section 7500), Division 7, of this code, shall be made in accordance with the provisions of this section.

SEC. 43. Assessors shall begin immediately to determine properties common to both current and prior rolls, as required by Section 10 of this act, and separation and identification of those properties which will be subject to tax as owner-occupied dwellings if Proposition 8 on the ballot for the statewide election on June 6, 1978 is approved by the voters. Assessors may submit claims to the Controller for reimbursement of costs mandated by this section, which have been incurred prior to July 1, 1978.

SEC. 44. (a) It is the intent of the Legislature in enacting Section 2261 of the Revenue and Taxation Code that the provisions of such section are compatible with the provisions of Section 9.5 of Article XIII of the State Constitution, as added by Proposition 8 on the ballot for the statewide election on June 6, 1978. The Legislature intends that the provision of Section 9.5 requiring "in no event may the tax rate levied on other property be increased as a result of lowering the tax rate on owner-occupied dwellings" is fulfilled by the provision of Section 2261, which prevents the tax rate on property other than owner-occupied dwellings from increasing over the prior year's tax rate for such property when the tax rate on owner-occupied dwellings is reduced below the tax rate on such dwellings for the

prior year.

(b) It is the intent of the Legislature, in enacting Article 10 (commencing with Section 2350) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, that the tax rate reductions for owner-occupied dwellings provided in that article comply with the provisions of Section 9.5 of Article XIII of the State Constitution, as added by Senate Constitutional Amendment No. 6 of the 1977–78 Regular Session of the Legislature, because the state directly reimburses local governments for revenue losses resulting from that article, and no shift of tax burden to other property is involved or permitted.

SEC. 46. The provisions of this act shall have the following operative dates:

(a) Sections 1, 2, 3, 4, 5, 7 to 27, inclusive, 30 and 31 shall become operative beginning with the 1978–79 fiscal year;

(b) Section 32 shall become operative with respect to taxable years beginning on and after January 1, 1978;

(c) Sections 39.2, 39.4 and 40 shall become operative beginning with claims for 1977–78 property taxes;

(d) Sections 41 and 42 shall apply to county payments beginning in 1978–79.

(e) Section 40.5 shall be operative for the 1979–80 fiscal year and each year thereafter.

(f) Sections 32.5, 33, 33.5, 34 and 36 shall be operative with respect to sales after June 30, 1978.

SEC. 47. This act shall be repealed on June 7, 1978, unless Proposition 8 on the ballot for the statewide election on June 6, 1978 is approved by the voters and Proposition 13 on the ballot for the statewide election on June 6, 1978 is rejected by the voters, or is declared unconstitutional by the courts.

SEC. 48. 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 bill may be applied in a manner consistent with the intent of the Legislature, this act must go into effect immediately.

CHAPTER 25

An act to amend Section 9124 of the Government Code, relating to the State Capitol, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 3, 1978. Filed with Secretary of State March 3, 1978]

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

SECTION 1. The Legislature hereby finds and declares that the purpose of this act is to reaffirm the intent of the Legislature in the

enactment of Section 9124 of the Government Code. Although Section 9124 in its terms was clear and explicit, there have been persistent misinterpretations of its provisions. To put to rest these misinterpretations, the Legislature hereby further finds and declares:

(1) The Legislature and its committees have never been subject to any provision of the State Contract Act;

(2) Although the Legislature, when it enacted Section 9124, specifically exempted the State Capitol Restoration Project from the State Contract Act, this exemption was made only to avoid any doubt in the matter since subdivision (b) of the section refers to the Department of General Services, a department whose contracts for public improvement are subject to the State Contract Act;

(3) The Legislature at all times intended that "competitive bidding," in its generic sense, be utilized by the Joint Rules Committee in the restoration and rehabilitation of the State Capitol. The Legislature did not intend by use of the phrase "competitive bidding" in Section 9124 to refer to, adopt, or incorporate, in any way or circumstance, any bidding provisions or procedures of the State Contract Act, whatever they might be.

SEC. 2. Section 9124 of the Government Code is amended to read:

9124. (a) The Joint Rules Committee shall cause the restoration or rehabilitation of the west wing of the State Capitol so as to insure future use of the building in a manner befitting its historical significance.

(b) All work of restoration or rehabilitation shall be administered and supervised by the Department of General Services and subject to review by the State Public Works Board pursuant to agreement with the Joint Rules Committee. For all such services of administration and supervision, the Department of General Services shall receive consideration not to exceed 2.7 percent of the total cost of restoration or rehabilitation.

(c) Notwithstanding any other provisions of law, all work performed pursuant to this section shall be exempt from all the provisions of the State Contract Act (Chapter 3 (commencing with Section 14250), Part 5, Division 3, Title 2, Government Code). All work shall be subject to competitive bidding as defined in subdivision (d) except where determined to be impractical or unfeasible by joint action of the State Architect, the State Public Works Board and the Joint Rules Committee. All work performed pursuant to this section shall also be exempt from the provisions of the Environmental Quality Act of 1970 (Division 13 (commencing with Section 21000), Public Resources Code). The architect and contractor shall, however, be selected on the basis of their qualifications and experience in the restoration and reconstruction of historic buildings.

(d) "Competitive bidding" includes, but is not limited to, consistent with the uniqueness of the restoration or rehabilitation of the west wing of the State Capitol, provision for: public advertisement for prequalification of responsible bidders,

prequalification of responsible bidders, bonding, submission of sealed bids, public opening of bids, award of contracts to the lowest prequalified responsive bidder, rejection of all bids in the event the lowest responsive bid exceeds estimates, prevailing wages, workers' compensation, and safety rules and regulations. Such provision may include requirements as set forth, on the effective date of the amendment of this section by the Legislature at the 1977–1978 Regular Session, in the contract between the Joint Rules Committee and the contractor.

SEC. 3. Sections 1 and 2 of this act do not constitute a change in, but are declaratory of, the preexisting law.

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

The west wing of the State Capitol has been determined by the State Architect to be structurally unsafe for occupation and use, and is in immediate need of restoration so that it may safely continue to serve state government and the people of the state. The Joint Rules Committee of the Legislature has been empowered to cause the restoration of this portion of the State Capitol.

The State Capitol Restoration Project is now in progress but has been delayed and may be halted because questions have arisen concerning interpretations of the law. Delay in the orderly conduct of this project which results in increased costs to the public and a cessation of construction activity would leave the historic structure in a gravely imperiled condition.

Therefore, in order to affirm the intention of the Legislature in the enactment of Secion 9124 of the Government Code, and thereby insure the expeditious conduct of work on the project without delay or interruption, it is necessary that this act should take effect immediately.

CHAPTER 26

An act to add Sections 6408 and 6409 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor March 3, 1978 Filed with Secretary of State March 3, 1978.]

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

SECTION 1. Section 6408 is added to the Revenue and Taxation Code, to read:

6408. The storage, use, or other consumption in this state of medical health information literature purchased by any organization formed and operated for charitable purposes which qualifies for the exemption provided by Section 214 (known as the "welfare exemption"), which is engaged in the dissemination of medical health information, is exempted from the use tax; provided,

however, that such purchases are made from a national office, or another branch of that national office, of the same organization.

SEC. 2. Section 6409 is added to the Revenue and Taxation Code, to read:

6409. The storage, use, or other consumption in this state of health and safety educational materials and insignia routinely sold in connection with health and safety and first aid classes, purchased or sold by any national organization formed and operated for charitable purposes which qualifies for the exemption provided by Section 214 (known as the "welfare exemption"), which is engaged in the dissemination of health and safety information, is exempted from the use tax; provided, however, that such purchases are made from a national office or another branch or chapter of such national office of the same organization.

SEC. 3. It is the intent of the Legislature that the estimated revenue loss resulting from enactment of the exemptions contained in this act will result in minor revenue losses to local government and will not cause any financial burden to local government. Thus, notwithstanding Section 2230 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, and notwithstanding Section 2230.5 of the Revenue and Taxation Code, there shall be no review of this act by the Department of Finance.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 27

An act to amend Sections 4023.5 and 4029.5 of the Health and Safety Code, relating to public water systems.

[Approved by Governor March 9, 1978. Filed with Secretary of State March 9, 1978]

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

SECTION 1. Section 4023.5 of the Health and Safety Code is amended to read:

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 noticed in the same manner as primary drinking water standards.

SEC. 2. Section 4029.5 of the Health and Safety Code is amended to read:

4029.5. Upon formal complaint by the director alleging that additional facilities are necessary to provide the users of a public water system operated by a public utility under the jurisdiction of the Public Utilities Commission with a continuous and adequate supply of water or to bring such water system into conformity with secondary drinking water standards, the commission may, after

hearing, direct the public utility to make such changes in its procedures or additions to its facilities as the commission shall determine are necessary to provide a continuous and adequate supply of water to the users thereof or to bring such system into conformity with secondary drinking water standards. Any proceeding of the commission pursuant to this article shall be conducted as provided in Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code, and any order issued by the commission pursuant to this action shall be subject to judicial review as provided in such Chapter 9.

CHAPTER 28

An act to amend Sections 35784.1 and 36331 of the Food and Agricultural Code, relating to milk.

[Approved by Governor March 9, 1978 Filed with Secretary of State March 9, 1978.]

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

SECTION 1. Section 35784.1 of the Food and Agricultural Code is amended to read:

35784.1. Market milk produced and marketed pursuant to Article 7 (commencing with Section 35921) of this chapter and Sections 35861 and 35891 shall contain not less than 3.5 percent of milk fat and not less than 8.5 percent of solids not fat. The minimum percentages of milk fat and solids not fat required by this section, may vary by an amount no greater than 0.1 of 1 percent, provided that the total combined percentages of milk fat and solids not fat, at the time of delivery to the consumer, shall equal or exceed 12 percent.

SEC. 2. Section 36331 of the Food and Agricultural Code is amended to read:

36331. Manufacturing milk shall comply with all of the following requirements:

(a) It shall be free from foreign substances.

(b) It shall not contain any undesirable flavors or odors.

(c) It shall not contain more than 2,000,000 individual bacteria per milliliter as found by direct microscopic count.

In addition, manufacturing milk shall comply with the rules, regulations, and standards of the United States Department of Agriculture which govern quality standards of raw milk.

CHAPTER 29

An act to repeal Section 262 of the Penal Code, relating to rape, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 9, 1978 Filed with Secretary of State March 9, 1978.]

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

SECTION 1. Section 262 of the Penal Code 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:

Recent appellate court interpretations have permitted rapists who are minors to go free. Thus, to protect the public, it is necessary that this act take effect immediately.

CHAPTER 30

An act to amend Section 501 of the Penal Code, relating to waste recycling.

[Approved by Governor March 9, 1978 Filed with Secretary of State March 9, 1978.]

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

SECTION 1. Section 501 of the Penal Code is amended to read:

501. (a) Every person who purchases or receives in pledge or by way of mortgage from any person under the age of 16 years any junk, metal, mechanical tools, or implements, is guilty of a misdemeanor.

(b) Nothing in this section applies to or affects the sale of recyclable discards by persons under the age of 16 years to a consumer recycling center.

As used in this subdivision, "consumer recycling center" means any permanent or mobile facility that accepts for purchase recyclable aluminum, tin, bimetal, glass, and paper discards from consumers.

CHAPTER 31

An act making an appropriation for disaster relief and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 9, 1978. Filed with Secretary of State March 9, 1978.]

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

SECTION 1. The sum of one hundred seventeen thousand, fifty-four dollars and thirty-six cents ($117,054.36) is hereby appropriated from the General Fund to the Disaster Relief Special Deposit Fund, Office of Emergency Services, for the purpose of paying for disaster relief, including repayment of funds advanced to the state by the federal government. Disaster relief was rendered to individuals and families in Imperial, Riverside, and San Bernardino Counties pursuant to paragraphs (1), (2), and (3) of subdivision (b) of Section 8654 of the Government Code.

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

In order to meet the requirements of Public Law 93-288 in rendering disaster relief to individuals and families in Imperial, Riverside, and San Bernardino Counties as contemplated by the provisions of Section 8654 of the Government Code, it is necessary that the provisions of this act take effect immediately.

CHAPTER 32

An act to amend Section 84529 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 9, 1978. Filed with Secretary of State March 9, 1978.]

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

SECTION 1. Section 84529 of the Education Code is amended to read:

84529. If 50 percent or more of the enrollment in a police or fire training course at a community college consists of students who are residents of community college districts other than the district offering the course, all such students enrolled may, at the discretion of the district of attendance, be deemed to be resident students of the district for such courses for the purposes of this article.

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 community college districts offering police or fire training courses to follow the provisions of this act at the beginning of the 1978–79 academic year and so facilitate the orderly administration of such courses, it is necessary that this act go into effect immediately.

CHAPTER 33

An act to amend Section 1151 of the Probate Code, relating to decedents' estates.

[Approved by Governor March 9, 1978 Filed with Secretary of State March 9, 1978.]

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

SECTION 1. Section 1151 of the Probate Code is amended to read:

1151. The public administrator shall keep records, to be labeled "Register of Public Administrator," in which he shall enter the name

of every decedent whose estate he administers, the date of granting letters, the money received, the property appraised and its value, the proceeds of all sales of property, the amount of his fees, the expenses of administration, the amount of the estate after all charges and expenses have been paid, the disposition of property on distribution, the date of his discharge, and such other matters as may be necessary to give a full and complete history of each estate administered by him. Any portion of said register more than five years old may be microfilmed, the microfilm kept in place of the original, and the original destroyed after authorization by the board of supervisors.

The records required to be kept by this section may be kept separately as to each particular estate or collectively.

CHAPTER 34

An act to amend Section 70047.5 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature March 12, 1978. Filed with Secretary of State March 12, 1978.]

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

SECTION 1. Section 70047.5 of the Government Code is amended to read:

70047.5. In Sonoma County, each regular official reporter shall be paid an annual salary of eighteen thousand four hundred dollars ($18,400), which salary shall include payment for his services in reporting proceedings by the grand jury, the coroner and the district attorney. In order that the salary provided for in this section shall remain equitable and competitive, the salary herein provided for shall be adjusted and increased by the same salary adjustment percentage enacted by the county by ordinance for the position entitled legal stenographer.

Reporters pro tempore shall be paid sixty-three dollars ($63) per day for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties.

Regular official reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave and other benefits allowed to employees of the county.

In such county the fee required by Section 70053 shall be twenty dollars ($20).

SEC. 2. In the event that Section 68519 of the Government Code as added by Chapter 1177 of the Statutes of 1975 as it relates to Sonoma County is enjoined, restrained, or otherwise held invalid, Section 1 of this act shall be void and to this end, Section 1 of this act and Section 68519 of the Government Code as it relates to Sonoma County are inseverable.

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 help defray the increased costs associated with the salaries of court reporters in Sonoma County, it is necessary that this act take effect immediately.

CHAPTER 35

An act to amend Section 117.8 of, to add Section 117.41 to, and to repeal Section 117.6 of, the Code of Civil Procedure, relating to small claims courts, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature March 12, 1978. Filed with Secretary of State March 12, 1978.]

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

SECTION 1. Section 117.6 of the Code of Civil Procedure is repealed.

SEC. 2. Section 117.41 is added to the Code of Civil Procedure, to read:

117.41. A corporation may appear in small claims court only through an employee or a duly appointed or elected officer or director, employed, appointed, or elected for purposes other than the exclusive representation of the corporation in small claims court. Any other entity which is not a natural person may appear in small claims court only through a regularly employed person of that entity, employed for purposes other than the exclusive representation of the entity in small claims court.

SEC. 3. Section 117.8 of the Code of Civil Procedure is amended to read:

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 30

days after the clerk has mailed by first-class mail 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.

(c) If the defendant was not properly served pursuant to Section 116.4 and did not appear at the hearing in the small claims court, he may move to vacate the judgment within 180 days after he knew or should have known that judgment was entered against him. Such motion shall be supported by declaration under penalty of perjury. The court may stay enforcement of the judgment pending a hearing and determination of the motion. The notice of motion and supporting declaration shall be on simple nontechnical forms approved or adopted by the Judicial Council.

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 remedy unforeseen problems created by Chapter 1289 of the Statutes of 1976, it is necessary that this act go into immediate effect.

CHAPTER 36

An act making an appropriation to the State Department of Health to continue the Indochinese Refugee Self-Support Program and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 13, 1978. Filed with Secretary of State March 13, 1978.]

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

SECTION 1. The Legislature recognizes:

(1) That the incidence of welfare dependency and unemployment among Indochinese refugees residing in California is high relative to other segments of the population.

(2) That these refugees have special problems with the English language, a lack of marketable skills, and unfamiliarity with the American culture, which act as barriers to attainment of self-sufficiency.

(3) That the Indochinese Refugee Self-Support Project of the State Department of Health, which project is financed 100 percent by the federal government under the Indochinese Refugee Assistance Program and is providing English language training, vocational skills training, job placement, and social services to California's Indochinese refugee population, has temporarily been left without a source of funding as of January 1, 1978, as Congress has failed to appropriate funds for the Indochinese Refugee Assistance Program

on a timely basis, although the new legislation (P.L. 95-145) has been in effect since October 28, 1977.

(4) That supplemental appropriations for the Indochinese Refugee Assistance Program (H.R. 9375) will be forthcoming in the near future and will be retroactive to October 1, 1977.

(5) That a disruption of services at a time when the Indochinese Refugee Self-Support Program has begun to demonstrate its effectiveness in assisting its target population achieve self-sufficiency would be a great hindrance to future goal achievement.

SEC. 2. The sum of three hundred thirty-seven thousand five hundred dollars ($337,500) is hereby appropriated from the General Fund to the State Department of Health for expenditure to enable that department to continue providing services under its Indochinese Refugee Self-Support Project for the period of January 1, 1978, through June 30, 1978. These funds are to be used as matching funds for up to an additional one million twelve thousand five hundred dollars ($1,012,500) from unallocated Title XX Social Services funds. All General Fund money appropriated hereby, all Title XX money matched hereby, and all money advanced by the Director of Finance pursuant to Section 28 of the Budget Act of 1977 shall be repaid to their respective sources when federal appropriations under P.L. 95-145 are made available to the State Department of Health to finance the Indochinese Refugee Self-Support Project.

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 as follows:

In order to provide employment opportunities to those persons in greatest need and thereby reduce unemployment in this state at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 37

An act to add Section 71854 to the Water Code, relating to municipal water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 13, 1978 Filed with Secretary of State March 13, 1978.]

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

SECTION 1. Section 71854 is added to the Water Code, to read:

71854. A district that has outstanding revenue bonds which were approved by more than two-thirds of the votes cast at the election authorizing such bonds may incur a bonded indebtedness pursuant

to this part for the purpose of refunding such revenue bonds, whether or not such revenue bonds are then due, and for the payment of all incidental expenses in connection with the refunding of such revenue bonds. Such general obligation bonds shall be authorized, issued, and sold in all respects as provided in this part for the authorization, issuance, and sale of general obligation bonds of a district.

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 a proposal for the issuance of general obligation bonds for the purpose of refunding revenue bonds to be submitted this year to the voters of a municipal water district, it is necessary that the provisions of this act go into immediate effect.

CHAPTER 38

An act to amend Section 9102 of the Commercial Code, relating to secured transaction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 13, 1978 Filed with Secretary of State March 13, 1978.]

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

SECTION 1. Section 9102 of the Commercial Code is amended to read:

9102. (1) Except as otherwise provided in Section 9104 on excluded transactions, this division applies

(a) To any transaction (regardless of its form) which is intended to create a security interest in personal property including goods, documents, instruments, general intangibles, chattel paper or accounts; and also

(b) To any sale of accounts or chattel paper; and also

(c) To any transaction (regardless of its form) which is intended to create a security interest in goods which are or later become "fixtures" under the law of this state, but as against third parties having or acquiring an interest in or a lien on the real property, the rights and duties of the parties to the secured transactions are governed by the law of this state relating to real property and fixtures.

(2) This division applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, inventory lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This division does not apply to statutory liens

except as provided in Section 9310.

(3) The application of this division to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this division does not apply.

(4) Notwithstanding anything to the contrary in this division, no nonpossessory security interest, other than a purchase money security interest, may be given or taken in or to the inventory of a retail merchant held for sale, except in or to inventory consisting of durable goods having a unit retail value of at least five hundred dollars ($500) or motor vehicles, house trailers, trailers, semitrailers, farm and construction machinery and repair parts thereof, or aircraft. A cooperative association organized pursuant to Chapter 1 (commencing with Section 54001), Division 20 of the Food and Agricultural Code (agricultural cooperative associations) or Part 3 (commencing with Section 13200), Division 3, Title 1 of the Corporations Code (Fish Marketing Act) is not to be deemed a merchant within the meaning of this subdivision. The phrase "purchase money security interest" as used in this subdivision does not extend to any after-acquired property other than the initial property sold by a secured party or taken by a lender as security as provided in Section 9107. This subdivision does not apply to the inventory of a person whose sales for resale exceeded 75 percent in dollar volume of his total sales of all goods during the 12 months preceding the attachment of the security interest. For the purpose of the preceding sentence, a sale of goods to a contractor, who is required to be licensed, for the purpose of incorporating such goods at any time into improvements or repairs to real property, is a sale for resale.

SEC. 2. The provisions of this enactment are declaratory of existing law and are intended to clarify existing law for the limited purpose of declaring that a sale of goods by a supplier to a contractor required to be licensed, for the purpose of incorporating such goods at any time into improvements or repairs to real property, is deemed a sale for resale. Further, it is not the intent of this enactment that the nonpossessory security interest in the inventory of a supplier create a lien, interest, or encumbrance against the real property to which such goods are incorporated which did not exist prior to this enactment.

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:

Small businesses are having serious financial difficulties engendered by the situation this act would remedy. It is therefore necessary that this act take effect immediately.

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CHAPTER 39

An act to add Section 6370 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor March 13, 1978. Filed with Secretary of State March 13, 1978.]

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

SECTION 1. Section 6370 is added to the Revenue and Taxation Code, to read:

6370. (a) This section applies to nonprofit parent-teacher associations chartered by the California Congress of P.T.A., Incorporated, and equivalent organizations performing the same type of service for public or private schools and authorized to operate within the school by the governing authority of the school.

(b) An organization described in subdivision (a) is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, tangible personal property which it sells; provided, the profits are used exclusively in furtherance of the purposes of the organization.

(c) This section shall not be applicable to the state or any of its political subdivisions.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect; however, it shall become operative on the first day of the first calendar quarter commencing at least 90 days after the effective date of this act.

CHAPTER 40

An act to add Section 794 to the Probate Code, relating to decedent's estates.

[Approved by Governor March 13, 1978. Filed with Secretary of State March 13, 1978.]

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

SECTION 1. Section 794 is added to the Probate Code, to read:

794. (a) The Legislature finds and declares that the proper development and use of pasture and grazing land is vital to the welfare of all the people in this state and encourages participation in shift-in-land-use loans to family-size farmers and ranchers operating together as associations under the federal Consolidated Farm and Rural Development Act.

(b) Notwithstanding any other provision of law, subject to the

provisions of Section 755, real property suitable for a shift-in-land-use loan to develop grazing or pasture facilities may be sold by an executor or administrator upon the consent of the heirs or pursuant to the will of the decedent, and upon a finding by the court that the rights of creditors will not be jeopardized, to a grazing or pasture association in conformity with the federal Consolidated Farm and Rural Development Act (7 U.S.C. 1921, et seq.). Notice of the time and place of such sale shall be published pursuant to Section 780. The price of such sale shall not be less than the value of the land as established by an independent and competent appraiser mutually acceptable to the federal government, the grazing or pasture association, and the administrator or executor.

Such sale may be made irrespective of whether an additional offer is made to the court as provided for in Sections 785 and 785.1.

CHAPTER 41

An act to amend Sections 25210.4a and 31010 of the Government Code, relating to municipal advisory councils.

[Approved by Governor March 13, 1978. Filed with Secretary of State March 13, 1978.]

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

SECTION 1. Section 25210.4a of the Government Code is amended to read:

25210.4a. The term "miscellaneous extended services" as used in this chapter shall include, but shall not be limited to, the following:

(1) Water service including the acquisition, construction, operation, replacement, maintenance and repair of water supply and distribution systems, including land, easements and rights-of-way and water rights.

(2) Sewer service, including the acquisition, construction, operation, replacement, maintenance and repair of sewage collection, transportation and disposal systems, including land, easements and rights-of-way.

(3) Pest or rodent control.

(4) Street and highway sweeping.

(5) Street and highway lighting including the acquisition, construction, replacement, maintenance and repair of a street or highway lighting system, including land, easements and rights-of-way.

(6) Refuse collection.

(7) Garbage collection.

(8) Ambulance service.

(9) Area planning by an area planning commission established pursuant to Article 11 (commencing with Section 65600) of Chapter

3 of Title 7.

(10) Soil conservation and drainage control.

(11) Animal control.

(12) Services provided by a municipal advisory council established pursuant to Section 31010.

SEC. 2. Section 31010 of the Government Code is amended to read:

31010. The board of supervisors of any county may by resolution establish and provide funds for the operation of a municipal advisory council for any unincorporated area in the county to advise the board on such matters which relate to that area as may be designated by the board concerning services which are or may be provided to the area by the county or other local governmental agencies, including but not limited to advice on matters of public health, safety, welfare, public works, and planning. Unless the board of supervisors specifically provides to the contrary, a municipal advisory council may represent the community to any state, county, city, special district or school district, agency or commission, or any other organization on any matter concerning the community. The board may pay from available funds such actual and necessary expenses of travel, lodging, and meals for the members of the council while on such official business as may be approved by the board.

The resolution establishing any such municipal advisory council shall provide for the following:

(a) The name of the municipal advisory council.

(b) The qualifications, number, and method of selection of its members, whether by election or appointment.

(c) Its designated powers and duties.

(d) The unincorporated area or areas for which the municipal advisory council is established.

(e) Whether the establishment of the council should be submitted to the voters and the method for such submission; provided that if an election is required pursuant to subdivision (b), such election shall be held at the same time as an election held pursuant to this subdivision.

(f) Such other rules, regulations and procedures as may be necessary in connection with the establishment and operation of the municipal advisory council.

CHAPTER 42

An act to amend Section 31 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to water districts.

[Approved by Governor March 13, 1978. Filed with Secretary of State March 13, 1978]

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

SECTION 1. Section 31 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 31. The legal title to all property, except shares of stock in mutual water companies or corporations, as provided in Section 31d of Article IV of the Constitution, acquired under the provisions of this act shall immediately and by operation of law vest in said district, and shall be held by said district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board is hereby authorized and empowered to hold, use, acquire, manage, occupy and possess said property, as herein provided; and said board may determine, by resolution duly entered in their minutes that any real property, or interest therein, held by said district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell, lease or otherwise dispose of said property pursuant to this section.

Real property which, in the unanimous judgment of the board does not have a sale value in excess of five hundred dollars ($500), or a rental value in excess of fifty dollars ($50) per month, as determined by a qualified land appraiser, or which has no access to a public road, or which consists of an easement for ingress and egress to property which, by the terms of said easement will terminate when ingress and egress is supplied to said property by a public road may be sold, leased, or conveyed by the board on terms prescribed by it.

The board may reconvey real property to the former owner by whom such property was conveyed, or from whom such property was condemned by the district, or his successor in interest for a price not less than that paid by the district for such property.

The board may by a five-sevenths vote exchange real property of equal value with any person, firm or corporation for the purpose of removing defects in the title to real property owned by the district or where the real property to be exchanged is not required for district use and the property to be acquired is required for district use.

The board may convey easements to public utility corporations in the manner prescribed by Section 50335 of the Government Code.

The board may vacate public service easements in the manner prescribed by Sections 50430 through and including 50445 of the Government Code.

In all other cases, the board shall be governed in the sale or lease or other disposition of real property by the requirements of Sections 25526, 25527, 25530 through and including 25535 of the Government Code providing for such action by counties; provided, however, that notice of the board's intended action shall be as prescribed in Section 25363 of the Government Code.

The board may by a five-sevenths vote sell, lease, or otherwise transfer to the state, the County of Santa Clara, or to any city, school district or other special district within the Santa Clara Valley Water

District, or exchange with such public entities any real or personal property or interest therein belonging to the district upon such terms and conditions as are agreed upon.

The board shall establish regulations for the trade in, survey, sale or other disposition of personal property held by said district and no longer necessary to be retained for the uses and purposes thereof; provided, that any sale of personal property having a sale value in excess of that value stated from time to time by Section 1041.6 of Article 2 of Subchapter 3 of Chapter 2 of Division 2 of Title 2 of the California Administrative Code as a definition of "fixed assets", or such lower value as may be determined by the board, shall be made upon public bid preceded by notice of the board's intended action given as prescribed in Section 25363 of the Government Code.

CHAPTER 43

An act to amend Section 2924b of the Civil Code, to amend Sections 16180, 16181, 16182, 16183, 16187, 16190, 16210, 16211, 16212, 16213, and 27282 of, to add Section 16211.5 to, the Government Code, to amend Sections 2505, 2514, 2515, 20501, 20508, 20512, 20542, 20561, 20581, 20583, 20584, 20585, and 20602 of, to add Sections 255.4, 2615.6, 20503, 20505, 20586, 20622, 20641.5, 20644.5, 20645.5, and 20645.6 to, to repeal Sections 255.4, 2615.6, 20503, 20505, 20604, and 20622 of, to amend the headings of Chapter 1 (commencing with Section 20501) of Part 10.5 of, and Part 10.5 (commencing with Section 20501) of Division 2 of, to amend and renumber the heading of Chapter 3 (commencing with Section 20641) of Part 10.5 of Division 2 of, and to add Chapter 3 (commencing with Section 20625) to Part 10.5 of, Division 2 of, the Revenue and Taxation Code, to amend Sections 16, 17, and 20 of, and to repeal Section 19 of, Chapter 1242 of the Statutes of 1977, relating to senior citizens property tax assistance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 15, 1978. Filed with Secretary of State March 16, 1978.]

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.

(F) The Office of the State Controller, Sacramento, California, where, as of the recording date of the notice of default, a lien for postponed property taxes has been recorded against the real property to which the notice of default applies.

(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 or 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. Section 16180 of the Government Code is amended to read:

16180. Out of the amount appropriated to the Controller by Section 16100, the sum of twelve million seven hundred thousand dollars ($12,700,000) for the 1977–78 fiscal year and each fiscal year thereafter is hereby made available to the Controller to pay the face amount of all certificates of eligibility for the postponement of property taxes submitted to the Controller which are signed and countersigned in the manner specified in Sections 20602 and 20603 of the Revenue and Taxation Code.

SEC. 3. Section 16181 of the Government Code is amended to read:

16181. (a) The Controller shall maintain a record of all properties against which a notice of lien for postponed property taxes has been recorded. Such record shall include, but not be limited to, the names of each claimant, a description of the real property against which the lien is recorded, the identification number of the notice of lien assigned by the Controller, and the amount of the lien.

(b) Upon written request of any person or entity, or the agent of either, having a legal or equitable interest in real property which is

subject to a lien for postponed taxes, the Controller shall within 10 working days following receipt of such request issue a written statement showing the amount of the obligation secured by the lien as of the date of such statement and such other information as will reasonably enable such person or entity, or the agent of either, to determine the amount to be paid the Controller in order to obtain a certificate of release or discharge of the lien for postponed taxes.

(c) The Controller shall adopt regulations necessary to implement the provisions of this chapter and may establish a reasonable fee, not to exceed ten dollars ($10), for the provision of the statement of lien status provided for herein.

SEC. 4. Section 16182 of the Government Code is amended to read:

16182. (a) All sums paid by the Controller under the provisions of this chapter, together with interest thereon, shall be secured by a lien in favor of the State of California upon the real property for which property taxes have been postponed. In the case of a residential dwelling which is part of a larger parcel taxed as a unit, such as a duplex, farm, or multipurpose or multidwelling building, the lien shall be against the entire tax parcel.

(b) The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing pursuant to this chapter, including amounts paid subsequent to the initial payment of postponed taxes on the real property described in the notice of lien.

(c) The notice of lien may bear the facsimile signature of the Controller. Each such signature shall be that of the person who shall be in the office at the time of execution of the notice of lien; provided, however, that such notice of lien shall be valid and binding notwithstanding any such person having ceased to hold the office of Controller before the date of recordation.

(d) The form and contents of the notice of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, the following:

(1) The names of all record owners of the real property for which the Controller has advanced funds for the payment of real property taxes.

(2) A description of the real property for which real property taxes have been paid.

(3) The identification number of the notice of lien which has been assigned the lien by the Controller.

(e) The notice of lien shall be recorded in the office of the county recorder for the county in which the real property subject to the lien is located.

(f) The recorded notice of lien shall be indexed in the Grantor Index to the names of all record owners of the real property and in the Grantee Index to the Controller of the State of California.

(g) After the notice of lien has been duly recorded and indexed,

it shall be returned by the county recorder to the office of the Controller. The recorder shall provide the county tax collector with a copy of the notice of lien which has been recorded by the Controller.

(h) From the time of recordation of a notice of lien for postponed property taxes, a lien shall attach to the real property described therein and shall have the priority of a judgment lien for all amounts secured thereby, except that the lien shall remain in effect until (1) released by the Controller in the manner prescribed by Section 16186, or (2) the foreclosure or sale of an obligation secured by a lien which is senior in priority to the lien of the State of California.

SEC. 5. Section 16183 of the Government Code is amended to read:

16183. (a) From the time a payment is made pursuant to Section 16180, the amount of such payment shall bear interest at an annual rate of 7 percent, not compounded.

(b) The interest provided for in subdivision (a) of this section shall be applied beginning the first day of the month following the month in which such payment is made and continuing on the first day of each month thereafter until such amount is paid. In the event that any payments are applied, in any month, to reduce the amount paid pursuant to Section 16180, the interest provided for herein shall be applied to the balance of such amount beginning on the first day of the following month.

(c) In computing interest in accordance with this section, fractions of a cent shall be disregarded.

(d) For the purpose of this section, the time a payment is made shall be deemed to be the time a certificate of eligibility is countersigned by the tax collector or the delinquency date of the respective tax installment, whichever is later.

SEC. 6. Section 16187 of the Government Code is amended to read:

16187. (a) In the event of a judicial foreclosure of any lien senior in priority to the lien provided by Section 16182, notice shall be given the Controller, in such manner as the Controller may prescribe, not less than 60 days prior to the sale upon judicial foreclosure of any lien senior in priority to the lien provided by Section 16182, unless the Controller is named and served as a defendant in a judicial proceeding for foreclosure.

(b) In the event of a nonjudicial foreclosure of any lien senior in priority to the lien provided by Section 16182, notice shall be given to the Controller, pursuant to Section 2924b of the Civil Code. However, when the notice of lien for postponed property taxes is recorded subsequent to the recordation of a notice of default, the Controller shall be given notice of sale not less than 25 days prior to such sale provided that the lien for postponed property taxes is recorded more than 30 days before such sale.

In the event of a failure to give the notice required by this section, the lien established by Section 16182 shall not be affected by the

foreclosure or sale of any such senior lien.

SEC. 7. Section 16190 of the Government Code is amended to read:

16190. All amounts owing pursuant to Article 1 (commencing with Section 16180) of this chapter shall become due if any of the following occurs:

(a) The claimant, who is either the sole owner of the residential dwelling, as defined in Section 20583 of the Revenue and Taxation Code, or a co-owner with a person other than a spouse or other individual eligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581) of Part 10.5 of Division 2 of such code, ceases to occupy the premises as his residential dwelling, dies, or sells, conveys, or disposes of the property, or allows any tax or special assessment on the premises described in subparagraph (A) of paragraph (4) of subdivision (b) of Section 20583 of such code to become delinquent. If the sole owner claimant dies and his or her surviving spouse inherits the premises and continues to own and occupy it as his or her principal place of residence, then the lien amount does not become due and payable unless taxes or special assessments described in the preceding sentence become delinquent, or such surviving spouse dies, or sells, conveys or disposes of the property.

(b) The claimant, who is a co-owner of the residential dwelling, as defined in Section 20583 of the Revenue and Taxation Code, with a spouse or another individual eligible to postpone property taxes pursuant to Chapter 3 (commencing with Section 20581) of Part 10.5 of Division 2 of such code, dies, and the surviving spouse or other surviving eligible individual allows any tax or special assessment on the premises described in subparagraph (A) of paragraph (4) of subdivision (b) of Section 20583 of such code to become delinquent or such surviving spouse or other individual ceases to occupy the premises as a residential dwelling, dies, or conveys, or disposes of the property.

(c) The failure of the claimant to perform those acts the claimant is required to perform where such performance is secured, or will be secured in the event of nonperformance, by a lien which is senior to that of the lien provided by Section 16182.

(d) Postponement was erroneously allowed because eligibility requirements were not met.

SEC. 8. Section 16210 of the Government Code is amended to read:

16210. In the event that the amount secured by the state's lien provided for in Article 1 (commencing with Section 16180) of this chapter is paid by reason of the sale or condemnation of the property on which the lien attaches, the funds so received shall be placed in an impound account for a period of 6 months. In connection with the establishment of such an account, the Controller shall release the state's lien in the manner prescribed by Section 16186.

SEC. 9. Section 16211 of the Government Code is amended to

read:

16211. The claimant under Chapter 3 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code whose residential dwelling was sold or condemned may draw upon the amount in the account to purchase a new residential dwelling, and the amount so drawn shall be secured by a new lien against the new residential dwelling from the time the Controller records the new lien against the new residential dwelling as provided for under Section 16182.

The Controller shall subordinate such new lien to the lien of the note and deed of trust of the purchase money obligations used in the acquisition of the new residential dwelling, provided the claimant has an equity of at least 20 percent of the full value of the property, as required by paragraph (1) of subdivision (b) of Section 20583 of the Revenue and Taxation Code, prior to recordation of such subordination. Such lien shall have priority over all subsequent liens, except as provided in Section 2192.1 of the Revenue and Taxation Code.

SEC. 10. Section 16211.5 is added to the Government Code, to read:

16211.5. (a) In the event that the real property securing the state's lien provided for in Article 1 (commencing with Section 16180) of this chapter is subject to a prior recorded homestead pursuant to Title 5 of Part 4 of Division 2 of the Civil Code, the funds derived from a voluntary sale of such homesteaded real property shall be placed in an impound account for a period of 6 months notwithstanding Section 1265a of the Civil Code. In connection with the establishment of such account, the Controller shall release the state's lien in the manner prescribed by Section 16186.

(b) The claimant under Chapter 2 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code whose homesteaded residential dwelling was voluntarily sold may draw upon the amount in the account to purchase a new residential dwelling, and the amount so drawn shall be secured by a new lien against the new residential dwelling from the time the Controller records the new lien against the new residential dwelling as provided for under Section 16182.

The Controller shall subordinate such new lien to the note and deed of trust of the purchase money obligations used in the acquisition of the new residential dwelling, provided the claimant has an equity of at least 20 percent of the full value of the property, as required by paragraph (1) of subdivision (b) of Section 20583 of the Revenue and Taxation Code, prior to recordation of such subordination. Such lien shall have priority over all subsequent liens, except as provided in Section 2192.1 of the Revenue and Taxation Code.

SEC. 11. Section 16212 of the Government Code is amended to read:

16212. An amount drawn pursuant to Section 16211 or 16211.5

shall be treated as an amount paid pursuant to Section 16180 for all purposes of this chapter.

SEC. 12. Section 16213 of the Government Code is amended to read:

16213. At the end of the 6-month period specified in Section 16210 or the six-month period specified in Section 16211.5, all funds remaining in an impound account shall be transferred to the State General Fund.

SEC. 13. Section 27282 of the Government Code is amended to read:

27282. (a) The following documents may be recorded without acknowledgment, certificate of acknowledgment, or further proof:

(1) A judgment affecting the title to or possession of real property, authenticated by the certificate of the clerk of the court in which the judgment was rendered.

(2) A notice of location of mining claim.

(3) Certificates of amounts of taxes, interest and penalties due, notices of state tax liens and extensions thereof executed by the state, county, or city taxing agencies or officials pursuant to Sections 2191.3, 2191.4, 6757, 7872, 8996, 10099, 11495, 16063, 16064, 18881 through 18883, inclusive, 26161 and 30322 of the Revenue and Taxation Code, and Section 1703 of the Unemployment Insurance Code, and releases or subordinations executed pursuant to Sections 2191.4, 6758, 6759, 7873, 8997, 10100, 11496, 14307, 14308, 16066, 16067, 18884, 18885, 26162, 30323 and 30324 of the Revenue and Taxation Code, and Sections 1704 and 1705 of the Unemployment Insurance Code.

(4) Notices of lien for postponed property taxes executed pursuant to Section 16182.

(5) A release, discharge, or subordination of a lien for postponed property taxes as authorized by Chapter 6 (commencing with Section 16180) of Part 1 of Division 4 of Title 2.

(b) Any document described in this section, from the time it is filed with the recorder for record, is constructive notice of the contents thereof to subsequent purchasers and mortgagees.

SEC. 14. Section 255.4 of the Revenue and Taxation Code is repealed.

SEC. 15. Section 255.4 is added to the Revenue and Taxation Code, to read:

255.4. The notice or claim form required to be sent to homeowners by Section 255.3 shall be accompanied by a notice regarding property tax assistance and postponement for senior citizens under the Gonsalves-Deukmejian-Petris Senior Citizens Property Tax Assistance Law and the Senior Citizens Property Tax Postponement Law. The language text of this notice shall be prepared by the Franchise Tax Board.

SEC. 16. Section 2505 of the Revenue and Taxation Code is amended to read:

2505. (a) Except as provided in subdivision (b), the assessor, tax collector, or treasurer for any city or county may in his discretion

accept negotiable paper in payment of any tax, or assessment, or on a redemption.

(b) The tax collector of a county shall accept a certificate of eligibility to pay all or any part of any ad valorem property tax, special assessment, or other charge or user fee appearing on the county tax bill. The tax collector, treasurer, or other official charged with the duty of collecting taxes for a chartered city which levies and collects its own property taxes shall accept a certificate of eligibility to pay all or any part of any ad valorem property tax, special assessment, or other charge or user fee appearing on the tax bill of such city. A certificate for partial payment shall not be accepted unless accompanied by an amount sufficient to fully pay the remaining ad valorem property taxes, special assessment, or other charge or fee appearing on the respective tax bill installment.

(c) Except as provided in Chapter 2 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code, a certificate of eligibility shall not be used to pay any delinquent taxes, assessments, penalties, costs, fees, or interest, or any redemption charges.

(d) For the 1978–79 fiscal year and thereafter, except as to those amounts which can be paid by a certificate pursuant to subdivision (c), the tax collector shall not accept a certificate of eligibility to pay all or part of the first installment or all or part of a second installment if tendered after December 10 and April 10, respectively, unless accompanied by an amount sufficient to fully pay any delinquent taxes, assessments, costs, penalties, interest, fees or other charges resulting from the delinquency or delinquencies.

(e) In no event shall a certificate of eligibility be accepted later than the last business day of the fiscal year designated on the certificate.

SEC. 17. Section 2514 of the Revenue and Taxation Code is amended to read:

2514. (a) Upon receipt of a certificate of eligibility described in Section 20602 signed by the claimant, the claimant's spouse, or authorized agent appointed under regulations adopted by the Controller pursuant to Section 20603, the tax collector shall ascertain whether the amount of money entered on the certificate by such claimant or agent, when added to other amounts available for such purpose, are sufficient to pay the amount due and owing.

If such is the case, the tax collector or his designee shall countersign the certificate and mark the tax paid. Once signed and countersigned, a certificate of eligibility shall be deemed a negotiable instrument for purposes of all laws of this state, as specified in subdivision (d) of Section 20602. Upon acceptance of such a certificate:

(1) The tax collector shall enter the fact that taxes on the property have been postponed in appropriate columns on the secured roll. This information may be entered in that portion of the secured roll which has been designated for sale to the state information required

by Section 3439.

(2) The tax collector shall determine if the property described in the certificate of eligibility is subject to a lien recorded pursuant to Section 16182 of the Government Code. If the property is not subject to such a lien, the tax collector shall enter the amount paid by use of the certificate, the date of such payment, the Controller's identification number shown on the certificate of eligibility, the address of the property covered by the certificate, and the name of the claimant as shown on the certificate on a "notice of lien for postponed property taxes" form which shall be provided by the Controller. The tax collector shall thereafter forward such notice of lien form to the assessor.

(3) With respect to a claimant whose property taxes are paid by a lender from an impound, trust, or other type of account described in Section 2954 of the Civil Code, the tax collector shall notify the auditor of the claimant's name and address, and the amount of money entered on the certificate.

The auditor, treasurer, or disbursing officer shall send a check in the amount of money entered on the certificate to said claimant within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received from the claimant, whichever is later.

(b) The procedures established by this chapter shall not be construed to require a lender to alter the manner in which a lender makes payment of the property taxes of such claimant.

SEC. 18. Section 2515 of the Revenue and Taxation Code is amended to read:

2515. (a) Upon receipt of a "notice of lien for postponed property taxes" from the tax collector, the assessor shall immediately:

(1) Enter, on the notice of lien, a description of the real property for which the taxes have been paid by use of a certificate of eligibility pursuant to Section 2514. Such description shall be a "metes and bounds," "lot-block-tract," or such other description as is determined by the Controller to sufficiently describe the real property for the purpose of securing the state's lien.

(2) Enter on the notice of lien, the names of all record owners of the property described under subdivision (a) of this section, as disclosed by the assessor's records.

(3) Upon entry of the information required by subdivisions (a) and (b) of this section on the notice of lien, the assessor shall immediately forward the notice of lien to the county recorder.

(4) Enter on the assessment records applicable to such property, the fact that the taxes on the property have been postponed and the Controller's identification number, and shall, when such record reveals a change in the ownership status of the property subsequent to the date of entry of the postponement information thereon, notify the Controller of such change in the ownership status in the manner prescribed by the Controller.

(b) From the time of recordation of the notice of lien pursuant to

Section 16182 of the Government Code, the lien for postponed property taxes shall be deemed to impart constructive notice of the contents thereof to subsequent purchasers and mortgagees.

SEC. 19. Section 2615.6 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 2615.6 is added to the Revenue and Taxation Code, to read:

2615.6. When the county sends to any person a tax bill, it shall be accompanied by a notice regarding property tax assistance and postponement for senior citizens under the Gonsalves-Deukmejian-Petris Senior Citizens Property Tax Assistance Law and the Senior Citizens Property Tax Postponement Law. The text of this notice shall be prepared by the Franchise Tax Board.

SEC. 21. The heading of Part 10.5 (commencing with Section 20501) of Division 2 of the Revenue and Taxation Code is amended to read:

PART 10.5. SENIOR CITIZENS PROPERTY TAX ASSISTANCE AND POSTPONEMENT LAW

SEC. 22. The heading of Chapter 1 (commencing with Section 20501) of Part 10.5 of Division 2 of the Revenue and Taxation Code is amended to read:

CHAPTER 1. SENIOR CITIZENS HOMEOWNERS AND RENTERS PROPERTY TAX ASSISTANCE LAW

SEC. 23. Section 20501 of the Revenue and Taxation Code is amended to read:

20501. This chapter shall be known and may be cited as the "Gonsalves-Deukmejian-Petris Senior Citizens Property Tax Assistance Law."

SEC. 24. Section 20503 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 20503 is added to the Revenue and Taxation Code, to read:

20503. (a) "Income" means adjusted gross income as defined in Section 17072 plus the following cash items:

(1) Public assistance and relief;

(2) Gross amount of pensions and annuities;

(3) Social security benefits (except Medi-Care);

(4) Railroad retirement benefits;

(5) Unemployment insurance payments;

(6) Veteran's benefits;

(7) Interest received from any source, whether or not exempt from income tax;

(8) Gifts and inheritances in excess of $300, other than transfers between members of the household. Gifts and inheritances includes

noncash items;

(9) Amounts contributed on behalf of the contributor to a tax-sheltered retirement plan or deferred compensation plan;

(10) Temporary worker's compensation payments;

(11) Sick-leave payments;

(12) Nontaxable military compensation as defined in Sections 17146, 17146.5 or 17146.7;

(13) Nontaxable scholarship and fellowship grants as defined in Section 17150;

(14) Nontaxable gain from the sale of a residence as defined in Section 17154;

(15) Life insurance proceeds; and

(16) If a tax on preference income is required to be paid pursuant to Chapter 2.1 (commencing with Section 17062), the amount of tax preference income (whether or not cash) in excess of net business loss which resulted in the preference tax liability.

(b) For purposes of this chapter, 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 assistance is claimed.

(c) For purposes of Chapter 2 (commencing with Section 20581) and Chapter 3 (commencing with Section 20625) of this part, total income shall be determined for the calendar year ending immediately prior to the commencement of the fiscal year for which postponement is claimed; provided, that for claims filed after January 1, 1978, for the 1977–78 fiscal year, total income may, at the election of the claimant, be determined for the 1977 calendar year. Notwithstanding any other provision of law, for purposes of claimants electing to determine household income for the 1977 calendar year pursuant to this subdivision, the household income shall not exceed twenty thousand dollars ($20,000).

SEC. 26. Section 20505 of the Revenue and Taxation Code is repealed.

SEC. 27. Section 20505 is added to the Revenue and Taxation Code, to read:

20505. "Claimant" means an individual who—

(a) For purposes of this chapter was 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) or (c) of Section 20503, whichever is applicable, who was a member of the household, and who was either: (1) the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (b) or (c) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503.

(b) For purposes of Chapter 2 (commencing with Section 20581) and Chapter 3 (commencing with Section 20625) was a member of the household and an owner and occupier of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (b) or (c) of Section 20503, and who was

62 years of age or older by December 31 of the fiscal year for which postponement is claimed provided, for purposes of eligibility for postponement of taxes for the 1977–78 fiscal year, an individual must be 62 years of age or older by March 15, 1978.

(c) Where amounts have been postponed for any given fiscal year and the claimant continues to own and occupy the residential dwelling on December 31 of the calendar year in which such fiscal year begins, and the claimant sells such dwelling and buys a new residential dwelling in this state on or before June 30 of such fiscal year and the new dwelling is the claimant's principal place of residence, then in such event, the claimant shall be deemed to be a qualified claimant for the purpose of this section.

SEC. 28. Section 20508 of the Revenue and Taxation Code is amended to read:

20508. "Residential dwelling" means a dwelling occupied by the claimant as the principal place of residence, 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, and located in this state. It shall also include a residential unit in a cooperative housing corporation (as defined in Section 17265) occupied by the owner of shares or a membership interest in such corporation as his or her principal residence, 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 the interest of a vendee in possession under a land sale contract but not the interest of the vendor, the interest of the holder of a life estate interest, but not the interest of a remainderman, and of one or more joint tenants or tenants in common. Except in the case of an unrecorded land sale contract, ownership must be evidenced by a duly recorded document.)

SEC. 28.5. Section 20512 of the Revenue and Taxation Code is amended to read:

20512. (a) "Property taxes accrued" means current property taxes (exclusive of interest, penalties, principal payments on improvement bonds and charges for service) levied against a claimant's residential dwelling by any taxing agency (as defined in Section 121) for any fiscal year ending on or after June 30, 1977.

(b) Whenever a residential dwelling is an integral part of a large unit such as a farm, or a multipurpose or multidwelling building,

"property taxes accrued" shall be that percentage of the total property taxes accrued as the value of the residential dwelling is of the total value.

(c) Where a claimant is purchasing the residential dwelling under an unrecorded contract of sale, the Franchise Tax Board may require a copy of the contract or other evidence to establish such fact.

(d) Where the residential dwelling is a dwelling owned by the claimant on land owned by a nonprofit incorporated association, the Franchise Tax Board may require an affidavit under penalty of perjury containing sufficient evidence to establish such fact and that the nonprofit incorporated association requires that the claimant pay a pro rata share of the property tax levied against the association's land.

(e) Where the residential dwelling consists of premises occupied by reason of the claimant's possessory interest in such premises, the Franchise Tax Board may require an affidavit under penalty of perjury stating that the premises are occupied by reason of ownership of a possessory interest in a dwelling that is otherwise exempt from property taxation.

SEC. 28.7. Section 20542 of the Revenue and Taxation Code is amended to read:

20542. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 20561), of this chapter, shall provide assistance to the claimant based on the property tax accrued and paid by the claimant on the residential dwelling as provided in Section 20543 or the statutory property tax equivalent pursuant to Section 20544. 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 chapter. 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 deemed 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 20563.

(4) If an individual postponed taxes for any given property tax fiscal year under Chapter 2 (commencing with Section 20581) or Chapter 3 (commencing with Section 20625) of this part, then any claim for assistance under this chapter for the same property tax fiscal year shall be filed by such individual (assuming all other eligibility requirements in this chapter are satisfied) and not an otherwise qualified member of the individual's household.

SEC. 29. Section 20561 of the Revenue and Taxation Code is amended to read:

20561. Each claimant applying for assistance under Article 2 (commencing with Section 20541) of this chapter 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 claimant as defined in Section 20505.

(b) A statement showing the household income for the period set forth in Section 20503.

(c) If the claimant owns a residential dwelling, a copy of the tax bill for such property. 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 prior calendar year, for which assistance is claimed, and any other information required by the Franchise Tax Board to administer this chapter.

(d) If a claimant submits a statement containing the essential data set forth in this section under penalty of perjury, 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 (or the claimant's spouse if a joint return is filed) under any law administered by the Franchise Tax Board.

SEC. 30. Section 20581 of the Revenue and Taxation Code is amended to read:

20581. This chapter shall be known and may be cited as the "Senior Citizens Property Tax Postponement Law."

SEC. 31. Section 20583 of the Revenue and Taxation Code is amended to read:

20583. (a) "Residential dwelling" means a dwelling occupied as the principal place of residence of the claimant, 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 spouse, or by the claimant and either another individual eligible for postponement under this chapter or an individual described in subdivision (a), (b) or (c) of Section 20511 and located in this state. It shall include condominiums, mobilehomes which are assessed as realty for local property tax purposes. It also includes part of a multidwelling or multipurpose building and a part of the land upon which it is built. In the case of a mobilehome not assessed as real property which is located on land owned by the claimant, residential "dwelling" includes the land on which such mobilehome is situated and so much of the land surrounding it as reasonably necessary for use of the mobilehome as a home.

(b) As used in this chapter in reference to ownership interests in residential dwellings, "owned" includes (1) the interest of a vendee in possession under a land sale contract provided that the contract or memorandum thereof is recorded and only from the date of recordation of the contract or memorandum thereof in the office of the county recorder where the residential dwelling is located, (2) the interest of the holder of a life estate provided that the instrument creating the life estate is recorded and only from the date of recordation of the instrument creating the life estate in the office of the county recorder where the residential dwelling is located, but "owned" does not include the interest of any remainderman or holder of a reversionary interest in the residential dwelling, (3) the interest of a joint tenant or a tenant in common in the residential dwellings or the interest of a tenant where title is held in tenancy by the entirety or a community property interest where title is held as community property.

(c) For purposes of this chapter, the registered owner of a mobilehome shall be deemed to be the owner of the mobilehome.

(d) Except as provided in subdivision (c), and Chapter 3, ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

(e) "Residential dwelling" does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 20 percent of the full value of the property as determined for purposes of property taxation at the time a notice of lien for postponed taxes is recorded pursuant to Section 16182 of the Government Code.

(2) Any residential dwelling in which the claimant's interest is held pursuant to a contract of sale or under a life estate, unless such claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate for the postponement of taxes and the creation of a lien on the real property in favor of the state for amounts postponed pursuant to this act.

(3) Any residential dwelling on which the claimant does not receive a secured tax bill.

(4) Any residential dwelling in which the claimant's interest is held as a possessory interest.

(5) (A) Except as provided in this section, any residential dwelling on which the property taxes, as defined in Section 20584, are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area is delinquent at the time the application for postponement under this chapter is made.

(B) Any taxes or assessments described in subparagraph (A) which are delinquent on July 1, 1977, shall not disqualify an otherwise eligible dwelling for postponement under this chapter. An application for postponement under this chapter to postpone the payment of property taxes for the 1977–78 fiscal year, shall also constitute an application for the postponement of all such delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from such delinquency and such amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code; provided, however, that upon payment of delinquent taxes and assessments for fiscal year 1976–77 out of the amount appropriated by Section 16100, any delinquent penalties, interest, fees or other charges resulting from the delinquency of such taxes and assessments for fiscal year 1976–77 shall be canceled.

(C) For 1978–79 and thereafter, any taxes or assessments described in subparagraph (A) which became delinquent after the claimant was 62 and before the claimant first has established a lien pursuant to Section 16182 of the Government Code shall not disqualify an otherwise eligible dwelling for postponement under this chapter. An application to postpone taxes for 1978–79 or thereafter shall also constitute an application for the postponement of all such delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from such delinquency and such amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code.

SEC. 32. Section 20584 of the Revenue and Taxation Code is amended to read:

20584. (a) "Property taxes" means all ad valorem property taxes, special assessments, and other charges or user fees which are attributable to the residential dwelling on the county tax bill and the ad valorem property taxes, special assessments, or other charges or user fees appearing on the tax bill of any chartered city which levies and collects its own property taxes.

(b) Whenever a residential dwelling is an integral part of a larger tax unit, such as a duplex, farm or a multipurpose building, "property

taxes" shall be the percentage of the total property taxes as the value of the residential dwelling is of the value of the total tax unit.

SEC. 33. Section 20585 of the Revenue and Taxation Code is amended to read:

20585. Postponement shall not be allowed under this chapter or Chapter 3 (commencing with Section 20625) if household income exceeds either of the following amounts:

(a) For the 1976 calendar year or for an approved fiscal year commencing within such calendar year, household income shall not exceed twenty thousand dollars ($20,000).

(b) For all subsequent calendar years and approved fiscal years, postponement shall not be allowed under this chapter or Chapter 3 (commencing with Section 20625) if household income exceeds an amount determined as follows:

(1) Prior to March 1, 1978 and prior to March 1 of each year thereafter, the California Department of Industrial Relations shall transmit to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items for the prior calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to the percentage change figure furnished pursuant to paragraph (1).

(3) In 1978, the Franchise Tax Board shall multiply twenty thousand dollars ($20,000) by the inflation adjustment factor to determine the maximum allowable gross household income for the 1977 calendar year and for approved fiscal years commencing within such years. In 1979 and subsequent calendar years, the Franchise Tax Board shall multiply the maximum allowable household income determined for the preceding calendar year by the inflation adjustment factor to determine the maximum allowable household income for the applicable calendar year and approved fiscal years commencing within such calendar year. In determining the maximum allowable household income pursuant to this section, the Franchise Tax Board shall round such amount to the nearest hundred dollar amount.

SEC. 34. Section 20586 is added to the Revenue and Taxation Code, to read:

20586. For the purposes of Chapter 2 (commencing with Section 20581) and Chapter 3 (commencing with Section 20625), only one claimant per household each year shall be entitled to postponement. When two or more individuals in a household are qualified as claimants, they may determine who the claimant shall be. Such decision is irrevocable. If the individuals are unable to agree, the matter shall be determined by the Franchise Tax Board and its decision shall be final.

SEC. 35. Section 20602 of the Revenue and Taxation Code is amended to read:

20602. (a) Upon approval of a claim described in Section 20601, the Franchise Tax Board shall report to the State Controller the

information required by the Controller to produce and issue the certificates of eligibility in accordance with subdivision (b) of this section.

(b) Upon receipt of the information described in subdivision (a) of this section, the State Controller shall issue to the claimant a certificate of eligibility, which shall consist of two parts, both of which shall contain the name of the claimant, the address of the residential dwelling on which the claimant has applied for property tax postponement, and such other information and in such form as the State Controller shall prescribe. In the event that such residential dwelling is located in a chartered city which levies and collects its own taxes, the State Controller shall issue a duplicate certificate of eligibility to pay all or any part of the property taxes appearing on such city's tax bill. Each part of a certificate of eligibility shall be payable in an unspecified amount and shall contain statements to identify the property tax installment to which it may be applied.

(c) The Controller shall prescribe the form of the certificates of eligibility to pay all delinquent taxes and assessments authorized by this chapter.

Upon or accompanying each certificate shall be a brief statement explaining that (1) those taxpayers whose property taxes are paid by a lender via an impound, trust or other similar account should enter the total amount of each installment on their respective certificates and mail both certificates to the tax collector at the same time, and (2) those taxpayers will receive a refund check from the county or city in the amount they entered on each certificate, within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received by the tax collector, whichever is later, and (3) the intent of this procedure is to make sure the taxes on the claimant's dwelling are not paid twice.

(d) When a certificate of eligibility has been signed by the claimant, his spouse, or authorized agent and countersigned by the person authorized to collect property taxes or assessments for the local agency, such certificate shall constitute a written promise on the part of the State of California to pay the sum of money specified therein and such signed and countersigned certificate shall be deemed a negotiable instrument for the sole purpose of the payment of property taxes owing in the name of the claimant or his spouse for purposes of all laws of this state.

(e) A certificate of eligibility shall be valid for the duration prescribed thereon by the Controller.

(f) The Controller shall issue certificates of eligibility claims approved on or before September 30 between October 15 and November 1 of the fiscal year for which postponement is claimed. Certificates for claims approved after September 30 shall be issued at such times as the Controller determines will best implement the purpose of this chapter.

(g) The Controller shall prescribe the manner in which a claimant eligible under this chapter, who has been issued a certificate of

eligibility which is lost or destroyed prior to being filed with the local agency pursuant to subdivision (c) may obtain a duplicate copy of said certificate as a replacement. (Under such conditions as may be prescribed by the Controller, a duplicate copy shall be deemed as having been filed with the local agency as of the date a claimant requests issuance of such duplicate copy.)

SEC. 36. Section 20604 of the Revenue and Taxation Code is repealed.

SEC. 37. Section 20622 of the Revenue and Taxation Code is repealed.

SEC. 38. Section 20622 is added to the Revenue and Taxation Code, to read:

20622. The claim for postponement shall be filed after May 15 of the calendar year in which the fiscal year for which postponement is claimed begins, and on or before December 31 of such fiscal year.

SEC. 39. Chapter 3 (commencing with Section 20625) is added to Part 10.5 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 3. SENIOR CITIZENS TENANT-STOCKHOLDER PROPERTY TAX POSTPONEMENT LAW

20625. This chapter shall be known and may be cited as the "Senior Citizens Tenant-Stockholder Property Tax Postponement Law".

20626. Unless the context otherwise requires or unless otherwise provided in this chapter, the definitions given in Chapter 1 (commencing with Section 20501) and Chapter 2 (commencing with Section 20581) shall govern the construction of this chapter.

20627. A tenant-stockholder claimant (hereinafter referred to as "claimant") is an individual who, on the last day of the calendar year ending immediately prior to the commencement of the fiscal year for which postponement is claimed is: (a) a tenant-stockholder in a cooperative housing corporation (as defined in Section 17265 of this code) and (b) occupies as a principal place of residence a residential unit in the cooperative housing corporation (notwithstanding Section 17265 or Regulation 17264-17265). For the purposes of this chapter, a claimant must be 62 years of age or older on or before December 31 of the fiscal year for which postponement is claimed.

20628. Residential unit means an apartment or similar dwelling in a cooperative housing corporation, located in this state.

20629. Property taxes means the amount representing the claimant's proportionate share of real estate taxes for the fiscal year for which postponement is claimed, determined in accord with the method prescribed in Section 17265.

20630. (a) A claimant may file with the Franchise Tax Board, a claim for postponement from the State of California of a sum equal to, but not exceeding the amount of property taxes (as defined in Section 20629) for the fiscal year for which the claim is made.

(b) Upon verification of the eligibility requirements set forth in

Section 20630.5, the Franchise Tax Board shall mail the claimant a Notice of Election to Postpone which shall be in the form and contain such information as the Controller may prescribe. Accompanying the notice shall be a statement explaining that in order for the claimant to postpone all or part of the property taxes, the Notice of Election must be mailed to the State Controller with the following:

(1) A statement signed by an authorized officer of the cooperative housing corporation indicating the amount of the claimant's proportionate share of property taxes and the method used to compute such amount.

(2) A recognition agreement signed by the claimant and executed by an officer of the corporation which acknowledges the assignment of the proprietary lease and the pledging of the claimant's shares in the corporation as security for postponement, and sets forth the rights and duties of the state, the corporation and the claimant with respect to such stock and the proprietary lease. The recognition agreement shall be in such form and contain such provisions as the Controller shall prescribe. The Controller shall record the recognition agreement in the name of the corporation owning the underlying fee in the county in which the real property of such corporation is located.

(3) Any other additional security interest, created and perfected with respect to the rights of third persons in the manner provided by law for such type of security interest, which the Controller deems necessary to protect the interest of the state with regard to the repayment of postponed amounts by the claimant or a deceased claimant's estate.

(c) When the Controller approves the Notice of Election to Postpone, a warrant in the amount of taxes the claimant wishes to postpone shall be mailed to the claimant. All Notices of Election to Postpone shall be mailed to the Controller no later than June 30 of the fiscal year for which postponement is claimed.

20630.5. Claims made under this chapter shall be filed with the Franchise Tax Board after May 15 of the calendar year in which the fiscal year for which postponement is claimed begins, and on or before December 31 of such fiscal year. The claim shall be on a form supplied by the Franchise Tax Board and shall contain:

(a) Evidence acceptable to the Franchise Tax Board that the individual was an eligible claimant,

(b) A statement showing the household income for the period set forth in subdivision (b) of Section 20503,

(c) A statement describing the residential dwelling,

(d) Any other information necessary for the Franchise Tax Board to determine eligibility under this chapter.

20631. Amounts postponed under this chapter shall bear interest (not compounded) at an annual rate of 7 percent. Such interest shall accrue beginning the first day of the month following the month in which the postponement warrant was negotiated by the claimant and will continue to accrue on the first day of each month until such

amount is paid. In the event that any payments are made, by or on behalf of the claimant to reduce the amount postponed, the interest provided for herein shall be applied to the balance of such amount beginning on the first day of the month following payment. In computing interest in accordance with this section, fractions of a cent shall be disregarded.

20632. The Controller shall maintain a record of all persons who have received postponement amounts pursuant to this chapter. Such record shall include the name and address of the claimant, the name and address of the cooperative housing corporation and any other information deemed necessary by the Controller for administration purposes.

20633. If the interests of the state are adequately protected, the Controller may subordinate the state's security for amounts postponed under this chapter.

20634. All amounts postponed pursuant to this chapter shall be due if any of the following occurs:

(a) The claimant ceases to occupy the cooperative residential unit, or sells or otherwise disposes of shares in the cooperative housing corporation.

(b) The claimant dies. However, if the surviving spouse or another person eligible to postpone pursuant to this chapter continues to occupy the cooperative residential unit, then the postponed amounts shall not be due unless such person dies, ceases to occupy the residential unit, or the shares are sold, or otherwise transferred.

(c) The failure of the claimant or the cooperative housing corporation to perform those acts specified in the recognition agreement, or the failure of the claimant to perform those acts required by a security interest holder which is senior to the state's security interest for postponed amounts.

(d) Postponement was erroneously allowed because eligibility requirements were not met.

20635. The Controller shall reduce the amount postponed pursuant to this chapter by the amounts of any payment received for that purpose and by notification by the Franchise Tax Board of assistance payable pursuant to Chapter 1 (commencing with Section 20501). The Controller shall increase the amount postponed to reflect subsequent postponement payments pursuant to this chapter and accrued interest.

20636. If a surviving spouse becomes eligible to postpone property taxes pursuant to this chapter, any postponement payments to such person shall be added to the postponement amounts paid to the deceased spouse.

20637. If the Controller determines that amounts postponed under this chapter have become due and payable, the Controller may take any or all of the following actions:

(a) Demand payment of such amount from the claimant, the estate of any decedent claimant, or any person who was a co-owner with the claimant of the cooperative housing corporation shares.

(b) Direct the Department of General Services to sell any property, including shares in the cooperative housing corporation, pledged by the claimant as security for postponement. The cooperative housing corporation from which the shares were issued shall have first opportunity to purchase at fair market value any shares in the cooperative housing corporation offered for sales under this subdivision, according to a procedure set forth by the Controller in the Recognition Agreement prepared pursuant to paragraph (2) of subdivision (b) of Section 20630.

(c) Request the Attorney General to bring an action against the claimant to recover amounts postponed under this chapter by the claimant.

20638. Upon request of a person who has postponed pursuant to this chapter, or an agent of such person, or an agent of the affected cooperative housing corporation, the Controller shall issue such person a written statement showing the total amount postponed, together with accrued interest. The Controller may establish a reasonable fee, not to exceed ten dollars ($10) for the provision of the statement of postponement status provided by this section.

SEC. 40. The heading of Chapter 3 (commencing with Section 20641) of Part 10.5 of Division 2 of the Revenue and Taxation Code is amended and renumbered to read:

CHAPTER 4. ADMINISTRATION

SEC. 41. Section 20641.5 is added to the Revenue and Taxation Code, to read:

20641.5. If the Franchise Tax Board determines that good cause exists, a reasonable extension for filing a claim under Chapter 2 (commencing with Section 20581) or Chapter 3 (commencing with Section 20625) may be granted. However, no extension shall be granted beyond April 15 of the fiscal year for which postponement is claimed.

SEC. 42. Section 20644.5 is added to the Revenue and Taxation Code, to read:

20644.5. No interest shall be allowed on any assistance or postponement payment made to a claimant pursuant to this part.

SEC. 43. Section 20645.5 is added to the Revenue and Taxation Code, to read:

20645.5. If a postponement claim under Chapter 2 (commencing with Section 20581) is filed timely but before delinquency date of the first or second installment of property taxes, then any delinquent penalties and interest for such fiscal year shall be canceled unless the failure to perfect the claim was due to willful neglect on the part of the claimant or representative. In the event of such willful neglect, the certificates of eligibility for such fiscal year can be used to pay delinquent taxes only if accompanied by sufficient amounts to pay the delinquent interest and penalties.

SEC. 44. Section 20645.6 is added to the Revenue and Taxation

Code, to read:

20645.6. If the Franchise Tax Board denies a postponement claim under Chapter 2 (commencing with Section 20581) and such denial is reversed after appeal of the State Board of Equalization, the Franchise Tax Board shall notify the Controller of such fact. If the taxes for the fiscal year have been paid, the Controller shall issue a warrant to the claimant for the amount of such taxes. If the taxes for the fiscal year are delinquent, any resulting penalties or interest shall be canceled.

SEC. 45. Section 16 of Chapter 1242 of the Statutes of 1977 is amended to read:

Sec. 16. The provisions of Chapter 2 (commencing with Section 20581) of Part 10.5 of Division 2 of the Revenue and Taxation Code shall have no application to the owner of shares or membership interest in a cooperative housing corporation (as defined in Section 17265 of such code) until claims may be made to postpone property taxes for the 1978–79 fiscal year. The provisions of Chapter 3 (commencing with Section 20625) shall have application only to claims to postpone property taxes for the 1978–79 fiscal year, and fiscal years thereafter.

SEC. 46. Section 17 of Chapter 1242 of the Statutes of 1977 is amended to read:

Sec. 17. It is the intent of the Legislature to provide in subsequent legislation for an augmentation to Section 16100 of the Government Code, in order to properly fund the amounts the Controller is required to pay pursuant to Section 16180 of the Government Code, as added by Section 3 of this act.

SEC. 47. Section 19 of Chapter 1242 of the Statutes of 1977 is repealed.

SEC. 48. Section 20 of Chapter 1242 of the Statutes of 1977 is amended to read:

Sec. 20. The provisions of this act shall apply to claims for the 1977–78 fiscal year and thereafter. Notwithstanding Sections 20602 and 20622 of the Revenue and Taxation Code, postponement claims for the first installment or second installment of 1977–78 taxes may be filed on or before March 15, 1978. Further, if a postponement certificate for the 1977–78 first installment or second installment is tendered to the tax collector by June 30, 1978, then the tax collector shall accept the certificate as being timely tendered. In such event, if the first or second installment was previously paid, then the auditor, treasurer or disbursing officer shall send a check to the claimant in the amount entered on the certificate within 30 days. If either the first or second installment or second installment or both installments were not previously paid, then any delinquent penalties, interest, fees or other charges resulting from the delinquency or delinquencies shall be canceled. For postponement claims for 1977–78 and thereafter, the equity test provided in Section 20621 of the Revenue and Taxation Code, may be satisfied by a declaration under penalty of perjury by the claimant, subject to subsequent audit

verification by the Franchise Tax Board.

SEC. 49. There is hereby appropriated from the General Fund for the 1977–78 fiscal year to the State Controller the sum of thirty-three thousand eight hundred forty-nine dollars ($33,849) for administration of the Senior Citizens Property Tax Postponement Law.

SEC. 50. Except for Section 39 (relating to the Senior Citizens Tenant-Shareholder Property Tax Postponement Law), the provisions of the act shall apply with respect for claims for postponement and assistance for the 1977–78 property tax fiscal year and thereafter. Section 39 shall apply to postponement claims for the 1978–79 property tax fiscal year and thereafter.

SEC. 51. 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. 1070 of this session, enacted into law as Chapter 1242 of the Statutes of 1977, implemented the Senior Citizens Property Tax Postponement Law. There were a number of oversights and technical errors in that measure which will prevent persons from being eligible for the program, through no fault of their own. To alleviate the present inequities and hardships caused by denying eligibility to those intended to be covered by AB 1070, and to implement postponement privileges for persons living in housing cooperatives as authorized by AB 1070, the current filing period must be extended and administrative procedures by the Franchise Tax Board and the State Controller initiated. It is therefore necessary for this act to take effect immediately.

CHAPTER 44

An act to amend Section 8501 of the Government Code, relating to state government.

[Approved by Governor March 15, 1978. Filed with Secretary of State March 16, 1978.]

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

SECTION 1. Section 8501 of the Government Code is amended to read:

8501. There is in the state government a Commission on California State Government Organization and Economy, hereafter in this chapter referred to as the "commission." The commission shall be comprised of thirteen members as follows:

(a) Nine members of the public, appointed for terms of four years pursuant to the provisions of this section. Not more than five of such members shall be registered as members of the same political party,

and none shall hold public office in the executive branch of the state government.

Any public member who is absent for three consecutive regular meetings of the commission may be removed by the appointing authority unless the member is excused from such meetings by the chairman of the commission. In the event of such removal, or upon the resignation or death of the member, the respective appointing authority shall designate another person to fill the balance of the unexpired term.

(b) Five members shall be appointed by the Governor; provided, however, that the terms of such members shall be staggered so that the terms of three members shall commence on January 1, 1978, and the terms of two members shall commence on January 1, 1980. To achieve the staggering of terms, the Governor shall designate the terms of the present members of the commission who have been appointed by the Governor.

(c) Two members of the public shall be appointed by the Committee on Rules of the Senate; provided, however, that the terms of such members shall be staggered so that the term of one member commences on January 1, 1979, and the term of the other member commences January 1, 1981. To achieve the staggering of terms, the Committee on Rules of the Senate shall designate the terms of the present members of the commission who have been appointed by the Committee on Rules of the Senate.

(d) Two members of the public shall be appointed by the Speaker of the Assembly; provided, however, that the terms of such members shall be staggered so that the term of one member commences January 1, 1979, and the term of the other member commences January 1, 1981. To achieve the staggering of terms the Speaker of the Assembly shall designate the terms of the present members of the commission who have been appointed by the Speaker of the Assembly.

(e) Two Members of the Senate of the State of California appointed by the Committee on Rules of the Senate. One of such members shall be registered with the majority political party of the membership of the Senate and one member with the minority political party, each of whom shall serve at the pleasure of the appointing authority.

(f) Two Members of the Assembly of the State of California appointed by the Speaker of the Assembly. One of such members shall be registered with the majority political party of the membership of the Assembly and one member with the minority political party, each of whom shall serve at the pleasure of the appointing authority.

CHAPTER 45

An act to add Section 2287.5 to the Revenue and Taxation Code, relating to taxation. and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 16, 1978. Filed with Secretary of State March 17, 1978.]

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

SECTION 1. Section 2287.5 is added to the Revenue and Taxation Code, to read:

2287.5. Whenever a local agency is formed without an election, there may be submitted to the agency declaring the formation, at the time of formation or within 30 days thereafter, consents to maximum property tax rate from all of the qualified voters of the local agency and, upon receipt of all consents, the maximum tax rate shall be declared approved by the agency declaring formation.

All consents to maximum tax rate shall be on forms provided by the agency declaring formation and shall contain substantially the language that would appear on the ballot if a maximum property tax rate election were to be held. Each consent shall show the name and address of the qualified voter, whose signature must be notarized. All consents shall be for the same maximum property tax rate. The county clerk shall verify the signatures on all consents and that the consents constitute all of the qualified voters in the local agency prior to a declaration of approval of the maximum property tax rate.

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 avert the continued loss of time and money by the counties and to encourage the formation of county service areas to properly and adequately provide for the maintenance of improvements in areas of rapid subdivision, it is necessary that this act go into effect immediately.

CHAPTER 46

An act to amend Section 64595 of, to add Section 64593 to, and to repeal Sections 64593 and 64594 of, the Food and Agricultural Code, relating to the California Beef Council.

[Approved by Governor March 16, 1978 Filed with Secretary of State March 17, 1978.]

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

SECTION 1. Section 64593 of the Food and Agricultural Code is repealed.

SEC. 3. Section 64593 is added to the Food and Agricultural Code, to read:

64593. With or without recommendations or other nominations from the council or otherwise, during September and October of each year, the director may, if deemed appropriate or necessary by him, provide notice of, and hold, producer nomination meeting or meetings or may prepare and mail nomination forms to producers, for the purpose of receiving nominations for producer membership on the council. When nomination forms are mailed, the director shall utilize existing department lists of producers and slaughterers. The director may also provide notice of, and hold, slaughterer nomination meeting or meetings or otherwise receive nominations for slaughterers, as deemed appropriate by him, including, but not necessarily limited to, nominations received by mailing similar nomination forms to the slaughterers on existing department lists. Notwithstanding other provisions of this section, the director may, whenever and in any manner deemed necessary and appropriate by him, obtain nominations of producers or slaughterers for membership on the council.

SEC. 4. Section 64594 of the Food and Agricultural Code is repealed.

SEC. 5. Section 64595 of the Food and Agricultural Code is amended to read:

64595. Press releases or other notice of nomination procedures, when conducted by mail, shall indicate that nominations shall be mailed to the director at his office in Sacramento and that the director will consider all nominations received by mail, within the time designated by him. Nominations by mail shall set forth (1) the name and address of each nominee, (2) whether each nominee is being nominated as a member or alternate member, (3) the type of producer (dairy, feeder, or range cattle) of each nominee, or, if a nominee is a slaughterer, that fact, and (4) the signature and address of the nominator.

CHAPTER 47

An act to amend Section 7.9 of the Government Code, relating to the State Treasurer, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 16, 1978. Filed with Secretary of State March 17, 1978.]

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

SECTION 1. Section 7.9 of the Government Code is amended to read:

7.9. Notwithstanding any provision of law to the contrary, the Controller or the Treasurer may designate any deputy of his office to act in his place and stead on any statutorily created state board, commission, committee or governing board of a state agency with respect to the exercise of statutory powers and duties of any such body. Such deputy, while sitting on such board, commission, committee or governing board of a state agency may exercise the same powers that the Controller or the Treasurer may exercise if he were personally present. The Controller or the Treasurer so designating such deputy shall be responsible for the acts of the deputy acting under such designation in the same manner and to the same extent that the Controller or the Treasurer is responsible for the acts of the deputy performing his official duties as deputy to the Controller or the Treasurer.

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 the designations authorized by this act can be made by the State Treasurer at the earliest possible date, it is necessary that this act take immediate effect.

CHAPTER 48

An act to amend Section 25210.10b of the Government Code, relating to county service areas.

[Approved by Governor March 16, 1978. Filed with Secretary of State March 17, 1978]

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

SECTION 1. Section 25210.10b of the Government Code is amended to read:

25210.10b. The board of supervisors may credit to any county service area comprising all or a portion of the unincorporated area of the county all or a portion of such revenues, except county general fund property tax revenues, which it deems to be generated from that area.

CHAPTER 49

An act to amend Section 25000 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor March 16, 1978. Filed with Secretary of State March 17, 1978.]

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

SECTION 1. Section 25000 of the Business and Professions Code is amended to read:

25000. Each manufacturer, importer, and wholesaler of beer shall file and thereafter maintain on file with the department, in triplicate and in such form as the department may provide, a written schedule of selling prices charged by the licensee for beer sold and distributed by him to his customers in California, except that the transfer, including the sale, of beer between wholesalers who sell the same brand in package is permitted without filing the schedule of selling prices.

CHAPTER 50

An act to amend Sections 75028.5 and 75104 of the Government Code, relating to the Judges' Retirement Law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 16, 1978. Filed with Secretary of State March 17, 1978.]

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

SECTION 1. Section 75028.5 of the Government Code is amended to read:

75028.5. After a judge has withdrawn his accumulated contributions upon discontinuance of his service, such service shall not count in the event he later becomes a judge again, until he pays into the Judges' Retirement Fund the amount of accumulated contributions withdrawn by him, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20654 from the date of withdrawal to the date of his payment.

SEC. 2. Section 75104 of the Government Code is amended to read:

75104. (a) Except as otherwise provided in subdivisions (b) and (c), should any judge die, resign, or cease to be a judge prior to his retirement, or die after electing to allow his accumulated contributions to remain in the fund pursuant to Section 75033 but

prior to attaining age 65, the amount of his accumulated contribution shall be paid to his beneficiary nominated by written designation duly filed with the Secretary of State, or to him, as the case may be.

(b) A judge who has filed a declaration of candidacy for election or reelection to any judicial office may not withdraw his contributions until after the election. If a judge is elected or reelected to a judicial office, he may not withdraw his contributions until such time as he has declined to accept the office or has ceased to hold the office to which he has been elected.

(c) A judge who has been appointed, commissioned, or nominated to any judicial office of this state may not withdraw his contributions until he has declined to serve or terminated his service in the latter office.

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 for the provisions of this act to be operative prior to the next election for judicial office, this act must take effect immediately.

CHAPTER 51

An act to amend Section 19549 of, and to add Section 19549.1 to, the Business and Professions Code, and to add Article 2.5 (commencing with Section 4141) to Chapter 6 of Part 3 of Division 3 of the Food and Agricultural Code, relating to fairs.

[Approved by Governor March 17, 1978. Filed with Secretary of State March 17, 1978.]

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

SECTION 1. Section 19549 of the Business and Professions Code is amended to read:

19549. Except as provided in Section 19549.1, the maximum number of racing days which may be allocated to the California State Fair and Exposition or California State Exposition and Fair or a county or district agricultural association fair or citrus fair shall be 14 days per year. Such racing days shall be days on which general fair activities are conducted.

SEC. 2. Section 19549.1 is added to the Business and Professions Code, to read:

19549.1. Notwithstanding Section 19549 or any other provision of this chapter, the maximum number of horseracing days which may be allocated to the 21st District Agricultural Association shall, pursuant to Section 4141 of the Food and Agricultural Code, be 21 days, in addition to the days allocated pursuant to Section 19549. Such horseracing shall be conducted by a person other than the 21st

District Agricultural Association.

SEC. 3. Article 2.5 (commencing with Section 4141) is added to Chapter 6 of Part 3 of Division 3 of the Food and Agricultural Code, to read:

Article 2.5. 21st District Agricultural Association

4141. (a) Notwithstanding the provisions of Section 4052, the 21st District Agricultural Association, with the approval of both the Department of Food and Agriculture and the Department of General Services, may utilize its racing facilities for conducting horseracing meetings, with parimutuel wagering, on days other than the days on which general fair activities are conducted. Such horseracing meetings shall be for not more than 21 days and held prior to June 1st of each year. Such horseracing meetings shall include a program consisting of all breeds of horses.

(b) The association shall designate certain days of a meeting held pursuant to this section as charity days with the proceeds therefrom to be distributed in accordance with the provisions of Sections 19550 and 19556 of the Business and Professions Code.

(c) The association shall encourage the racing of the emerging breeds of horses.

CHAPTER 52

An act to add Section 7029.7 to the Business and Professions Code, relating to contractors.

[Became law without Governor's signature March 20, 1978. Filed with Secretary of State March 20, 1978.]

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

SECTION 1. Section 7029.7 is added to the Business and Professions Code, to read:

7029.7. Every contractor licensed under this chapter as a class C-45, electrical sign contractor, who is engaged in the manufacture, installation, or maintenance of electric business signs shall have displayed on each side of each motor vehicle used in his business, for which a commercial vehicle registration fee has been paid pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3 of the Vehicle Code, his name, his permanent business address, and his contractor's license number, all in letters not less than one and one-half (1½) inches high.

CHAPTER 53

An act relating to county superintendents of schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 20, 1978. Filed with Secretary of State March 20, 1978.]

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

SECTION 1. In every noncharter county in which an election as provided for in this section has not been held subsequent to the 1976 general election, the county board of supervisors shall call and cause a special election to be conducted and consolidated with the 1978 statewide primary or general election.

At the special election there shall be proposed to the electorate of the county the question of whether the county superintendent of schools shall be elected or appointed.

Notwithstanding any other provision of law, at a special election consolidated with either the 1978 statewide primary election or the 1978 statewide general election, the ballots at the special election shall be in substantially the following form:

"Shall the county superintendent of schools be elected by the voters or appointed by the county board of education?"

Elected ☐

Appointed ☐

At a special election held prior to the statewide primary election, the ballots may, but are not required to be, in the form herein specified.

In the event that at the special election it is determined that the county superintendent of schools shall be appointed, all votes cast for candidates for the office of county superintendent of schools at the 1978 statewide primary or general election, or both, as the case may be, shall be disregarded and shall be of no force or effect. In such event the county shall refund the filing fees paid by all candidates for the office of county superintendent of schools at the 1978 statewide primary or general election. Any county which makes such a refund or refunds shall be reimbursed therefor from funds appropriated by Section 2 of this act.

The county board of supervisors may, at its option, call and conduct the special election prescribed by this section prior to June 6, 1978, and may, at its option, consolidate that election with any countywide election.

SEC. 2. There is hereby appropriated from the General Fund to the State Controller the sum of ten thousand dollars ($10,000), or so much thereof as is necessary, to reimburse counties for the cost of

refunding filing fees as required by Section 1 of this act.

SEC. 3. With the exception of the appropriation made by Section 2, no appropriation is made by this act, nor any obligation created thereby under Section 2231 of the Revenue and Taxation Code, because the duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

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:

This act directs noncharter counties to conduct a special election before or in conjunction with either the June 1978 statewide primary election or the November 1978 general election, so as to effectuate the mandate of Section 3 of Article IX of the Constitution that the electors decide whether the county superintendent of schools be elected or appointed. In order that the directive of this act may be implemented by counties, it is essential that the act take effect immediately.

CHAPTER 54

An act to amend Section 4410 of the Education Code, relating to school districts.

[Approved by Governor March 21, 1978 Filed with Secretary of State March 22, 1978]

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

SECTION 1. Section 4410 of the Education Code is amended to read:

4410. The county superintendent of schools calling the election shall cause to be prepared and distributed a statement setting forth arguments for and against the recommendations of the county committee. The argument shall not exceed 500 words. The argument in favor of the recommendations shall be prepared by the chairman of the county committee, or by a proponent of the recommendations designated by the chairman. The argument against the recommendations shall be prepared by a member of the county committee who voted against the recommendations, or, if there be none, by an elector designated by the county superintendent of schools who has appeared before the committee or at a public hearing in opposition to the recommendations.

The authors may prepare and submit rebuttal arguments not exceeding 250 words.

The rebuttal arguments shall be filed with the county superintendent of schools not more than 10 days after the final date

for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

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 55

An act to amend Section 11251 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof.

[Approved by Governor March 21, 1978 Filed with Secretary of State March 22, 1978]

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

SECTION 1. Section 11251 of the Welfare and Institutions Code, as amended by Chapter 1593 of the Statutes of 1971, is amended to read:

11251. Aid shall also be provided under this chapter to or in behalf of any child under the age of 18, except as provided in this section, who is in need and lacks parental support and care and who:

(a) Has been relinquished, for purposes of adoption, to a county adoption agency or an organization licensed by the State Department of Health as an adoption agency, if such child was receiving assistance under this chapter at the time of relinquishment, or subsequent to relinquishment has been found to be unplaceable for adoption; or

(b) Lacks parental support for the same reasons set out in Section 11250, is in need of aid as well as protection or care by persons other than his parents, and has been placed in foster care for purposes of providing such care and protection.

For purposes of this chapter, "foster care" means care other than in the home of his parent or relative, as these terms are used in Title IV of the Federal Social Security Act.

A child who is in foster care and receiving aid pursuant to this chapter and who is regularly attending school or a training program prior to his eighteenth birthday may continue to receive aid following his eighteenth birthday so long as the child continues to reside in the foster care placement and continues to participate in the education or training program, making progress according to standards set by the department. Such aid shall continue until the termination of the education or training program or until the age of 21 years, whichever occurs first. Aid shall be provided an individual

age 18 or older pursuant to this section without the necessity of a court order so long as both the individual and the foster care placement are in mutual agreement with and supportive of the education or training plan.

SEC. 2. Section 11251 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

11251. Aid and services shall also be provided under this chapter to or in behalf of any child under the age of 18, except as provided in this section, who is in need and lacks parental support and care and who:

(a) Has been relinquished, for purposes of adoption, to a county adoption agency or an organization licensed by the department as an adoption agency, if such child was receiving assistance under this chapter at the time of relinquishment, or subsequent to relinquishment has been found to be unplaceable for adoption; or

(b) Lacks parental support for the same reasons set out in Section 11250, is in need of aid as well as protection or care by persons other than his parents, and has been placed in foster care for purposes of providing such care and protection.

For purposes of this chapter, "foster care" means care other than in the home of his parent or relative, as these terms are used in Title IV of the Federal Social Security Act.

A child who is in foster care and receiving aid pursuant to this chapter and who is regularly attending school or a training program prior to his eighteenth birthday may continue to receive aid following his eighteenth birthday so long as the child continues to reside in the foster care placement and continues to participate in the education or training program making progress according to standards set by the department. Such aid shall continue until the termination of the education or training program or until the age of 21 years, whichever occurs first. Aid shall be provided an individual age 18 or older pursuant to this section without the necessity of a court order so long as both the individual and the foster care placement are in mutual agreement with and supportive of the education or training plan.

SEC. 3. This act does not constitute a change in, but is merely declaratory of, the existing law.

SEC. 4. If this act is chaptered before July 1, 1978, Section 11251 of the Welfare and Institutions Code, as amended by Section 1 of this act, shall be operative until July 1, 1978, and on such date Section 11251 of the Welfare and Institutions Code, as amended by Section 2 of this act, shall become operative on that date, and Section 1 of this act shall be repealed. If this act is chaptered on or after July 1, 1978, Section 11251 of the Welfare and Institutions Code, as amended by Section 2 of this act, shall become operative, and Section 1 of this act shall not become operative.

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:

Children would be displaced from their foster homes in the current year without the enactment of this act as an urgency statute. In order to allow such children to continue in school or training, it is necessary that this act take effect immediately.

CHAPTER 56

An act to add Section 5018.5 to the Public Resources Code, relating to property acquisition.

[Approved by Governor March 21, 1978. Filed with Secretary of State March 22, 1978.]

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

SECTION 1. Section 5018.5 is added to the Public Resources Code, to read:

5018.5. Within 90 days of the chaptering of the Budget Act appropriating money for the acquisition, and within 180 days of chaptering of any other statute appropriating money for the acquisition, of privately owned real property for the state park system, pursuant to the Property Acquisition Law (commencing with Section 15850 of the Government Code), or as soon thereafter as is practicable, the director shall notify all owners of real property lying within the tentative boundaries of the acquisition, as shown on the most recent tax assessment rolls in the county of record, of the fact that the property is a probable acquisition. The State Public Works Board shall prescribe the form and manner of giving such notice.

SEC. 2. The Legislature finds and declares that, under present procedures for the acquisition of private property for the state park system, delays in the making of necessary appraisals frequently result in the owners of affected property not being informed of a pending acquisition of their property for many months or even years.

CHAPTER 57

An act to amend Section 15606 of the Government Code, and to amend Section 1611.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor March 21, 1978 Filed with Secretary of State March 22, 1978.]

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

SECTION 1. Section 15606 of the Government Code is amended to read:

15606. The State Board of Equalization shall:

(a) Prescribe rules for its own government and for the transaction of its business.

(b) Keep a record of all its proceedings.

(c) Prescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing, including uniform procedures for the consideration and adoption of written findings of fact by local boards of equalization as required by Section 1611.5 of the Revenue and Taxation Code.

(d) Prescribe and enforce the use of all forms for the assessment of property for taxation, including forms to be used for the application for reduction in assessment.

(e) Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation. It may adapt such instructions to varying local circumstances and to differences in the character and conditions of property subject to taxation as in its judgment is necessary to attain such uniformity.

(f) Subdivisions (c), (d) and (e) in this section shall include, but are not limited to, rules, regulations, instructions and forms relating to classifications of kinds of property and evaluation procedures. All rules and regulations adopted by the board pursuant to subdivision (c) shall be adopted, on and after January 1, 1968, pursuant to the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of this division.

(g) Prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing with respect to the assessment and equalization of possessory interests.

(h) Bring an action in a court of competent jurisdiction to compel an assessor or any city or county tax official to comply with any provision of law, or any rule or regulation of the board adopted in accordance with subdivision (c) of this section, governing the assessment or taxation of property. The Attorney General shall represent the board in such action.

The provisions of this section are mandatory.

SEC. 2. Section 1611.5 of the Revenue and Taxation Code is amended to read:

1611.5. Written findings of fact of the county board shall be made if requested in writing by a party up to or at the commencement of the hearing. However, the party requesting findings may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons his request at this time the other party may orally or in writing renew the request thereby becoming responsible for any costs for the preparation of findings. A reasonable fee may be imposed by the county to cover the expense of preparing findings and conclusions, but shall not exceed ten dollars ($10) per parcel or a total of fifty dollars ($50) for findings covering

applications on contiguous parcels or assessments on the roll involving the same issues and the same owners. The written findings of fact shall fairly disclose the board's determination of all material points raised by the party in his petition and at the hearing including a statement of the method or methods of valuation used in appraising the property.

At the hearing the final determinations by the board shall be supported by the weight of the evidence and, with regard to questions of value, such determinations shall be made without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.

If written findings of fact have been requested, the board shall transmit such findings to the requesting party accompanied by a notice that any request for a transcript of the proceedings must be made within 60 days following the date of the final determination of the board.

CHAPTER 58

An act to amend Sections 14793 and 14794 of the Revenue and Taxation Code, relating to inheritance taxes.

[Approved by Governor March 21, 1978. Filed with Secretary of State March 22, 1978.]

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

SECTION 1. Section 14793 of the Revenue and Taxation Code is amended to read:

14793. With the exception of such money as he may pay out from time to time pursuant to this part, the county treasurer shall pay to the State Treasurer all money received by him under this part within 15 days after the receipt of the money; provided that counties of less than 25,000 population may elect to make payments to the State Treasurer on a monthly basis, in which case, such payments shall be made to the State Treasurer within five days following the close of the monthly period. The county treasurer shall submit with the payment a statement in such form and containing such particulars, including the name of the estate, if any, from which the money was received, as the Controller shall prescribe.

SEC. 2. Section 14794 of the Revenue and Taxation Code is amended to read:

14794. On all money received by him under this part which he does not pay to the State Treasurer within the time prescribed by Section 14793, the county treasurer shall pay interest at the rate of 10 percent per annum.

CHAPTER 59

An act to repeal Chapter 24 (commencing with Section 48351) of Division 17 of the Food and Agricultural Code, relating to fruit, nut, and vegetable standards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 21, 1978. Filed with Secretary of State March 22, 1978.]

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

SECTION 1. Chapter 24 (commencing with Section 48351) of Division 17 of the Food and Agricultural Code 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 provide for the orderly marketing of nectarines from the 1978 harvest season it is necessary that this bill take effect immediately.

CHAPTER 60

An act to amend Sections 39602 and 81602 of the Education Code, relating to school and community college insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 21, 1978. Filed with Secretary of State March 22, 1978.]

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

SECTION 1. Section 39602 of the Education Code is amended to read:

39602. The governing board of any school district may, by resolution, establish a fund or funds for losses, and payments, including, but not limited to, school district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. In the fund or funds shall be placed such sums, to be provided in the budget of the school district, as will create an amount which, together with investments made from the fund or funds, will be sufficient in the judgment of the governing board to protect the school district from such losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments

arising from self-insurance programs, or losses or payments due to noninsured perils. Nothing in this section shall be construed as prohibiting the governing board from providing protection against such losses or liability for the payment of claims partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 39601.

The fund or funds shall be considered as separate and apart from all other funds of the school district, and the balance therein shall not be considered as being part of the working cash of the school district in compiling annual budgets.

Warrants may be drawn on or transfers made from the fund or funds so created only to reimburse or indemnify the school district for losses as herein specified, and for the payment of claims, administrative costs, related services, and to provide for deductible insurance amounts and purchase of excess insurance. Such warrants or transfers shall be within the purpose of the fund or funds as established by resolution of the governing board.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the school district, in securities which are legal investments for surplus county funds in this state. The income derived from such investments, together with interest earned on uninvested funds shall be considered revenue of and be deposited in the fund. The cost of contracts or services authorized by this section are approporiate charges against the respective fund.

The governing board may contract for investigative, administrative, and claims adjustment services relating to claims. The contract may provide that the contracting firm may reject, settle, compromise and approve claims against the district, its officers or employees, within such limits and for such amounts as the governing board may specify, and may provide that the contracting firm may execute and issue checks in payment of such claims, which checks shall be payable only from a trust account which may be established by the governing board. Funds in the trust account established by the board pursuant to the provisions of this section shall not exceed a sum sufficient as determined by the governing board to provide for the settlement of claims for a 30-day period. The rejection or settlement and approval of a claim by the contracting firm in accordance with the terms of the contract shall have the same effect as would the rejection or settlement and approval of such a claim by the governing board. The contract may also provide that the contracting firm may employ legal counsel, subject to such terms and limitations as the board may prescribe, to advise such contracting firm concerning the legality and advisability of rejecting, settling, compromising and paying claims referred to the contracting firm by the board for investigation and adjustment, or to represent the board in litigation concerning such claims. The compensation and expenses of such attorney for services rendered to the board shall be an appropriate charge against the appropriate fund.

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The contract provided for in this section may contain such other terms and conditions as the governing board may consider necessary or desirable to effectuate the board's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the governing board may authorize an employee or employees to perform any or all of the services and functions which the board may contract for under the provisions of this section.

As used in this section:

(a) "Firm" includes a person, corporation, or other legal entity, including a county superintendent of schools.

(b) "Governing board" includes governing boards of school districts and county superintendents of schools.

(c) "School district" includes a county superintendent of schools who may participate in or administer insurance or self-insurance programs for itself or for one or more school districts.

A county superintendent of schools may participate in or administer insurance for one or more school districts pursuant to this section or for one or more community college districts pursuant to Section 81602, for any combination of school districts and community college districts pursuant to this section and Section 81602.

SEC. 2. Section 81602 of the Education Code is amended to read:

81602. The governing board of a community college district may, by resolution, establish a fund or funds for losses, and payments including, but not limited to, district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. In the fund or funds shall be placed such sums, to be provided in the budget of the district, as will create an amount which, together with investments made from the fund or funds, will be sufficient in the judgment of the governing board to protect the district from such losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. Nothing in this section shall be construed as prohibiting the governing board from providing protection against such losses to district property or liability for the payment of claims partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 81601.

The fund or funds shall be considered as separate and apart from all other funds of the district, and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets.

Warrants may be drawn on or transfers made from the fund or funds so created only to reimburse or indemnify the community college district for losses as herein specified, and for the payment of claims, administrative costs, related services, and to provide for deductible insurance amounts and purchase of excess insurance.

Such warrants or transfers shall be within the purpose of the fund or funds as established by resolution of the governing board.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the district, in securities which are legal investments for surplus county funds in this state. The income derived from such investments, together with interest earned on uninvested funds, shall be considered revenue of and be deposited in the fund. The cost of contracts or services authorized by this section are appropriate charges against the respective fund.

The governing board may contract for investigative, administrative, and claims adjustment services relating to claims. The contract may provide that the contracting firm may reject, settle, compromise and approve claims against the district, its officers or employees, within such limits and for such amounts as the governing board may specify, and may provide that the contracting firm may execute and issue checks in payment of such claims, which checks shall be payable only from a trust account which may be established by the governing board. Funds in the trust account established by the board pursuant to the provisions of this section shall not exceed a sum sufficient as determined by the governing board to provide for the settlement of claims for a 30-day period. The rejection or settlement and approval of a claim by the contracting firm in accordance with the terms of the contract shall have the same effect as would the rejection or settlement and approval of such a claim by the governing board.

The contract may also provide that the contracting firm may employ legal counsel, subject to such terms and limitations as the board may prescribe, to advise such contracting firm concerning the legality and advisability of rejecting, settling, compromising and paying claims referred to said contracting firm by the board for investigation and adjustment, or to represent the board in litigation concerning such claims. The compensation and expenses of such attorney for services rendered to the board shall be an appropriate charge against the appropriate fund.

The contract provided for in this section may contain such other terms and conditions as the governing board may consider necessary or desirable to effectuate the board's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the governing board may authorize an employee or employees to perform any or all of the services and functions which the board may contract for under the provisions of this section.

As used in this section, "firm" includes a person, corporation, or other legal entity, including a county superintendent of schools.

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 359 of the Statutes of 1976 was enacted to provide for the

establishment of a fund or funds for any liability of school districts and community college districts and for workers' compensation and to provide authority to contract for claims adjustment and related services. Chapter 359 did not, however, provide the necessary authority to establish administrative procedures required for the prompt settlement and payment of claims and to facilitate the orderly transition from insured programs to wholly or partially self-insured programs. In addition, specific authority was not provided to county superintendents who participate in or administer such programs for school districts and community college districts. Therefore, it is necessary that this act take immediate effect.

CHAPTER 61

An act to amend Sections 17226 and 24372 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 23, 1978. Filed with Secretary of State March 24, 1978.]

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

SECTION 1. Section 17226 of the Revenue and Taxation Code is amended to read:

17226. (a) Every taxpayer at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by Section 17208. The 12-month or 60-month amortization period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the

taxable year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 17208 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or admission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, and

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 17208, which is identifiable as a treatment facility.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) (A) If a certified pollution control facility has a useful life

(determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 17208 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

(j) The amendments made to subdivision (d) by the 1977–78 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(k) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certified pollution control facilities located in California.

(*l*) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987.

SEC. 2. Section 24372 of the Revenue and Taxation Code is amended to read:

24372. (a) Every taxpayer at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by Section 24349. The 12-month or 60-month amortization period shall begin, as to any pollution control facility, at the election of the taxpayer, with

the month following the month in which such facility was completed or acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility is completed or acquired, or with the income year succeeding the income year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 24349 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing or preventing the creation or emission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination and—

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 24349, which is identifiable as a treatment facility.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such

property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) (A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 24349 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) The amendment made to subdivision (d) by the 1977–78 Legislature shall apply to income years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(j) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certificated pollution control facilities located in this state.

(k) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987.

SEC. 3. (a) The Tax Relief and Refund Account is hereby created in the General Fund and is continuously appropriated to the Franchise Tax Board for purposes of making all payments as provided in this section.

(b) Notwithstanding any other provision of law, all payments required to be made to taxpayers or other persons from the Personal Income Tax Fund shall be paid from the Tax Relief and Refund Account.

(c) The Controller shall transfer, as needed, to the Tax Relief and Refund Account:

(1) From the unexpended balance of the appropriation made by Item 375 of Chapter 219 of the Statutes of 1977, an amount determined by the Franchise Tax Board to be equivalent to the total amount of renters' assistance credits and refunds allowed under Section 17053.5 of the Revenue and Taxation Code;

(2) From the Disability Fund, the amount transferable to the General Fund pursuant to subdivision (a) of Section 1176.5 of the Unemployment Insurance Code;

(3) From the Personal Income Tax Fund, such additional amounts as determined by the Franchise Tax Board to be necessary to make the payments required under this section.

SEC. 4. The Legislature finds that it is desirable to allow taxpayers who are required to install certified pollution control facilities to have the choice of amortizing over five years or depreciating the costs so incurred. Such facilities are usually very expensive and every reasonable effort should be made by the state to support the abatement of water and atmospheric pollution.

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 additional revenue sharing funds to the state and local governments, this act must go into effect immediately.

CHAPTER 62

An act to amend Section 6546.1 of the Government Code, relating to the Hollywood-Burbank Airport, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 24, 1978. Filed with Secretary of State March 24, 1978.]

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

SECTION 1. Section 6546.1 of the Government Code is amended to read:

6546.1. In the County of Los Angeles, any agency, commission, or board provided for by joint powers agreement entered into by cities pursuant to Article 1 (commencing with Section 6500) of this chapter for the purpose of the acquisition, operation, repair, maintenance, improvement and administration of the Hollywood-Burbank Airport as a public airport, pursuant to the Federal Aviation Act of 1958, as amended, may carry out such purpose and may authorize the issuance of revenue bonds, pursuant to this article, to pay for acquiring, repairing, improving, financing and refinancing such project including all facilities and improvements and all expenses incidental thereto or connected therewith. Property tax revenues accruing to, levied by, or collected by any local agency which is a party to such a joint powers agreement shall not be used to redeem such revenue bonds unless an ordinance authorizing the use of such property tax revenues for such purposes is approved by a majority vote of the electors of the local agency voting on the issue. In

operating the airport, the separate public entity above mentioned shall not permit or authorize any activity in conjunction with the airport which results in an increase in the size of the noise impact area based on a community noise equivalent level of 70 decibels as established pursuant to Title 21, California Administrative Code, Chapter 2.5, Subchapter 6, and shall further comply with the future community noise equivalent levels prescribed by such title as it now exists or is hereafter amended.

The separate public entity shall implement the noise monitoring requirements set forth in Title 21, California Administrative Code, Chapter 2.5, Subchapter 6. In addition, the entity shall diligently pursue all reasonable avenues available to insure that the adverse effects of noise are being mitigated to the greatest extent reasonably possible.

The separate public entity shall not authorize or permit the lengthening of runways defined herein as the paved portions of the runways presently on airport property, or the purchase of fee title to condemned real property zoned for residential use as of the effective date of this statute.

The power to issue revenue bonds under this section shall be of no further force and effect after December 31, 1980, unless (1) the entity shall have initially issued revenue bonds on or prior to December 31, 1980, or (2) the entity is unable to initially issue revenue bonds to accomplish the purpose of this section by reason of litigation, in which case the power to initially issue revenue bonds under this section shall continue to be effective until the final determination of such litigation and for one year thereafter. If the entity shall have initially issued revenue bonds within either of the time periods permitted by the prior sentence of this paragraph, the power to issue revenue bonds under this section shall continue so long as this section shall be in effect.

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 effect immediately. The facts constituting such necessity are:

The present owner-operator of the Hollywood-Burbank Airport currently plans to cease operation of said airport. Because no private person is presently willing and able to acquire and operate said airport, the substantial use thereof by the public will cease unless said airport is acquired and operated by a public entity. Because the principal service area of the airport consists of more than one city in the County of Los Angeles but not the entire county, a joint powers entity established by the cities in said county which are located in said principal service area will best serve the interests of the public using the airport. Because this act will empower such a public entity to acquire, operate, repair, maintain, improve and administer said airport, it is necessary that this act take effect immediately in order to prevent interruption in or termination of public use of the Hollywood-Burbank Airport.

CHAPTER 63

An act to amend Section 5788.10 of the Public Resources Code, relating to recreation and park districts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 24, 1978 Filed with Secretary of State March 24, 1978]

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

SECTION 1. Section 5788.10 of the Public Resources Code is amended to read:

5788.10. (a) Except as provided in subdivision (b), the maximum tax levied by the district upon property within a zone shall not exceed a rate of ter cents ($0.10) on each one hundred dollars ($100) of assessed valuation in addition to the tax allowed pursuant to Section 5784.5 or 5784.6.

(b) The maximum tax levied by the Chico Area Recreation and Park District upon property within a zone shall not exceed a rate of twenty-five cents ($0.25) on each one hundred dollars ($100) of assessed valuation in addition to the tax allowed pursuant to Section 5784.5 or 5784.6.

SEC. 2. In connection with amending Section 5788.10 of the Public Resources Code, the Legislature hereby finds and declares that a tax rate of ten cents ($0.10) will not provide revenue sufficient to meet the costs to be incurred by the Chico Area Recreation and Park District in operating Bidwell Park and that the enactment of this special statute, authorizing a higher tax rate for that district, is necessary because a general statute, within the meaning of Section 16 of Article IV of the Constitution, cannot be made applicable to the special facts and circumstances pertaining to the operation of Bidwell Park.

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

In order that the Chico Area Recreation and Park District may have additional taxing authority for the provision of urgently needed recreation and park services as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 64

An act to amend, add, and repeal Section 35400 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 24, 1978 Filed with Secretary of State March 24, 1978]

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

SECTION 1. Section 35400 of the Vehicle Code is amended to read:

35400. (a) No vehicle shall exceed a length of 40 feet.

(b) This section does not apply to:

(1) A vehicle used in a combination of vehicles when the excess length is caused by auxiliary parts, equipment, or machinery not used as space to carry any part of the load, except that the combination of vehicles shall not exceed the length provided for combination vehicles.

(2) A vehicle when the excess length is caused by any parts necessary to comply with the fender and mudguard regulations of this code.

(3) An articulated bus, except that such bus shall not exceed a length of 60 feet.

(4) An articulated trolley coach, except that such trolley coach shall not exceed a length of 50 feet.

(5) A semitrailer while being towed by a motortruck or truck tractor, if the distance from the kingpin to the rearmost axle of the semitrailer does not exceed 38 feet; provided, that the semitrailer does not, exclusive of attachments, extend forward of the rear of the cab of the motortruck or truck tractor.

(6) A bus when the excess length is caused by the projection of a front safety bumper or a rear safety bumper, or both. Such safety bumper shall not cause the length of the vehicle to exceed the maximum legal limit by more than one foot in the front and one foot in the rear. For the purposes of this chapter, "safety bumper" means any device which may be fitted on an existing bumper or which replaces the bumper and is so constructed, treated, or manufactured so that it absorbs energy upon impact.

(7) A bus when the excess length is caused by a device, located in front of the front axle, for lifting wheelchairs into the bus. Such a device shall not cause the length of the bus to be extended by more than 18 inches exclusive of any front safety bumper.

(8) A vehicle designed and used exclusively for drilling water wells, except that such vehicle shall not exceed a length of 48 feet. The provisions of this paragraph shall only apply to such vehicles when operated upon highways within counties wherein the governing board has declared that a drought condition exists and

that a severe underground water shortage condition exists. The provisions of this paragraph shall apply only to those vehicles operating under permit on the date the amendment to this section at the 1977–78 Regular Session of the Legislature became operative.

This section shall remain in effect only until January 1, 1980, and as of that date is repealed.

SEC. 1.5. Section 35400 is added to the Vehicle Code, to read:

35400. (a) No vehicle shall exceed a length of 40 feet.

(b) This section does not apply to:

(1) A vehicle used in a combination of vehicles when the excess length is caused by auxiliary parts, equipment, or machinery not used as space to carry any part of the load, except that the combination of vehicles shall not exceed the length provided for combination vehicles.

(2) A vehicle when the excess length is caused by any parts necessary to comply with the fender and mudguard regulations of this code.

(3) An articulated bus, except that such bus shall not exceed a length of 60 feet.

(4) An articulated trolley coach, except that such trolley coach shall not exceed a length of 50 feet.

(5) A semitrailer while being towed by a motortruck or truck tractor, if the distance from the kingpin to the rearmost axle of the semitrailer does not exceed 38 feet; provided, that the semitrailer does not, exclusive of attachments, extend forward of the rear of the cab of the motortruck or truck tractor.

(6) A bus when the excess length is caused by the projection of a front safety bumper or a rear safety bumper, or both. Such safety bumper shall not cause the length of the vehicle to exceed the maximum legal limit by more than one foot in the front and one foot in the rear. For the purposes of this chapter, "safety bumper" means any device which may be fitted on an existing bumper or which replaces the bumper and is so constructed, treated, or manufactured so that it absorbs energy upon impact.

(7) A bus when the excess length is caused by a device, located in front of the front axle, for lifting wheelchairs into the bus. Such a device shall not cause the length of the bus to be extended by more than 18 inches exclusive of any front safety bumper.

This section shall become operative on January 1, 1980.

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:

That continuing drought conditions have resulted in a substantial lowering of the ground water table, thus making it necessary to excavate to greater depth before reaching a viable water supply.

Therefore, this act must take effect immediately.

CHAPTER 65

An act to amend Sections 53601 and 53635 of the Government Code, relating to local agencies.

[Approved by Governor March 29, 1978. Filed with Secretary of State March 29, 1978.]

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

SECTION 1. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest such portion of the money as it deems wise or expedient in:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 30 percent of the agency's surplus money which may be invested pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

No investment in securities described in this subdivision shall be made by a local agency having a population of less than 250,000.

(h) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or a state or federal savings and loan association. Purchases of negotiable certificates of deposit may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5.

No investment in securities described in this subdivision shall be made by a local agency having a population of less than 250,000.

SEC. 2. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks or state or federal savings and loan associations in the state selected by the treasurer or other official having the legal custody of the money, or may be invested in the following unless otherwise directed by the legislative body pursuant to Section 53601:

(a) Bonds issued by it, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by it or by a department, board, agency, or authority thereof.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority thereof.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out

of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority thereof.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in obligations, participations, or other instruments of or issued by a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 30 percent of the agency's surplus funds which may be invested pursuant to this section.

The provisions of this subdivision shall not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corportions that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debentures, other than commercial paper, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

No investment in securities described in this subdivision shall be made by a local agency having a population of less than 250,000.

(h) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or a state or federal savings and loan association. Purchases of negotiable certificates of deposit may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within the provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5.

No investment in securities described in this subdivision shall be made by a local agency having a population of less than 250,000.

CHAPTER 66

An act to amend Section 34507 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 29, 1978 Filed with Secretary of State March 29, 1978.]

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

SECTION 1. Section 34507 of the Vehicle Code is amended to read:

34507. To assist the department in enforcing the provisions of this division, every vehicle which is subject to this division and to the jurisdiction, control, and regulation of the Public Utilities Commission or the Interstate Commerce Commission shall have displayed prominently a distinctive identifying symbol as provided for in Section 3543 of the Public Utilities Code.

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

In the interest of safety it is necessary that the California Highway Patrol be able to quickly locate the identifying symbol on vehicles subject to Public Utilities Commission and Interstate Commerce Commission regulations.

However, confusion exists in the law over where the symbol is required to be located. In the interest of safety, it is necessary to eliminate such confusion as early a date as possible.

CHAPTER 67

An act to amend Section 5621 of the Public Resources Code, relating to parks, and in this connection amending and supplementing the Budget Act of 1977 by adding Section 2.8H thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 29, 1978 Filed with Secretary of State March 29, 1978.]

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

SECTION 1. Section 5621 of the Public Resources Code is amended to read:

5621. As used in this chapter:

(a) "City" includes the City and County of San Francisco;

"county" does not include the City and County of San Francisco.

(b) "Districts" means regional park districts formed under Article 3 (commencing with Section 5500) of Chapter 3, and recreation and park districts formed under Chapter 4 (commencing with Section 5780), of this division; and any public utility district formed under Division 7 (commencing with Section 15501) of the Public Utilities Code in a nonurbanized area that employs a full-time park and recreation director and offers year-round park and recreation services on lands and facilities owned by the district; and the Malaga County Water District exercising powers authorized under Section 31133 of the Water Code.

(c) "Urbanized area" consists of a central city or cities and surrounding closely settled territory, as determined by the United States Department of Commerce, Bureau of the Census, 1970. "Urbanized county" means any county, except the City and County of San Francisco, with a population of 200,000 or more, as determined by the United States Department of Commerce, Bureau of the Census, 1970.

(d) "Heavily urbanized area" means a large city with a population of 300,000 or more and a large county or regional park district with a population of 1,000,000 or more.

(e) "Nonurbanized area" means any city, county, or district which does not qualify as an urbanized area or urbanized county under the definitions set forth in subdivision (c) of this section.

(f) "Block grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities.

(g) "Need basis grant" means the allocation of moneys for one or more projects for the acquisition or development of recreational lands and facilities in nonurbanized areas on a project-by-project basis, based upon need.

SEC. 2. Section 2.8H is added to the Budget Act of 1977, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

Sec. 2.8H. The following sums of money, or so much thereof as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1977–78, 1978–79 and 1979–80 fiscal years. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1977–78 fiscal year. All such appropriations shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

LOCAL ASSISTANCE

Resources

438H—For grants to counties, cities, cities and counties, and 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 9,694

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 Riverside County

(67.4.) City of San Jacinto, Sallee Park, acquisition, development, or both, in augmentation of Item 412A (212), Budget Act of 1974 9,694

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

440H—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.

(bbb) Item 414.1J (140.3), Budget Act of 1976, City of San Jacinto, Mistletoe Park.

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:

Inasmuch as the criteria submitted to the Legislature pursuant to Section 5625 of the Public Resources Code and approved by the Legislature by Chapter 6 of the Statutes of 1977 specified that applications for grants for which the Malaga County Water District would be eligible under the Roberti-Z'berg Urban Open-Space and Recreation Program Act must be received by the Department of Parks and Recreation by October 1, 1978, and in order that funds granted to the City of San Jacinto for Mistletoe Park may revert and

be appropriated to the city for its urgently needed Sallee Park project as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 68

An act to amend Section 906 of, and to add Section 906.5 to, the Streets and Highways Code, relating to county highways.

[Approved by Governor March 29, 1978. Filed with Secretary of State March 29, 1978]

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

SECTION 1. Section 906 of the Streets and Highways Code is amended to read:

906. The width of all county highways, other than bridges, alleys, lanes, and trails, shall be at least 40 feet, except as provided by Sections 906.5 and 969 and except that the board of supervisors of any county may, by a resolution passed by a unanimous vote of its members, determine that the public convenience and necessity demand the maintenance of a highway of less than 40 feet and may after such determination proceed with the maintenance of any such highway.

This section shall not increase or diminish the width of any county highway established, dedicated, and maintained as such prior to January 1, 1945.

SEC. 2. Section 906.5 is added to the Streets and Highways Code, to read:

906.5. Notwithstanding Section 906, a county may maintain a highway of less than 40 feet in width if all the cost of maintenance thereof is paid for by a maintenance district created pursuant to Chapter 26 (commencing with Section 5820) of Part 3 of Division 1.

CHAPTER 69

An act to amend Sections 19572 and 27491 of the Government Code, and to amend Sections 5328 and 5328.8 of, and to add Sections 4137 and 4473 to, the Welfare and Institutions Code, relating to state hospitals.

[Approved by Governor March 29, 1978 Filed with Secretary of State March 29, 1978]

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

SECTION 1. Section 19572 of the Government Code is amended to read:

19572. Each of the following constitutes cause for discipline of an employee, or person whose name appears on any employment list:

(a) Fraud in securing appointment.

(b) Incompetency.

(c) Inefficiency.

(d) Inexcusable neglect of duty.

(e) Insubordination.

(f) Dishonesty.

(g) Drunkenness on duty.

(h) Intemperance.

(i) Addiction to the use of narcotics or habit-forming drugs.

(j) Inexcusable absence without leave.

(k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.

(*l*) Immorality.

(m) Discourteous treatment of the public or other employees.

(n) Improper political activity.

(o) Willful disobedience.

(p) Misuse of state property.

(q) Violation of this part or board rule.

(r) Violation of the prohibitions set forth in accordance with Section 19251.

(s) Refusal to take and subscribe any oath or affirmation which is required by law in connection with his employment.

(t) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to his agency or his employment.

(u) Any negligence, recklessness, or intentional act which results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden or unusual deaths; unattended deaths; deaths wherein the deceased has not been attended by a physician in the 20 days before death; deaths related to or following known or suspected self-induced or criminal abortion; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part

occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state mental hospitals serving the mentally disabled and operated by the State Department of Mental Health; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under such circumstances as to afford a reasonable ground to suspect that the death was caused by the criminal act of another, or any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry in this section does not include those investigative functions usually performed by other law enforcement agencies.

In any case in which the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of his report to the state agency responsible for the state hospital.

The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

SEC. 3. Section 4137 is added to the Welfare and Institutions Code, to read:

4137. Whenever a patient dies in a state mental hospital and the coroner finds that the death was by accident or at the hands of another person other than by accident, the State Department of Mental Health shall determine upon review of the coroner's investigation if such death resulted from the negligence, recklessness, or intentional act of a state employee. If it is determined that such death directly resulted from the negligence, recklessness, or intentional act of a state employee, the department shall immediately notify the State Personnel Board and any appropriate licensing agency and shall terminate the employment of such employee as provided by law. In addition, if such state employee is a licensed mental health professional, the appropriate licensing board shall inquire into the circumstances of such death, examine the findings of the coroner's investigation, and make a determination of whether such mental health professional should have his license revoked or suspended or be subject to other disciplinary action. "Licensed mental health professional," as used in this section, means a person licensed by any board, bureau, department, or agency pursuant to a state law and employed in a state mental hospital.

SEC. 4. Section 4473 is added to the Welfare and Institutions Code, to read:

4473. Whenever a patient dies in a state hospital for the developmentally disabled and the coroner finds that the death was by accident or at the hands of another person other than by accident, the State Department of Developmental Services shall determine upon review of the coroner's investigation if such death resulted from the negligence, recklessness, or intentional act of a state employee. If it is determined that such death directly resulted from the negligence, recklessness, or intentional act of a state employee, the department shall immediately notify the State Personnel Board and any appropriate licensing agency and shall terminate the employment of such employee as provided by law. In addition, if such state employee is a licensed mental health professional, the appropriate licensing board shall inquire into the circumstances of such death, examine the findings of the coroner's investigation, and make a determination of whether such mental health professional should have his license revoked or suspended or be subject to other disciplinary action. "Licensed mental health professional," as used in this section, means a person licensed by any board, bureau, department, or agency pursuant to a state law and employed in a state hospital for the developmentally disabled.

SEC. 5. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed only:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his guardian or conservator must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical responsibility for the patient's care;

(b) When the patient, with the approval of the psychiatrist or licensed psychologist in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled;

(d) If the recipient of services is a minor, ward, or conservatee, and his parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician,

psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research. Such rules shall include, but need not be limited to, the requirement that all researchers must sign an oath of confidentiality as follows:

_____
Date

As a condition of doing research concerning persons who have received services from _____(fill in the facility, agency or person), I, _____, agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____
Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of said attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his conviction of a crime if the professional person in charge of the facility determines that such

information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) To any board, bureau, department, or agency which licenses and certifies mental health professionals pursuant to state law, when the Director of Mental Health or the Director of Developmental Services has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of such board, bureau, department, or agency, and that the information and records are relevant to such violation. Such information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this section.

The amendment of subdivision (d) of this section enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 6. Section 5328.8 of the Welfare and Institutions Code is amended to read:

5328.8. The State Department of Mental Health or the State Department of Developmental Disabilities, the physician in charge of the patient, or the professional person in charge of the facility or his designee, shall, except as otherwise provided in this section, release information obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to the coroner when a patient dies from any cause, natural or otherwise, while hospitalized in a state mental hospital or a state hospital for the developmentally disabled. The State Department of Mental Health or the State Department of Developmental Disabilities, the physician in charge of the patient, or the professional person in charge of the facility or his designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the patient and health professional personnel of the hospital relating to the personal life of the patient which is not related to the diagnosis and treatment of the patient's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

CHAPTER 70

An act to amend Section 12020 of the Penal Code, relating to weapons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 29, 1978. Filed with Secretary of State March 29, 1978.]

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

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any 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, any bullet containing or carrying an explosive agent, 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. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(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 section, the term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(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. 2. Notwithstanding the provisions of Section 12020 of the Penal Code, as amended by this act, the possession of any bullet containing or carrying an explosive agent is not a crime until July 1, 1978. On and after July 1, 1978, the provisions of Section 12020 of the Penal Code are applicable to the possession of such a bullet.

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.

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:

Hollow-nosed bullets containing mercury penetrate bullet-proof vests and shatter, causing great danger to law enforcement personnel. It is therefore necessary that this act banning such bullets go into immediate effect.

CHAPTER 71

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

[Approved by Governor March 31, 1978. Filed with Secretary of State March 31, 1978]

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

SECTION 1. The sum of nineteen million fifty-six thousand fifty-three dollars ($19,056,053) is hereby appropriated from the General Fund to the State Department of Health for the purpose of meeting estimated increases in costs to bring state hospitals up to licensing standards and comply with court orders for the treatment of 72-hour hold patients, in augmentation of category (a) of Item 244, category (b) of Item 245, and category (a) of Item 247 of the Budget Act of 1977 (Chapter 219, Statutes of 1977) according to the following schedule:

(a) Augmentation of category (a) of Item 244	2,008,235
(b) Augmentation of category (b) of Item 245	4,250,790
(c) Augmentation of category (a) of Item 247	12,797,028

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 meet the estimated increase in state hospital costs of additional positions, operating expenses, and equipment because the current level of care staffing is insufficient to provide appropriate treatment of patients and to comply with state licensing and Federal Medicaid requirements and court-ordered treatment of 72-hour hold patients, it is necessary that this act take effect immediately.

CHAPTER 72

An act to amend Section 19035.2 of, and to add Section 19089.5 to, the Business and Professions Code, relating to home furnishings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 5, 1978. Filed with Secretary of State April 5, 1978.]

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

SECTION 1. Section 19035.2 of the Business and Professions Code is amended to read:

19035.2. Each member of the board shall have been a citizen and a resident of the State of California for at least five years immediately preceding his appointment, and of good character.

Each member of the board, other than a member representing the public at large, shall be of recognized standing in his branch of the furniture and bedding industry in the State of California.

SEC. 2. Section 19089.5 is added to the Business and Professions Code, to read:

19089.5. Any upholstered furniture or mattress which is made from or contains non-flame-retardant cellular foam shall be labeled in a manner which will alert the consumers of the potential hazards of the product should it become ignited.

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.

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:

Due to recent tragic accidents involving the burning of materials containing non-flame-retardant cellular foam, it is urgent that at the earliest possible time consumers be made aware of the inherent danger involved when materials containing polyurethane are ignited. Therefore, it is necessary that this act go into immediate effect.

CHAPTER 73

An act to amend Section 20336 of the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 20336 of the Government Code is amended to read:

20336. A person in full-time employment which in the opinion of the board is on a seasonal or temporary basis is excluded from membership unless the employment is compensated and:

(a) The appointment or employment contract fixes a term of employment in excess of six months or, if a term is not fixed, the employment under such appointment or contract continues for more than six months;

(b) The person is employed in one of the positions which provide state safety membership in accordance with Section 20017.6; or

(c) The person is a member at the time of entering such employment.

This section shall supersede any contract provision excluding persons in any temporary or seasonal employment and shall apply only to persons entering employment on and after its effective date. No contract or contract amendment entered into after such effective date shall contain any provision excluding temporary or seasonal employees.

SEC. 2. It is the intent of the Legislature, in enacting this statute, to restore membership rights in the Public Employees' Retirement System to a few temporary firefighter positions which were unintentionally excluded from membership in the system by Chapter 1480 of the Statutes of 1974. It is not the intent of the Legislature to in any way set a precedent to allow temporary employees of the state to be allowed membership in the Public Employees' Retirement 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:

At its 1974–75 Regular Session, the Legislature enacted Assembly Bill No. 4449 as Chapter 1480 of the Statutes of 1974 which unintentionally excluded a few temporary firefighter positions from membership in the Public Employees' Retirement System. In order to restore essential personal and survivor benefits to those firefighters prior to them having to encounter risks and dangers during the 1978 fire season, it is necessary that this act take effect

immediately.

CHAPTER 74

An act relating to tide and submerged lands in the City of Newport Beach, and in this connection repealing Chapter 494 of the Statutes of 1919, Chapter 70 of the Statutes of 1927, Chapter 142 of the Statutes of 1929, Chapter 574 of the Statutes of 1929, Chapter 813 of the Statutes of 1929, and Chapter 200 of the Statutes of 1931, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. There is hereby granted to the City of Newport Beach and its successors all of the right, title, and interest of the State of California held by the state by virtue of its sovereignty in and to all that portion of the tidelands and submerged lands, whether filled or unfilled, bordering upon and under the Pacific Ocean or Newport Bay in the County of Orange, which were within the corporate limits of the City of Newport Beach, a municipal corporation, on July 25, 1919; the same to be forever held by the city and its successors in trust for the uses and purposes and upon the following express conditions:

(a) That the lands shall be used by the city and its successors for purposes in which there is a general statewide interest, as follows:

(1) For the establishment, improvement, and conduct of a public harbor; and for the construction, maintenance, and operation thereon of wharves, docks, piers, slips, quays, ways, and streets, and other utilities, structures, and appliances necessary or convenient for the promotion or accommodation of commerce and navigation.

(2) For the establishment, improvement, and conduct of public bathing beaches, public marinas, public aquatic playgrounds, and similar recreational facilities open to the general public; and for the construction, reconstruction, 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) For 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) Except as otherwise provided in this section, 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; except, that the city or its successors may grant franchises thereon for a period not exceeding 50 years for wharves and other public uses and purposes and may lease the lands, or any part thereof, for a period not exceeding 50 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) 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 the purposes authorized by this act, by the state, or any board, agency, or commission thereof, or expenditures by the city of any funds received for such purpose from the state or any board, agency, or commission thereof.

(d) 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) 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 the right to fish in the waters on the lands with the right of convenient access to the waters over the lands for such purpose, which rights shall be subject, however, to such rules and regulations as are necessary for the accomplishment of the purposes specified in subdivision (a) of this section.

(g) Notwithstanding any provision of this section to the contrary, the city may lease the lots located within Parcels A, B, and C described in Section 6 of this act for the purposes set forth in this section and for a period not to exceed 50 years. The consideration to be received by the city for such leases shall be the fair market rental value of such lots as finished subdivided lots with streets constructed and all utilities installed. The form of such leases and the range of consideration to be received by the city shall be approved by the State Lands Commission prior to the issuance of any such lease. All money received by the city from such existing and future leases of such lots shall be deposited in the city tideland capital fund in accordance with the provisions of this act.

(h) With the approval of the State Lands Commission, the city may transfer portions of the lands granted by this act, or held pursuant to this act, to the state acting by and through the State Lands Commission, for lease to the Department of Fish and Game for an ecological reserve or wildlife refuge, or both, and other compatible uses to be undertaken by the department; provided, however, that if at any time the Department of Fish and Game no longer uses such portions of the lands so transferred by the city to the state for such purposes, the lands so transferred shall revert to the city to be held pursuant to the provisions of this act. Upon approving

such a transfer from the city to the state, the State Lands Commission shall lease the lands so transferred to the Department of Fish and Game. The public benefit shall be the sole consideration to be received by the State Lands Commission from the Department of Fish and Game for that lease. Any and all income received by the Department of Fish and Game from the lands so leased shall be used only in connection with the department's improvement and administration of the leased lands.

(i) The city shall establish a separate tidelands trust fund or funds in such manner as may be approved by the State Lands Commission, and the city shall deposit in the fund or funds all moneys received directly from, or indirectly attributable to, the granted tidelands in the city.

(j) In accordance with the provisions of this act, the city, acting either alone or jointly with another local or state agency, may use revenues accruing from or out of the use of the granted tidelands for any or all of the purposes set forth in this act. Such revenues may be deposited in one or more reserve funds for use in accordance with the terms and conditions set forth in this act.

(k) As to the accumulation and expenditure of revenues for any single capital improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars ($250,000) in the aggregate, the city shall file with the State Lands Commission a detailed description of such capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith. Within 90 days after the time of such filing, the State Lands Commission may determine and notify the city that such capital improvement is not in the statewide interest and benefit or is not authorized by the provisions of subdivision (j) of this section. The State Lands Commission may request the opinion of the Attorney General on the matter; and, if it does so, a copy of such opinion shall be delivered to the city with the notice of its determination. In the event the State Lands Commission notifies the city that such capital improvement is not authorized, the city shall not disburse any revenue for or in connection with such capital improvement unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The city is authorized to bring suit against the state for the purpose of securing such an order or adjudication, which suit shall have priority over all other civil matters. Service of process shall be made upon the Executive Officer of the State Lands Commission and the Attorney General, and the Attorney General shall defend the state in such suit. If judgment be given against the state in such suit, no costs shall be recovered against it.

(*l*) On June 30, 1978, and on June 30 of every third fiscal year thereafter, that portion of the city tideland trust revenues in excess of two hundred fifty thousand dollars ($250,000) remaining after deducting current and accrued operating costs and expenditures directly related to the operation or maintenance of tideland trust

activities shall be deemed excess revenues. However, any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital improvements of the granted lands for purposes authorized by this act, including such improvements on lands transferred to the state pursuant to subdivision (h) of this section and paid for by the city, may be considered as expenditures for the purpose of determining excess revenues; provided, however, that if made after the effective date of this act they may be so considered only if made in accordance with subdivision (k) of this section. The excess revenue, as determined pursuant to this subdivision, shall be allocated as follows: 85 percent shall be transmitted to the State Treasurer for deposit in the General Fund in the State Treasury, and 15 percent shall be retained by the city for deposit in the trust fund for use for any purpose authorized by subdivision (j) of this section.

(m) At the request of the city, the State Lands Commission shall grant an extension of time, not to exceed 30 calendar days, for filing any report or statement required by this act, which was not filed due to mistake or inadvertence.

(n) In the event that the city fails or refuses to file with the State Lands Commission any report, statement, or document required by any provision of this act, or any extension period granted pursuant to this act, or fails or refuses to carry out the terms of this act, the Attorney General shall, upon the request of the State Lands Commission, bring such judicial proceedings for correction and enforcement as are appropriate and shall act to protect any improvements to, or assets situated upon, the granted lands or diverted therefrom. The State Lands Commission shall notify the Chief Clerk of the Assembly and the Secretary of the Senate within 30 days of the occurrence of such failure or refusal and of actions taken as a result thereof.

(o) The State Lands Commission shall, from time to time, recommend to the Legislature such amendments as it may deem necessary in the terms and conditions of this act.

(p) 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 in good faith.

(q) On or before December 31 of each year, the State Lands Commission shall report to the Chief Clerk of the Assembly and to the Secretary of the Senate the full details of any transaction or condition reported to the commission pursuant to this act which it deems in probable conflict with the requirements of this act or with any other provision of law. Upon request by resolution of either house of the Legislature, or upon formal request of the State Lands Commission made only after a noticed public hearing at which the city has been given an opportunity to express fully any disagreement with the commission's findings or to describe any extenuating

circumstances causing the violation, the Attorney General shall bring an action in the Superior Court in the County of Orange to declare that the grant under which the city holds such tidelands and submerged lands is revoked for gross and willful violation of the provisions of this act or any other provision of law or to compel compliance with the requirements of this act and any other provision of law.

(r) The city shall cause to be made and filed annually with the State Lands Division a detailed statement of receipts and expenditures by it of all rents, revenues, issues, and profits in any manner arising after the effective date of this act from the granted lands or any improvements, betterments, or structures thereon.

(s) The Department of Fish and Game shall establish the funds and make the deposits required by subdivision (i) of this section and shall prepare and file statements required by subdivision (r) of this section as to any lands transferred to the state pursuant to subdivision (h) of this section.

(t) The provisions of Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code shall be applicable to this section. The provisions of Section 6359 of the Public Resources Code shall not be applicable to this section.

(u) Notwithstanding any other provision of this act, the city shall pay to the state all revenues received from the production of oil, gas, and other minerals derived from or attributable to the real property described in Section 6 of this act and the real property acquired by the city pursuant to Section 2 of this act. Whenever practicable, the city shall obtain the mineral rights in real property acquired pursuant to Section 2 of this act.

SEC. 2. The City of Newport Beach shall establish a city tideland capital fund as one of the funds required by subdivision (i) of Section 1 of this act. All money received by the city pursuant to the provisions of subdivision (g) of Section 1 of this act shall be deposited in the fund. The city may also deposit such other income from the lands granted to the city in trust by this act as the city deems appropriate. All money in the fund shall be used by the city in conformity with the following terms and conditions:

(a) Expenditures from the fund may be made only for the acquisition of real property that will further the purposes of the trust created by this act and for capital improvements for such purposes, to be constructed on such real property so acquired, and the operation and maintenance thereof.

(b) The city is authorized to make such acquisitions of real property by purchase, gift, or other conveyance, including, but not limited to, the transfer of city-owned property held in a municipal capacity to the trust created by this act. All such real property shall be held by the city in trust pursuant to the provisions of this act.

(c) For purposes of this section, acquisitions of real property by the city for purposes of enhancing the lands administered by the Department of Fish and Game pursuant to Chapter 415 of the

Statutes of 1975 shall be deemed to be in furtherance of the purposes of the trust created by this act.

(d) No capital expenditure or transfer pursuant to subdivision (e) of this section may be made from the fund without the advance approval of the State Lands Commission.

(e) The city may expend municipal funds to acquire real property for purposes specified in this section. The city may transfer amounts from the city tideland capital fund to reimburse municipal funds for such expenditures, together with an appropriate amount of interest on such funds advanced, if such expenditures of municipal funds are made after the effective date of this act and the State Lands Commission gives advance approval of such a transaction.

SEC. 3. The Legislature makes the following findings and determinations:

(a) By Chapter 70 of the Statutes of 1927, as amended, the Legislature conveyed certain tide and submerged lands in trust to the City of Newport Beach for the purposes therein stated, primarily for the promotion and accommodation of commerce and navigation.

(b) Certain portions of such tide and submerged lands have been filled and reclaimed as a result of a plan of improvement of the granted tide and submerged lands, including the development of a harbor facility. Such portions are as described in Section 6 of this act and hereinafter are referred to as Parcels A, B, and C.

(c) Those portions of Parcels A, B, and C, as described in Section 6 of this act, which are shown as numbered lots on the Record of Survey recorded in Book 13, Page 42, and the Record of Survey recorded in Book 9, Pages 42 and 43, both in the office of the County Recorder of the County of Orange, together with those portions of Parcel A, as described in Section 6 of this act, which are shown as numbered lots on the City Map of East Side Addition to Beacon Bay on file in the office of the City Engineer of the City of Newport Beach, being a relatively small portion of such granted tide and submerged lands, have been divided into lots and leased and are producing income to support the statutory trusts under which such tide and submerged lands are held by the city, and, except for the production of income to support such trusts, are no longer required or needed for the promotion of such trusts.

(d) The lots located within Parcels A, B, and C, inclusive, having been filled and reclaimed, are no longer submerged or below the mean high tide line and are no longer needed or required for purposes of navigation, commerce, and fisheries and are freed of the public trust for navigation, commerce, and fisheries, and may continue to be used for those purposes set forth in the existing leases and subleases of such lots, but shall continue to be held in trust by the City of Newport Beach subject to the other terms and provisions of this act and other laws applicable to the tide and submerged lands included in the grant to the city. Further, such lots shall be so held subject to the condition that the revenues derived from the leasing or administration of such lots shall be used as provided in this act.

Nothing in this subdivision shall operate to terminate the public trust for navigation, commerce, and fisheries over those portions of Parcels A, B, and C which are streets and beaches of Newport Bay. The determination and finding set forth in this subdivision shall become effective as provided in Section 4 of this act.

(e) The release of the lots within Parcels A, B, and C, inclusive, from the public trust for commerce, navigation, and fisheries to the extent expressed in subdivision (d) of this section is in the best interests of the people of the state.

SEC. 4. The findings and determinations in Section 3 of this act terminating the public trust for navigation, commerce, and fisheries over the lots located within Parcels A, B, and C shall become effective upon the city's acquiring or transferring such parcels of real property, pursuant to Section 2 of this act, as the State Lands Commission shall determine to be appropriate, taking into consideration the size of the area affected by the termination, the trust purposes that can be accomplished by such acquisition or transfer, and the value of the real property acquired or transferred and upon the recording of an appropriate document in the Office of the County Recorder of the County of Orange reflecting the State Lands Commission's determination.

SEC. 5. The lands granted pursuant to Section 1 of this act shall be held by the city subject to the express reservation and condition that the state may at any time in the future use the lands, or any portion thereof, for highway purposes without compensation to the city, its successors or assigns, or any person, firm, or public or private corporation claiming under it; except that, in the event improvements have been placed upon the property taken by the state for such purposes, compensation shall be made to the person entitled thereto for the value of such person's interest in the improvements taken or the damages to such interest. The provisions of this section shall not be applicable to the lots located within Parcels A, B, and C.

SEC. 6. The parcels of real property referred to in this act are prescribed as follows:

PARCEL A

Beginning at Station No. 8 in the Line of Mean High Tide per judgment rendered in Case No. 20436, Superior Court of California, County of Orange, recorded in Book 651, page 72 of Deeds, records of said Orange County, said Station No. 8 being at the easterly terminus of that certain course in said Line of Mean High Tide shown as "North 71° 54' 00" West, 1573.34 Feet" on a map of Tract No. 4003 recorded in Book 188, pages 13 through 19 of Miscellaneous Maps, records of said Orange County, said beginning being a 1½" iron pipe as shown on said map of Tract No. 4003; thence along said Line of Mean High Tide, South 85° 40' 37" East, 606.01 feet to a point in a line parallel with and 100.00 feet easterly from the easterly line of Lot G as shown on a map filed in Book 9, pages 42 and 43 of Record of Surveys, records of said Orange County; thence along said parallel

line South 160.46 feet to a point in the Ordinary High Tide Line per judgment rendered in Case No. 24026, Superior Court of California, County of Orange, recorded in Book 199, page 275 of Official Records of said Orange County, said point being the True Point of Beginning of this description; thence along said Ordinary High Tide Line the following courses: North 82° 30' 00" West, 297.66 feet to an angle point therein; thence South 84° 00' 00" West, 160.00 feet; thence South 57° 00' 00" West, 100.00 feet; thence South 32° 52' 00" East, 243.24 feet to a line that is parallel with and distant 28.00 feet northerly, measured at right angles, from the U.S. Bulkhead Line, as shown on U.S. Engineer's Map of Harbor Lines of Newport Bay, dated March 20, 1936, and approved April 28, 1936; thence leaving said Ordinary High Tide Line and along said parallel line East, 148.00 feet to the southeasterly corner of Lot 19 as shown on a map filed in Book 9, pages 42 and 43 of Record of Surveys, records of said Orange County; thence along the easterly line of said Lot 19 North 100.00 feet; thence East 40.00 feet; thence South 100.00 feet; thence East 198.10 feet to a line parallel with and distant 20.00 feet westerly, measured at right angles from that certain course and southerly prolongation thereof, recited as, "South, 160.46 feet"; thence along said parallel line North 132.00 feet; thence East 20.00 feet; thence North 104.64 feet to the True Point of Beginning of this description.

Containing 2.694 acres, more or less.

PARCEL B

Beginning at U.S. Bulkhead Station No. 200 as shown on map entitled "Harbor Lines, Newport Bay Harbor, California," Sheet 1 of 2 of File Map No. 958, dated March 20, 1936, and approved April 28, 1936, and on file in the office of the U.S. Engineer, Los Angeles, California, also being on the Ordinary High Tide Line per judgment rendered in Case No. 24026, Superior Court of California, County of Orange, recorded in Book 199, page 275 of Official Records of said Orange County, said beginning being a 2" iron pipe as shown on a map of Tract 3867, recorded in Book 301, pages 40 through 46 of Miscellaneous Maps, records of said Orange County; thence along said Ordinary High Tide Line as described in said Book 199, page 275 of Official Records, North 39° 48' 00" West, 36.44 feet to a point in a line that is parallel with and distant 28.00 feet northerly, measured at right angles, from the U.S. Bulkhead Line as shown on said U.S. Engineer's Map, said point also being the True Point of Beginning of this description; thence continuing along said Ordinary High Tide Line, North 39° 48' 00" West, 432.17 feet; thence leaving said Ordinary High Tide Line, South 56° 56' 29" West, 32.24 feet to a point in a nontangent curve, concave northwesterly and having a radius of 171.63 feet, a radial line of said curve from said point bears North 67° 48' 00" West; thence southerly and southwesterly along said curve 76.60 feet through a central angle of 25° 34' 20" to a point of nontangency with a line that is parallel with and distant 105.32 feet southwesterly, measured at right angles, from that certain course recited above as "North 39° 48' 00" West, 432.17 feet"; thence along

said parallel line, South 30° 48' 00" East, 328.27 feet to said line described above as being parallel with and distant 28.00 feet northerly, measured at right angles, from the U.S. Bulkhead line as shown on said U.S. Engineer's Map; thence along said parallel line, East, 137.09 feet to the True Point of Beginning of this description.

Containing 0.925 acre, more or less.

PARCEL C

Beginning at U.S. Bulkhead Station No. 200 as shown on map entitled "Harbor Lines, Newport Bay Harbor, California," Sheet 1 of 2 of File Map No. 958, dated March 20, 1936, and approved April 28, 1936, and on file in the office of the U.S. Engineer, Los Angeles, California, also being on the Ordinary High Tide Line per judgment rendered on Case No. 24026, Superior Court of California, County of Orange, recorded in Book 199, page 275 of Official Records of said Orange County, said beginning being a 2" iron pipe as shown on a map of Tract No. 3867, recorded in Book 301, pages 40 through 46 of Miscellaneous Maps, records of said Orange County; thence along said Ordinary High Tide Line as described in said Book 199, page 275 of Official Records, North 39° 48' 00" West, 539.22 feet to the True Point of Beginning of this description; thence continuing North 39° 48' 00" West, 146.59 feet; thence South 23° 57' 30" West along the southwesterly prolongation of that certain course described in said Case No. 24026 as "North 23° 57' 30" East, 138.90 feet" a distance of 126.34 feet to a line that is parallel with and distant 113.32 feet southwesterly, measured at right angles, from that certain course recited above as "North 39° 48' 00" West, 146.59 feet"; thence along said parallel line, South 39° 48' 00" East, 137.64 feet to a point in a nontangent curve, concave northwesterly and having a radius of 131.63 feet, said curve being concentric with and 40.00 feet northwesterly, measured radially, from that certain curve described in Parcel B above as having a radius of 171.63 feet, a radial line of said curve from said point bears North 39° 28' 52" West; thence northeasterly and northerly along said curve 74.56 feet through a central angle of 32° 27' 23"; thence tangent to said curve, North 18° 03' 45" East, 50.27 feet to the True Point of Beginning of this description.

Containing 0.387 acre, more or less.

SEC. 7. 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 this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 8. Chapter 494 of the Statutes of 1919 is repealed.

SEC. 9. Chapter 70 of the Statutes of 1927 is repealed.

SEC. 10. Chapter 142 of the Statutes of 1929 is repealed.

SEC. 11. Chapter 574 of the Statutes of 1929 is repealed.

SEC. 12. Chapter 813 of the Statutes of 1929 is repealed.

SEC. 13. Chapter 200 of the Statutes of 1931 is repealed.

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 the City of Newport Beach 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. 15. The Legislature reserves the right to amend, modify, or revoke, in whole or in part, the tidelands and submerged lands granted and conveyed in trust pursuant to this act; provided, that the state shall thereupon assume and be bound by all lawful transactions and obligations related to such lands entered into or created by the city during its holding of such lands.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that certain restrictions pertaining to certain parcels subject to this act may be removed as soon as possible, thereby providing for a more equitable return to the City of Newport Beach from its tidelands and assuring the proper use of such revenue by the city, it is necessary that this act take effect immediately.

CHAPTER 75

An act to amend Section 6157 of, and to add Section 6158 to, the Government Code, relating to payments to public agencies.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 6157 of the Government Code is amended to read:

6157. The state, and each city, whether general law or chartered, county, city and county, and district, each subdivision, department, board, commission, body, or agency of the foregoing, shall accept personal checks drawn in its favor or in favor of a designated official thereof, in payment for any license, permit, fee or fine, or in payment of any obligation owing to the public agency or trust deposit, if the person issuing the check furnishes to the person authorized to receive payment satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state. This section shall not be applicable with respect to payment of any bail deposit.

If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check not to exceed ten dollars ($10) may be imposed, which charge may be added to and become part of any underlying

obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by such person may be prescribed.

The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

SEC. 2. Section 6158 is added to the Government Code, to read:

6158. Notwithstanding the provisions of Section 1463 of the Penal Code, the charges imposed by a court for a returned check shall be retained by the treasurer of the county in which the court is situated.

CHAPTER 76

An act to amend Sections 34080, 54797.2, 54900, 54901, 54902.5, 56009, 56438, 56453, 56454, 56456, and 56457 of, to add Section 54902.2 to, and to repeal Sections 34081 and 56452 of, the Government Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 34080 of the Government Code is amended to read:

34080. The clerk of the legislative body conducting the proceeding shall record with the recorder of the county in which the city is located, an affidavit stating that all requirements of law pertaining to the proceeding have been complied with, if it relates to the change of name of a city.

The city shall not perform any official act, the validity of which depends upon such proceedings, until the affidavit of completion has been recorded.

SEC. 2. Section 34081 of the Government Code is repealed.

SEC. 3. Section 54797.2 of the Government Code is amended to read:

54797.2. Notwithstanding any other provision of law, the provisions of this section shall apply to the final completion of proceedings for any special district formation approved by the commission pursuant to this chapter.

(a) Immediately after adoption of a resolution ordering the formation of a new district without election, or a resolution confirming an order for the formation of a new district after confirmation by the voters, the clerk of the legislative body adopting any such resolution shall transmit a certified copy of such resolution along with a remittance to cover the fees required by Section 54902.5

to the executive officer of the commission of the principal county. The executive officer shall examine such resolution and determine whether it is in compliance with boundaries, modifications, and conditions specified by the commission in its resolution making determinations.

(1) If the resolution ordering the formation of a new district or confirming such order is determined not to be in compliance, the executive officer shall specify in writing the points of noncompliance, and return the resolution to the appropriate agency for modification.

(2) If the resolution ordering the formation of a new district or confirming such order is determined to be in compliance, the executive officer shall prepare and execute a certificate of completion and shall make the filings required by this chapter.

(b) The certificate of completion prepared and executed by the executive officer shall contain the following:

(1) The name of the new district ordered formed and the names of each county within which such district is located.

(2) A description of the boundaries of the new district ordered formed which may be made by reference to the boundaries shown on a map attached to such certificate.

(3) Any terms and conditions of the formation.

(4) The date of adoption of the resolution ordering the formation without election or the resolution confirming an order for a formation after confirmation by the voters.

If any such resolution contains all or any part of the information required to be contained in the above certificate, the executive officer of the commission may attach a certified copy of the resolution to his certificate and refer to the resolution for such information.

(c) The executive officer of the commission shall record a certified copy of the certificate of completion with the county recorder of each county in which all or any part of such district is located. After recordation of the executive officer's certificate of completion, the recorder shall file with the county surveyor a copy of the boundary description included in the certificate of completion.

(d) The executive officer shall also make such filings as may be provided for by Chapter 8 (commencing with Section 54900) of this part.

SEC. 4. Section 54900 of the Government Code is amended to read:

54900. When there is a change in boundaries (1) of a city, (2) of a district, or special zone thereof, within a city the tax levy of which is carried on the regular city assessment roll, or (3) of a district, or special zone thereof, the tax or special assessment levy of which is carried on the regular county assessment roll, or when a city or any such district, or special zone thereof, is created, or when a district previously levying and collecting taxes or special assessments based upon its own assessment utilizes the regular city or county

assessment roll, the tax or assessment levying authority of the city or district shall file or cause to be filed a statement of such creation or change, or of the exterior boundaries of the district and the special zones therein newly utilizing the regular city or county assessment roll. The city or district shall prepare the statement and forward it to the tax or assessment levying authority for filing.

Any such filing by the executive officer of a local agency formation commission pursuant to Section 35356, subdivision (d) of Section 54797.2, or Section 56457 shall be deemed to satisfy the requirements of this chapter.

SEC. 5. Section 54901 of the Government Code is amended to read:

54901. The statement shall include a certified copy of the ordinance or resolution ordering the creation of or change in boundary of the city, district or zone thereof, a legal description of said boundaries and a map or plat indicating the boundaries. If the proceedings require the executive officer of a local agency formation commission to execute a certificate of completion of proceedings, the statement shall set forth the date of execution of the certificate of completion. The statement shall also specify whether or not the affected property will be taxed for any existing bonded indebtedness or contractual obligations.

SEC. 6. Section 54902.2 is added to the Government Code, to read:

54902.2. Notwithstanding any other provision of law, whenever a taxing agency elects to become a revenue district within the meaning of Section 122 of the Revenue and Taxation Code or elects to utilize the regular city assessment roll, it shall do so by the adoption of a resolution to that effect. The clerk of the legislative body of such district shall file a certified copy of such resolution , together with the statements as required by this chapter, with each assessor whose roll is to be used for the levy of assessment or taxes and with the State Board of Equalization in Sacramento.

SEC. 7. Section 54902.5 of the Government Code is amended to read:

54902.5. Notwithstanding the provisions of Section 6103, the State Board of Equalization shall establish a schedule of fees for filing and processing the statements and maps or plats which are required to be filed with the State Board of Equalization pursuant to Section 54902. 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 city, district, or executive officer of a local agency formation commission, forwarding the statement to the tax or assessment levying authority for filing pursuant to Section 54900, shall accompany the statement with the necessary fee for transmittal to the board.

SEC. 8. Section 56009 of the Government Code is amended to read:

56009. For the purpose of any action to determine or contest the

validity of any change of organization or reorganization, such change of organization or reorganization shall be deemed to be completed and in existence upon the date of execution of the certificate of completion.

SEC. 9. Section 56438 of the Government Code is amended to read:

56438. Where a proposed reorganization consists solely of annexations, detachments, minor boundary changes, or formation of county service areas, or any combination thereof, a majority protest shall be deemed to exist and the proposed reorganization shall be abandoned if the board of supervisors finds that written protests filed and not withdrawn prior to the conclusion of the hearing represent:

(a) In the case of uninhabited territory more than 50 percent of the assessed value of land within such territory; or

(b) In the case of inhabited territory more than 50 percent of the voting power of voters entitled to vote as a result of residing within or owning land within such territory.

If there is no such majority protest, the board of supervisors shall not order such reorganization without election, unless the board of supervisors finds:

(1) In the case of a resident-voter district, that such territory is uninhabited, or in the case of a landowner-voter district, that the territory is uninhabited and the written protests filed and not withdrawn represent less than 25 percent of the number of landowners within such territory, owning less than 25 percent of the assessed value of land therein; or

(2) In the case of inhabited territory, that written protests filed and not withdrawn represent:

(a) Less than 25 percent of the number of landowners within such territory, owning not more than 25 percent of the assessed value of land therein; and

(b) Less than 25 percent of the voting power of voters entitled to vote as a result of residing within or owning land within such territory.

SEC. 10. Section 56452 of the Government Code is repealed.

SEC. 11. Section 56453 of the Government Code is amended to read:

56453. The executive officer of the commission shall record a certified copy of the certificate of completion with the county recorder of each county in which all or any part of the boundaries of any new district formed or any territory ordered to be annexed to or detached from such district is located, and shall file a certified copy of the certificate of completion, indicating the recording numbers affixed by the county recorder, with the clerk of the legislative body adopting the resolution ordering the change of organization or reorganization.

After recordation of the executive officer's certificate of completion, the recorder shall file with the county surveyor a copy of the boundary description included in the certificate of completion

as provided by subdivision (c) of Section 56451.

SEC. 12. Section 56454 of the Government Code is amended to read:

56454. The change of organization or reorganization shall be complete from the date of execution of the certificate of completion of proceedings and effective from the dates specified in Sections 56455 and 56456.

SEC. 13. Section 56456 of the Government Code is amended to read:

56456. If an effective date is fixed in the terms and conditions, such date shall be the effective date of a change of organization or reorganization.

No effective date shall be fixed which will be:

(a) Earlier than the date of execution of the certificate of completion.

(b) Later than the earlier of:

(1) One year after the date of execution of the certificate of completion, or

(2) The due date of any taxes or assessments levied upon property within the territory which was the subject of the change of organization or reorganization.

SEC. 14. Section 56457 of the Government Code is amended to read:

56457. The executive officer of the commission shall also make such filings as may be provided for by Chapter 8 (commencing with Section 54900), Part 1, Division 2, of Title 5.

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:

Recent amendments relating to the filing of documents following the changes of boundaries of local agencies has resulted in different and conflicting filing requirements with respect to various local agencies. In order to eliminate this confusion, it is necessary that this act take effect immediately.

CHAPTER 77

An act to amend Sections 1002, 1003, and 1006 of the Elections Code, relating to elections.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 1002 of the Elections Code is amended to read:

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 and shall show his place of residence. Any applications received by the elections official prior to the 29th day shall be kept and processed during the application period.

SEC. 2. Section 1003 of the Elections Code is amended to read:

1003. The absentee ballot shall be available to any registered voter.

SEC. 3. Section 1006 of the Elections Code is amended to read:

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 signature.

(d) The name and date of the election for which the request is to be made.

(e) The date the application must be received by the clerk.

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

CHAPTER 78

An act to amend Section 11495 of the Health and Safety Code, relating to controlled substances, and making an appropriation therefor.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 11495 of the Health and Safety Code is amended to read:

11495. In all cases where a vehicle, boat, or airplane is seized pursuant to this chapter and 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, from any vehicle, boat, or airplane seized by a state officer, to the State Treasury, for credit to the General Fund.

5. The remainder, if any, from any vehicle, boat, or airplane seized by an officer of a county or a city, to the State Controller, for transfer to the General Fund of the county or city for any expenditures for the investigation, storage, and other expenses made or incurred by the county or city in connection with such seizure.

6. The remainder, if any, to the State Treasury, for credit to the General Fund.

CHAPTER 79

An act to amend Section 9352 of the Public Resources Code, relating to resource conservation districts.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 9352 of the Public Resources Code is amended to read:

9352. Each person nominated as a candidate for the office of director shall be an owner of land, or a designated agent of a landowner, within the district. To be eligible for nomination, a designated agent of a landowner shall reside within the district. As used in this section, a landowner or owner of land is a person who is shown as such upon the last equalized assessment roll of the county or counties within whose boundaries the district is situated.

CHAPTER 80

An act to add Section 4026.5 to the Health and Safety Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 4026.5 is added to the Health and Safety Code, to read:

4026.5. (a) In counties with a population not exceeding 500,000 persons as shown by the 1970 federal decennial census, any public water system supplying both domestic and untreated irrigation water in separate pressurized systems, and which is operated by an incorporated or unincorporated association of users, shall not require protection against backflow into the domestic water system from premises receiving both such water services and having available no other source of water, except where interconnection between such systems has taken place. It shall be a misdemeanor for any person to knowingly interconnect such water services on a user's premises without installing a backflow protection device approved by the association.

(b) Regulations of the state department requiring the installation of backflow protection shall not be continued to require the installation of such protection in any public water system described in subdivision (a), except as provided in that subdivision.

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.

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:

Small cooperative water suppliers of pressurized domestic and irrigation water have been directed to require or provide expensive backflow protection at the service connection of consumers receiving both water services, even though the possibility of interconnection of such water services by a consumer is remote and there is no incentive to do so. In order to avoid such unnecessary expense, it is necessary that this act go into immediate effect.

CHAPTER 81

An act relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. It has not been possible for the Anderson Valley Unified School District to bring all of its buildings up to the standards prescribed by the Field Act within the time allotted. There are no alternative buildings which may be used while old buildings are brought up to standard or while new buildings are being constructed.

There are four buildings in use which do not meet Field Act standards. They are the Little Red Schoolhouse, also known as the Conn Creek Elementary School; the Science Building; and two temporary relocatable buildings.

SEC. 2. The Governing Board of the Anderson Valley Unified School District may continue to use the buildings described in Section 1 until new school facilities that are being constructed to replace such buildings are completed, or until June 30, 1979, whichever occurs earlier. During such period of continued use, the buildings shall not be subject to any of the provisions of Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of Division 3 of the Education Code.

SEC. 3. It has not been possible for the Oakland Unified School District to bring Oakland Senior High School up to the standards prescribed by the Field Act within the time allotted.

SEC 4. The Governing Board of the Oakland Unified School District may continue to use Oakland Senior High School until new school facilities that are being constructed to replace the buildings that comprise such school are completed, or until June 30, 1979, whichever occurs earlier. During such period of continued use, the buildings shall not be subject to any of the provisions of Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of Division 3 of the Education Code.

SEC. 5. Due to the unique circumstances concerning the construction of new school facilities in the Anderson Valley Unified School District and in the Oakland Unified School District, as partially set forth in Sections 1 and 3 of this act, and the limited nature of the exemption provided for in Sections 2 and 4 of this act, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

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:

In order that buildings which are presently serving the needs of pupils of the Anderson Valley Unified School District and of the Oakland Unified School District may continue to be utilized without interruption while school facilities which meet Field Act standards are brought into use, it is necessary that this act take effect immediately.

CHAPTER 82

An act to amend Sections 1306 and 1308 of the Penal Code, relating to bail bond forfeitures, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 1306 of the Penal Code is amended to read:

1306. When any bond is forfeited and the period of time specified in Section 1305 has elapsed without the forfeiture having been set aside, the court which has declared the forfeiture, regardless of the amount of the bail, shall enter a summary judgment against each bondsman named in the bond in the amount for which the bondsman has bound himself.

If, because of the failure of any court to promptly perform the duties enjoined upon it pursuant to this section, summary judgment is not entered within 90 days after the date upon which it may first be entered, the right to do so expires and the bail is exonerated.

A dismissal of the complaint, indictment or information after the default of the defendant shall not release or affect the obligation of the bail bond or undertaking.

Within five days after the summary judgment becomes final, the district attorney or civil legal adviser of the board of supervisors shall demand immediate payment of the judgment. If the judgment remains unpaid for a period of 20 days after demand has been made, he shall forthwith cause a writ of execution to issue and be levied upon the property of the judgment debtor, and shall take any other steps necessary to collect the judgment.

The right to enforce a summary judgment entered against a bondsman pursuant to this section shall expire two years after the entry of the judgment.

SEC. 2. Section 1308 of the Penal Code is amended to read:

1308. No court or magistrate shall accept any person or corporation as surety on bail if any summary judgment against any

such person or corporation entered pursuant to Section 1306 remains unpaid after the expiration of 20 days after service of notice of entry of such summary judgment; provided, that, if during such 20 days any action or proceeding available in the law is initiated in the same or other court to determine the validity of the order of forfeiture or summary judgment rendered thereon, the provisions of this section shall be inoperative until such action or proceeding has finally been determined. It is hereby made the duty of the clerk of the court in which such judgment is rendered to serve notice of entry of judgment upon the judgment debtor within five days after the date of entry of summary judgment.

SEC. 3. This act is an urgency statute necessary for 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 present level of the postal service has made it impossible in many cases to comply with the 10-day provisions for payment of summary judgment against a bail bondsman which are contained in current law.

Since no bonds may be posted by a surety company in a county in which a judgment against it remains unpaid, the constitutional right of a defendant to post bail is seriously impaired.

CHAPTER 83

An act to amend Sections 17150, 17151, 17152, and 17153 of, and to repeal Section 17154 of, the Food and Agricultural Code, relating to electrified fences.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 17150 of the Food and Agricultural Code is amended to read:

17150. The Legislature finds and declares that improperly designed and installed electrified fences have caused injuries and in some instances have resulted in the deaths of persons, particularly children, coming into contact with the conductive elements thereof. In order to prevent further such accidents, it is the intent of the Legislature in enacting this chapter to provide for the study and development and enforcement of safety standards for electrified fences.

SEC. 2. Section 17151 of the Food and Agricultural Code is amended to read:

17151. As used in this chapter, "electrified fence" means any fence and appurtenant devices, including, but not limited to, fences

and devices used in animal control, and including, but not limited to, a fence consisting of a single strand of wire supported by posts or other fixtures, which has an electrical charge or is connected to a source of electrical current and which is so designed or placed that a person or animal coming into contact with the conductive element of the fence receives an electrical shock.

SEC. 3. Section 17152 of the Food and Agricultural Code is amended to read:

17152. No electrified fences shall be offered for sale, sold, installed, or used in this state, or otherwise connected to a source of electrical current, unless the electrical current is limited and regulated by an electrical controller which meets or exceeds the standards or specifications of the National Electrical Code of the National Fire Protection Association or the Underwriters Laboratories for intermittent type electric fence or electrified fence controllers.

SEC. 4. Section 17153 of the Food and Agricultural Code is amended to read:

17153. The provisions of this chapter shall not be construed to preclude regulation of electrified fences by cities and counties, including, but not limited to, requiring the installation or use of electrified fences under permit, except that such regulation shall not permit the installation or use of electrified fences which do not conform to the requirements of this chapter.

SEC. 5. Section 17154 of the Food and Agricultural Code is repealed.

SEC. 6. 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 84

An act to amend Section 40804 of the Vehicle Code, relating to traffic officers.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 40804 of the Vehicle Code is amended to read:

40804. (a) In any prosecution under this code upon a charge

involving the speed of a vehicle, any officer or other person shall be incompetent as a witness if the testimony is based upon or obtained from or by the maintenance or use of a speed trap.

(b) Every officer arresting, or participating or assisting in the arrest of, a person so charged while on duty for the exclusive or main purpose of enforcing the provisions of Divisions 10 and 11 is incompetent as a witness if at the time of such arrest he was not wearing a distinctive uniform, or was using a motor vehicle not painted the distinctive color specified by the commissioner.

This section does not apply to an officer assigned exclusively to the duty of investigating and securing evidence in reference to any theft of a vehicle or failure of a person to stop in the event of an accident or violation of Section 23109 or in reference to any felony charge or to any officer engaged in serving any warrant when the officer is not engaged in patrolling the highways for the purpose of enforcing the traffic laws.

CHAPTER 85

An act to amend Section 73101.5 of the Government Code, relating to courts.

[Approved by Governor April 6, 1978 Filed with Secretary of State April 7, 1978.]

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

SECTION 1. Section 73101.5 of the Government Code is amended to read:

73101.5. There shall be the following number of judges in the divisions of the San Bernardino County Municipal Court District: in the East Division, one; in the Central Division, four; in the Valley Division, two; in the West Valley Division, four; in the Victorville Division, two; in the Barstow Division, one; and in the Chino Division; one.

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 this act is in accordance with the request of a local government entity which desires legislative authority to act to carry out the program specified in this act.

CHAPTER 86

An act to amend Section 846 of the Civil Code, relating to landowner liability.

[Approved by Governor April 6, 1978. Filed with Secretary of State April 7, 1978.]

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 any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on such premises to persons entering for such purpose, except as provided in this section.

A "recreational purpose," as used in this section, includes such activities as fishing, hunting, camping, water sports, hiking, spelunking, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.

An owner of any estate in real property who gives permission to another for entry or use for the above purpose upon the premises does not thereby (a) extend any assurance that the premises are safe for such purpose, 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 purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose; 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.

CHAPTER 87

An act to amend Sections 66791.5, 66796.22, 66796.32, 68046, 68048, 68050, and 68052 of, to add and repeal Section 66796.83, 68046.2, 68046.4, and 68046.6 of, and to repeal Section 68014 of, the Government Code, to amend Sections 24387, 24391, and 24393 of the Health and Safety Code, to add Part 21 (commencing with Section 42000) to Division 2 of, to repeal Part 19 (commencing with Section 39000) of Division 2 of, the Revenue and Taxation Code, and to repeal Section 8 of Chapter 1161 of the Statutes of 1977, relating to solid waste, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor April 10, 1978. Filed with Secretary of State April 11, 1978.]

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

SECTION 1. Section 66791.5 of the Government Code is amended to read:

66791.5. The board may accept grants, gifts, and donations for the purposes specified in this title and Title 7.8 (commencing with Section 68000) of the Government Code and Chapter 3.5 (commencing with Section 24385) of Division 29 of the Health and Safety Code.

SEC. 2. Section 66796.22 of the Government Code is amended to read:

66796.22. (a) In addition to any other fees, effective January 1, 1979, there shall be imposed by the board on each operator of a publicly or privately owned solid waste disposal site within a standard metropolitan statistical area a surcharge equivalent to twenty-five cents ($0.25) per ton of solid wastes disposed.

(b) The board shall prescribe that the surcharge be based upon either the weight, volume, or type of solid waste received by any such operator or upon any other appropriate measurement.

(c) The board shall exempt the following from such surcharge:

(1) Solid wastes which cannot practicably or economically be disposed of other than by burial at a solid waste disposal site, including but not limited to, agricultural and food processing wastes, except where such wastes have not been separated from other wastes.

(2) Solid wastes disposed of by persons who engage in practical or economical separation prior to final disposal, if the collection and disposal of such wastes is operated to minimize the amount disposed of by burial at a solid waste disposal site.

(d) In granting exemptions from the surcharge pursuant to subdivision (c), the board shall accept from the operator of a facility specified in subdivision (a) a declaration that the requirements of subdivision (c) have been satisfied. In making the declaration, the

operator shall accept from the users of the facility their declarations that they have satisfied the requirements of subdivision (c). The operator may not collect a surcharge from users who make a declaration. Any exemption shall be revoked if the board finds, after a public hearing held for the purpose of receiving testimony regarding the affected solid waste disposal operation, that the requirements of subdivision (c) are not being satisfied. The board shall grant a new exemption upon making a finding that the requirements of subdivision (a) are being satisfied; however, declarations relating to a new exemption may not be submitted sooner than six months after the date on which the board revoked the prior exemption.

(e) The board shall prescribe the manner in which the surcharge is to be collected and forwarded to the board.

(f) Moneys collected by the board pursuant to this section shall be deposited in the State Treasury to the credit of the State Litter Control, Recycling, and Resource Recovery Fund, which is hereby created.

(g) It is the intent of the Legislature that, when operators do not satisfy the requirements of subdivision (c), existing rates, levies, or fees charged by operators or collected by any other person for financing the operations of a solid waste disposal site be increased by an amount equivalent to the surcharge in order that the surcharge is paid by persons who dispose of waste material.

SEC. 3. Section 66796.32 of the Government Code is amended to read:

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 40 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 40 days it shall be deemed to have concurred in the issuance of the permit as submitted to it.

SEC. 4. Section 66796.83 is added to the Government Code, to read:

66796.83. The board may grant waivers of individual standards adopted pursuant to this title only when the board has determined either of the following:

(a) That a hardship exists or will exist if no waiver is granted and that granting a waiver will further state policies or will relieve the hardship.

(b) That the operation is an experimental one designed to develop new methods or technology and that granting the waiver will significantly facilitate implementation of state policy.

Any request for a waiver shall be accompanied by detailed information justifying the waiver and demonstrating that no significant adverse health, safety, or environmental impacts will result from the waiver. The board may place conditions on the waiver and shall reexamine each waiver at least every two years to determine whether it should remain in force or should have more or different conditions.

SEC. 5. Section 68014 of the Government Code is repealed.

SEC. 6. Section 68046 of the Government Code is amended to read:

68046. Twenty percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board for grants and loans to public agencies, private entities, or combinations thereof, as determined by the board, for implementation of the state research and development program for recovery of resources and energy from wastes mandated by Section 66785. Grants or loans for the planning, design, construction, operation, or maintenance, or a combination thereof, of resources and energy recovery projects authorized by this section shall be made by the board only if the project:

(a) Is not in potential conflict with the state policy for solid waste management required by Section 66770 or the solid waste management plans required by Section 66780.

(b) Is designed to make a substantial, long-term contribution to regional or areawide solution of the solid and liquid waste disposal problems.

(c) Advances the development of technologically and economically feasible, operational resources and energy recovery systems.

(d) Provides an equitable procedure for financing and distributing, among the users, the costs associated with the planning, design, construction, operation, and maintenance of the project and a reserve for contingencies.

(e) Is proposed by the public agency or private entity, or combination thereof, which:

(1) Demonstrates a capacity to provide satisfactory performance of solid waste management activities;

(2) Possesses sufficient financial resources and stability to ensure protection of the public interest in the project by bonding or other sureties deemed appropriate by the board;

(3) Is capable of producing plans and specifications susceptible to implementation; and

(4) To the extent practicable, provides written confirmation of the economic viability of the project in the form of contracts for recovered resources or energy with guaranteed purchasers at guaranteed prices for the period of time deemed satisfactory by the board.

SEC. 7. Section 68046.2 is added to the Government Code, to read:

68046.2. Pursuant to guidelines and criteria adopted by the board, subsidies may be provided in grants and loans made pursuant to Section 68046.2 for the difference between the unit selling price of recovered resources or energy and the total cost of producing such recovered resources and energy.

SEC. 8. Section 68046.4 is added to the Government Code, to read:

68046.4. Grants or loans authorized by Section 68046 for any project shall not:

(1) Exceed 75 percent of the total planning, design, and construction costs, plus the first three years' operation and maintenance costs;

(2) Be provided for land acquisition costs; and

(3) Be made until the applicant has made provision satisfactory to the board for proper and efficient construction, operation, and maintenance of the project.

SEC. 9. Section 68046.6 is added to the Government Code, to read:

68046.6. Grants made by the board pursuant to Section 68046 shall be made with the express requirements that:

(a) The recipient will accept for processing, without charge, any amount of litter picked up from roadsides or recreation areas by nonprofit organization and public agencies conducting organized litter cleanup programs. Insofar as economic feasibility warrants, the recipient may pay an appropriate premium for such litter if it can be demonstrated that it contains percentages of marketable salvage materials in excess of the average for municipal solid waste;

(b) In the event the project so supported with a grant becomes self sustaining, as determined by the board, the portion of the grant related to construction, operation, and maintenance costs shall be deemed to be a loan to the entity receiving such assistance, and shall be repayable to the board for deposit in the State Litter Control, Recycling, and Resource Recovery Fund, for expenditure in the resource and energy recovery program, in accordance with terms and conditions agreed upon between the entity and the board. Such terms and conditions shall be expressed in a "loan agreement" entered into prior to the rendering of such assistance;

(c) The obligation for a loan shall be in the form of a note or notes payable to the order of the board, carrying a rate of interest which is acceptable to the board, and which is payable solely from the

revenues of the project by its operator and subordinated to any security interest or interests which are equivalent to a first mortgage lien upon the facilities or assets of the project or a pledge of its revenues; and

(d) Nothing in this section shall prohibit the board from receiving additional compensation out of the revenues of the project in the form of income participation or other payments.

SEC. 10. Section 68048 of the Government Code is amended to read:

68048. Seven and one-half percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board, or granted by the board to state and local agencies, or both, to organize and conduct programs aimed at increasing awareness of the litter problem in order to promote greater compliance with litter laws and participation in programs for the recovery of resources and energy from solid wastes. Such programs shall include educational techniques and may include cleanup drives conducted by local agencies and nonprofit organizations using volunteer help.

SEC. 11. Section 68050 of the Government Code is amended to read:

68050. Two and one-half percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board for grants to state and local agencies and qualified nonprofit organizations, as determined by the board, for the purchase, installation, maintenance, and replacement of litter receptacles that have been approved by the board.

The board shall establish criteria and guidelines for the location of such receptacles.

Litter receptacles to be installed in cities and within five miles of incorporated areas or urbanized areas shall be of a type designed to minimize the dumping of household solid waste.

The board shall require that all litter receptacles purchased, installed, maintained, or replaced with money granted pursuant to this section display the state antilitter symbol adopted by the board and a statement of the penalties which may be imposed for littering in this state.

The board may require each agency participating in the litter receptacle program to report annually on the number of litter receptacles installed and maintained.

SEC. 12. Section 68052 of the Government Code is amended to read:

68052. Five percent of the State Litter Control, Recycling, and Resource Recovery Fund shall be expended by the board, or granted by the board to state and local agencies, or both, for (1) research and administrative support of the grant and loan programs for litter collection, litter receptacles, litter law enforcement, and resources and energy recovery from wastes, (2) maintenance of the solid waste management plans required by Section 66780.5, and (3) surveys of litter and solid waste composition and rate of deposit.

SEC. 13. Section 24387 of the Health and Safety Code is amended to read:

24387. Litter receptacles meeting the standards established by the board pursuant to this chapter shall be placed in public places in the state, including but not limited to the following:

(a) Drive-in restaurants and fast food outlets;
(b) Gasoline service stations;
(c) Shopping centers;
(d) Grocery stores;
(e) Boat launching and takeout areas;
(f) Boat moorage and fueling stations;
(g) Public piers;
(h) Parks and campgrounds;
(i) Beaches; and
(j) Outdoor parking lots which have a capacity of 50 or more automobiles and which are contiguous to the public places listed in this section.

The board may define by regulation those public places mentioned in this section that are not defined in subdivisions (b) to (e), inclusive, of Section 24386 and may, in a manner consistent with the definitions in Section 24386, clarify and exemplify by regulation the definitions of those public places mentioned in this section that are defined in subdivisions (b) to (e), inclusive, of Section 24386.

Litter receptacles need be placed in such public places only during times such places or events held at them are open to the public.

SEC. 14. Section 24391 of the Health and Safety Code is amended to read:

24391. (a) This chapter shall become operative on July 1, 1978.

(b) All litter receptacles in any public place designated in this chapter, which are placed after September 30, 1977, shall conform to the provisions of this chapter.

(c) Litter receptacles in any public place designated in this chapter, which were in place prior to September 30, 1977, shall be modified to conform with marking requirements of this chapter not later than July 1, 1978.

(d) All litter receptacles in any public place designated in this chapter, which were in place prior to September 30, 1977, shall be modified or replaced so as to fully conform with all requirements of this chapter not later than January 1, 1980.

SEC. 15. Section 24393 of the Health and Safety Code is amended to read:

24393. The board shall establish requirements for the design, production, and distribution of litter bags suitable for use in motor vehicles and boats. The litter bag shall bear the statewide antilitter symbol and a statement of the penalties for littering. The board shall purchase and provide for the continuous distribution of litter bags in a coordinated, statewide campaign commencing not later than July 1, 1979. The board may accept donated litter bags and donated materials for litter bags that are suitable for the purposes of this

section and may accept grants, gifts, and donated services relating to the design, production, and distribution of litter bags. No provision of this section shall be deemed to prohibit the purchase, production, or distribution of litter bags by any other public agency or any person or private entity, and such litter bags need not conform to the requirements established by the board; however, such litter bags may not display the statewide antilitter symbol.

SEC. 16. Part 19 (commencing with Section 39000) of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 17. Part 21 (commencing with Section 42000) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 21. STATE LITTER CONTROL, RECYCLING, AND RESOURCE RECOVERY ASSESSMENT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

42000. This part shall be known and may be cited as the "Litter Control, Recycling, and Resource Recovery Assessment."

42001. "Board" means the State Board of Equalization.

42002. "Person" has the same meaning as that set forth in Section 6005.

42003. "Permitholder" means every person, including every manufacturer, wholesaler, and retailer, required to hold a seller's permit under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of this division). "Permitholder" does not include a person who is required to register with the board under Section 6226 but who is not required to hold a seller's permit.

42004. "Tangible personal property" has the same meaning as that set forth in Section 6016.

42005. "Manufacturer" means any person engaged in a business activity in this state of selling tangible personal property of a kind described in Section 42108, which the person has made, produced, manufactured, processed, or fabricated. The selling of meals, food products, or drinks at retail to a consumer on his order and for his immediate consumption shall not classify the seller as a "manufacturer" by reason of such activity.

42006. "Wholesaler" means any person engaged in a business activity in this state of selling tangible personal property of a kind described in Section 42108, other than wholly by means of sales at retail. A person shall not be deemed to be a "wholesaler," for the purposes of Section 42104, if such person's sales, other than sales at retail, are of property described in Section 42104 and are made as an incident to other business activities in which such property has been used and all of such person's sales of such property are to persons who reprocess or recycle such property so as to prevent the property from becoming "litter" within the meaning of the Litter Control, Recycling, and Resource Recovery Act of 1977 (Title 7.8 (commencing with Section 68000) of the Government Code).

42007. "Sale" has the same meaning as that set forth in Section 6006.

42008. "Retail sale" and "sale at retail" have the same meaning as that set forth in Section 6007.

42009. "Business" has the same meaning as that set forth in Section 6013.

42010. "In this state" has the same meaning as that set forth in Section 6017.

42011. "Taxpayer" means any person required to pay an assessment under this part.

CHAPTER 2. IMPOSITION OF ASSESSMENTS

42101. On and after January 1, 1978, for the calendar year 1978, and for each year thereafter, every permitholder shall pay to the board an annual assessment in an amount specified in Section 42103 for each place of business in this state for which the person is required to hold a seller's permit under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of this division).

42102. On and after January 1, 1978, for the calendar year 1978, and for each year thereafter, every manufacturer and every wholesaler making sales in this state of tangible personal property of a kind described in Section 42108 shall pay to the board an annual assessment in an amount specified in Section 42103, except for manufacturers and wholesalers which regularly employ more than an average of 19 employees and which sell one or more of the products specified in subdivision (a) of Section 42104, which shall pay to the board an annual assessment in an amount specified in Section 42104.

42103. The annual assessment imposed by Sections 42101 and 42102 shall be one of the following:

(a) The amount of ten dollars ($10) for each place of business for which the person is required to hold a seller's permit.

(b) In the amount of twenty dollars ($20) for each place of business at which the permitholder incurs a liability under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of this division) measured by more than fifty thousand dollars ($50,000) but less than one hundred thousand dollars ($100,000).

(c) In the amount of thirty dollars ($30) for each place of business at which the permitholder incurs a liability under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of this division) measured by one hundred thousand dollars ($100,000) or more.

(d) In the total amount of ten dollars ($10) for a manufacturer or wholesaler, for all its places of business in the state, which regularly employs fewer than an average of three employees annually.

(e) In the total amount of twenty-five dollars ($25) for a manufacturer or wholesaler, for all its places of business in this state, which regularly employs an average of at least three but fewer than 20 employees annually.

(f) In the total amount of one hundred dollars ($100) for a manufacturer or wholesaler, for all its places of business in this state, which regularly employs an average of at least 20 but fewer than 50 employees annually.

(g) In the total amount of two hundred dollars ($200) for a manufacturer or wholesaler, for all its places of business in this state, which regularly employs an average of at least 50 but fewer than 100 employees annually.

(h) In the total amount of one thousand dollars ($1,000) for a manufacturer or wholesaler, for all its places of business in this state, which regularly employs an average of 100 or more employees annually.

42104. Notwithstanding the provisions of Section 42103, the annual assessment imposed by Section 42102 shall be one of the following:

(a) In the total amount of two hundred dollars ($200) for a manufacturer or wholesaler, for all its places of business in this state, which regularly employs an average of at least 20 but fewer than 50 employees annually and is engaged in a business activity in this state of selling one or more of the following:

(1) Those beverages defined in subdivision (a) of Section 24380 of the Health and Safety Code.

(2) Noncarbonated soft drinks, except fruit juices, vegetable juices, and other beverages defined as food products in Section 6359.

(3) Glass, metal, plastic, or fiber containers with a capacity of less than five gallons, but not including any container or container crown or closure which is customarily used on a repeated basis for food storage, preparation, or serving, which has a useful life of at least one year, and which is empty when sold at retail.

(4) Container crowns or closures, but not including crowns or closures for any container which is customarily used on a repeated basis for food storage, preparation, or serving, which has a useful life of at least one year, and which is empty when sold at retail.

(5) Newspapers or magazines.

(6) Household paper and paper products, including flexible packaging used to package or wrap consumer goods.

(7) Automobile or truck tires.

(b) In the total amount of four hundred dollars ($400) for a manufacturer or wholesaler, for all its places of business in this state, which regularly employs an average of at least 50 but fewer than 100 employees annually and is engaged in a business activity in this state of selling one or more of the products specified in subdivision (a) of this section.

(c) In the total amount of two thousand dollars ($2,000) for a manufacturer or wholesaler, for all its places of business in this state, which regularly employs an average of 100 or more employees annually and is engaged in a business activity in this state of selling one or more of the products specified in subdivision (a) of this section.

42105. If in any year a person is subject to an assessment under both Sections 42101 and 42102, only the larger of the two assessments shall be required to be paid.

42106. If in any year a person subject to assessment under Section 42101 moves a place of business from one location to a new location, the former location and the new location shall be deemed to be one place of business for the purpose of assessment pursuant to Section 42101.

42107. It is not the intent of the Legislature, in creating more than one assessment schedule for manufacturers and wholesalers in this chapter, to judge the relative contribution of such manufacturers and wholesalers to the solid waste stream.

42108. Tangible personal property, for purposes of Section 42102, includes all tangible personal property except the following:

(a) Gas, electricity, and water delivered through mains, lines, pipes, or channels to purchasers.

(b) Food and food products for human consumption sold in bulk form and not packaged or subpackaged in individual containers, packages, or units, of a type or size suitable for sale to consumers purchasing in the ordinary course of retail marketing.

(c) Fertilizer, seeds, annual plants, any form of animal life, and animal feed, sold for resale or use in the agricultural food industry.

42109. (a) Persons or transactions that this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state are exempt from the assessments imposed by this part.

(b) Any person operating a business selling tangible personal property, when the operations are of a temporary nature lasting no longer than 30 consecutive days at one business location, is exempt from the assessment imposed by this part; but this exemption shall apply only with respect to the person's operation at that location.

CHAPTER 3. REGISTRATION

42201. Every person, other than a person holding a valid seller's permit issued under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of this division), who is engaged in, or who desires to engage in, a business activity that would subject the person to an assessment under this part shall register with the board and give the location of all places of business in this state at which the person makes sales of tangible personal property and such other information as the board may require. Application for a seller's permit shall constitute application for registration under this part.

42202. (a) Whenever a person does not comply with any of the provisions of this part relating to the litter control, recycling, and resource recovery assessment or any rule or regulation of the board relating to the assessment prescribed and adopted under this part, the board, upon hearing and after giving the person 10 days notice in writing specifying the time and place of hearing and requiring the

person to show cause why the person's seller's permit or permits should not be revoked, may revoke or suspend any one or more of the seller's permits held by the person. The board shall give to the person written notice of the suspension or revocation of any permit.

(b) The notices required by this section may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(c) The board shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the revoked permit will comply with the provisions of this part relating to the litter control, recycling, and resource recovery assessment and the regulations of the board.

CHAPTER 4. DETERMINATIONS

Article 1. Returns and Payments

42300. The assessments imposed by this part are due and payable to the board annually on or before the last day of the second calendar month next succeeding each calendar year or on or before the last day of the second calendar month next succeeding the close of such period as may be prescribed by the board pursuant to Section 42304. If a taxpayer ceases to do business in this state, the assessments imposed by this part are due and payable to the board on or before the last day of the calendar month next succeeding the close of the calendar quarter in which the taxpayer ceased to do business in this state.

42301. On or before the last day of the second month next succeeding the close of each calendar year or such other period as the board may prescribe pursuant to Section 42304, a return for the preceding calendar year or other period shall be filed with the board in such form as the board may prescribe. Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.

42302. The return shall show the amount of the assessments for the period covered by the return and shall include such other information as the board deems necessary for the proper administration of this part.

42303. The person required to file the return shall deliver the return together with a remittance of the amount of the assessment due to the office of the board.

42304. If it deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of assessments, the board may require returns and payments of assessments for annual periods other than calendar years or for other than annual periods depending upon the principal place of business of the taxpayer, the periods for which the taxpayer has been authorized to file returns under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of this division), the periods used by the taxpayer for

accounting purposes, or other matters that will otherwise facilitate the collection of the assessments by the state.

42305. The board may collect the assessment imposed under Chapter 2 (commencing with Section 42101) at the time of issuing a seller's permit under the Sales and Use Tax Law. The board may condition the issuance of a seller's permit upon payment of the assessment.

42306. (a) For good cause the board may extend, for a period not to exceed one month, the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time if a request therefor is filed with the board within or prior to the period for which the extension may be granted.

(b) Any person to whom an extension is granted shall pay, in addition to the assessment, interest at the rate of 1 percent per month, or fraction thereof, from the date on which the assessment would have been due without the extension until the date of payment.

Article 2. Deficiency Determinations

42320. If the board is not satisfied with the return or returns of the assessment or the amount of assessment required to be paid to the state by any person, it may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one or for more than one period. When a business is discontinued a determination may be made at any time thereafter, within the periods specified in Section 42326, as to liability arising out of that business irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part.

42321. The amount of the determination, exclusive of penalties, shall bear interest at the rate of 1 percent per month, or fraction thereof, from the last day of the second calendar month next succeeding the calendar year or other period for which the amount or any portion thereof should have been returned until the date of payment.

42322. In making a determination the board may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

42323. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the amount of the determination shall be added thereto.

42324. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade this part or authorized rules and regulations, a penalty of 25 percent of the

amount of the determination shall be added thereto.

42325. The board shall give to the taxpayer written notice of its determination. The notice may be served personally or by mail; if by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the taxpayer at the taxpayer's address as it appears in the records of the board, but the service shall be deemed complete at the time of the deposit of the notice in the mail without extension of time for any reason.

42326. Except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the last day of the second calendar month following the close of the calendar year or other period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In case of failure to make a return, every notice of determination shall be mailed within eight years after the last day of the second calendar month following the calendar year or other period for which the amount is proposed to be determined.

42327. In the case of a deficiency arising under this part during the lifetime of a decedent, a notice of deficiency determination shall be mailed within four months after written request therefor, in the form required by the board, by the fiduciary of the estate or trust or by any other person liable for the assessment or any portion thereof.

42328. If, before the expiration of the time prescribed in Section 42326 for the mailing of a notice of deficiency determination, the taxpayer has consented in writing to the mailing of the notice after such time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Article 3. Determinations If No Return Made

42330. If any person does not make a return, the board shall make an estimate of the measure of the taxpayer's liability under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of this division) for each place of business for which the taxpayer is required to hold a seller's permit and, if the taxpayer is a manufacturer or wholesaler, an estimate of the average number of employees employed annually for all of the taxpayer's places of business in this state. The estimates shall be made for the period or periods with respect to which the person did not make a return and shall be based upon any information which is in the board's possession or may come in its possession.

Upon the basis of this estimate, the board shall compute and determine the amount to be paid under this part, adding to the amount thus determined a penalty of 10 percent. One or more determinations may be made for one or for more than one period.

When a business is discontinued a determination may be made at any time thereafter, within the periods specified in Section 42326, as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part.

42331. In making a determination the board may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments. The interest on underpayments and overpayments shall be computed in the manner set forth in Sections 42360 and 42505.

42332. The amount of the determination, exclusive of penalties, shall bear interest at the rate of 1 percent per month, or fraction thereof, from the last day of the second calendar month following the close of the calendar year or other period for which the amount or any portion thereof should have been returned until the date of payment.

42333. If the failure of any person to file a return is due to fraud or an intent to evade this part or rules and regulations, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 10 percent penalty provided in Section 42330.

42334. Promptly after making its determination, the board shall give to the person written notice of the estimate, determination, and penalty. The notice shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 4. Jeopardy Determinations

42340. If the board believes that the collection of any assessment required to be paid to the state or of any determination will be jeopardized by delay, it shall thereupon make a determination of the assessment, noting that fact upon the determination. The amount determined is immediately due and payable.

42341. If the amount specified in the determination is not paid within 10 days after service of notice thereof upon the person against whom the determination is made, the amount becomes final at the expiration of the 10 days, unless a petition for redetermination is filed within the 10 days, and the delinquency penalty and the interest provided in Section 42360 shall attach to the amount of the assessment.

42342. The person against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to Article 5 (commencing with Section 42350) of this chapter. The person shall, however, file the petition for redetermination with the board within 10 days after the service of notice of the determination. The person shall also, within the 10-day period, deposit with the board such security as it may deem necessary to insure compliance

with this part. The security may be sold by the board in the manner prescribed by Section 42400.

42343. In accordance with such rules and regulations as the board may prescribe, the person against whom a jeopardy determination is made may apply for an administrative hearing for one or more of the following purposes:

(a) To establish that the determination is excessive.

(b) To establish that the sale of property that may be seized after issuance of the jeopardy determination or any part thereof shall be delayed pending the administrative hearing because the sale would result in irreparable injury to the person.

(c) To request the release of all or a part of the property to the person.

(d) To request a stay of collection activities.

The application shall be filed within 30 days after service of the notice of jeopardy determination and shall be in writing and state the specific factual and legal ground upon which it is founded. No security need be posted to file the application and to obtain this hearing. However, if the person does not deposit, within the 10-day period prescribed in Section 42342, such security as the board may deem necessary to ensure compliance with this part, the filing of the application shall not operate as a stay of collection activities, except sale of property seized after issuance of the jeopardy determination. Upon a showing of good cause for failure to file a timely application for administrative hearing, the board may allow a filing of the application and grant the person an administrative hearing. The filing of an application pursuant to this section shall not affect provisions of Section 42341 relating to the finality date of the determination or to penalty or interest.

42344. Any notice required by this article shall be served personally or by mail in the manner prescribed for service of a deficiency determination.

Article 5. Redetermination

42350. Any person against whom a determination is made under Article 2 (commencing with Section 42320) or Article 3 (commencing with Section 42330) of this chapter or any person directly interested may petition for a redetermination within 30 days after service upon the person of notice thereof. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period.

42351. Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at any time prior to the date on which the board issues its order or decision upon the petition for redetermination.

42352. If a petition for redetermination is filed within the 30-day period, the board shall reconsider the determination and, if the

person has so requested in the petition, shall grant the person an oral hearing and shall give the person 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

42353. The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Unless the penalty imposed by Section 42324 or 42333 applies to the amount of the determination as originally made or as increased, the claim for increase shall be asserted within eight years after the last day of the second calendar month following the period for which the increase is asserted.

42354. The order or decision of the board upon a petition for redetermination becomes final 30 days after service upon the petitioner of notice thereof.

42355. All determinations made by the board under Article 2 (commencing with Section 42320) or Article 3 (commencing with Section 42330) of this chapter are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 percent of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

42356. Any notice required by this article shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 6. Interest and Penalties

42360. Any person who does not pay any assessment to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 42320) or Article 3 (commencing with Section 42330) of this chapter, within the time required, shall pay a penalty of 10 percent of the assessment, in addition to the assessment, plus interest at the rate of 1 percent per month, or fraction thereof, from the date on which the assessment became due and payable to the state until the date of payment.

42361. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control and occurred notwithstanding the exercise of ordinary care and the absence of wiliful neglect, the person may be relieved of the penalty provided by Sections 42330 and 42360.

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

CHAPTER 5. COLLECTION OF ASSESSMENT

Article 1. Security for Assessment

42400. Whenever the board deems it necessary to insure compliance with this part, the board may require any person subject thereto to place with the board such security as the board may determine. The amount of the security shall be fixed by the board but shall not be greater than twice the estimated average liability of persons filing returns for annual periods or three times the estimated average liability of persons required to file returns for periods other than annual periods, determined in such manner as the board deems proper, or ten thousand dollars ($10,000), whichever amount is the lesser. The limitations specified in this section apply regardless of the type of security placed with the board. The amount of the security may be increased or decreased by the board subject to such limitations. The board may sell the security at public auction if it becomes necessary so to do in order to recover any assessment or any amount required to be collected or any interest or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at the person's address as it appears in the records of the board. Security in the form of a bearer bond issued by the United States or the State of California that has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale any surplus above the amounts due shall be returned to the person who placed the security.

42401. If any person is delinquent in the payment of the amount required to be paid by the person, or in the event a determination has been made against the person which remains unpaid, the board may, not later than three years after the payment became delinquent, or within 10 years after the last recording of an abstract under Section 42410 or filing or recording of a state tax lien under Section 42432 or 42433, give notice thereof personally or by registered mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any state officer, department, or agency, the notice shall be given to such officer, department, or agency prior to the time it presents the claim of the delinquent payer to the State Controller. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier. All persons so notified shall forthwith, after receipt of the notice advise the board of all such credits, other personal property, or debts in their possession, under their control, or owing by them.

If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice, to be effective, shall state the amount, interest, and penalty due from the person and shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held. Notwithstanding any other provision of this article, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be effective with respect to an amount not in excess of two times the amount, interest, and penalty due from the person. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld pursuant to this section, to the extent of the value of the property or the amount of the debts thus transferred or paid, such person shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given, if solely by reason of such transfer or disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

Article 2. Suit for Assessment

42410. At any time within three years after any assessment becomes due and payable and at any time within three years after the delinquency of any assessment, or within the period during which a lien is in force as the result of the recording of an abstract under Section 42422 or the recording or filing of a notice of state tax lien under Section 42432 or 42433, the board may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of the State of California to collect the amount delinquent together with penalties and interest.

42411. The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

42412. In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachments is required.

42413. In the action a certificate by the board showing the delinquency shall be prima facie evidence of the determination of the assessment or the amount of assessment, of the delinquency of the amounts set forth, and of the compliance by the board with all the provisions of this part in relation to the computation and determination of the amounts.

42414. In any action relating to the assessment brought under this part, process may be served according to the Code of Civil Procedure and the Civil Code or may be served upon any agent or clerk in this state employed by any taxpayer in a place of business maintained by the taxpayer in this state. In the latter case a copy of the process shall

forthwith be sent by registered mail to the taxpayer at the taxpayer's principal or home office.

Article 3. Judgment for Assessment

42420. If any amount required to be paid to the state under this part is not paid when due, the board may, within three years after the amount is due, file in the office of the County Clerk of Sacramento County, or any county, a certificate specifying the amount required to be paid, interest, and penalty due, the name and address as it appears on the records of the board of the person liable, the compliance of the board with this part in relation to the determination of the amount required to be paid, and a request that judgment be entered against the person in the amount required to be paid, together with interest and penalty as set forth in the certificate.

42421. Immediately upon the filing of the certificate, the county clerk shall enter a judgment for the people of the State of California against the person in the amount required to be paid, together with interest and penalty as set forth in the certificate. The county clerk may file the judgment in a looseleaf book entitled, "Special Judgments for State Solid Waste Removal and Recycling Levy."

42422. An abstract of the judgment or a copy of such judgment may be filed for record with the county recorder of any county. From the time of the filing, the amount required to be paid, together with interest and penalty set forth, constitutes a lien upon all the real property in the county owned by the person liable or afterward and before the lien expires acquired by him. The lien has the force, effect, and priority of a judgment lien and shall continue for 10 years from the date of the judgment so entered by the county clerk unless sooner released or otherwise discharged. The lien may, within 10 years from the date of the judgment or within 10 years from the date of the last extension of the lien in the manner provided in this section, be extended by filing for record in the office of the county recorder of any county an abstract or copy of the judgment; and from the time of such filing, the lien shall be extended to the real property in such county for 10 years unless sooner released or otherwise discharged.

42423. Execution shall issue upon the judgment upon request of the board in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure.

Article 4. Priority and Lien of Assessment

42430. The amounts required to be paid by any person under this part, together with interest and penalties, shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his assets.

(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.

(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.

This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien pursuant to Section 42432 or 42433.

The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

42431. If any person does not pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien upon all property and rights to property whether real or personal, tangible or intangible, including all after-acquired property and rights to property, belonging to such person and located in the state. Such lien shall not continue for more than 10 years unless recorded or filed as provided in this article.

For the purpose of this section only, "due and payable" means the date a return is filed without payment of the amount due, or the date a determination or assessment made under this part becomes final, whichever is applicable.

42432. With respect to real property or any rights therein, at any time after creation of the lien pursuant to Section 42431, the board may record in the office of the county recorder of the county in which such real property is located a notice of state tax lien as specified in Section 42435.

The lien created by Section 42431 shall not be valid against the right, title or interest of any of the following:

(a) A successor in interest of the taxpayer without knowledge of the lien;

(b) A holder of a security interest;

(c) A mechanic's lienor; or

(d) A judgment lien creditor;

where such right, title, or interest was acquired or perfected prior to recording of a notice of state tax lien as provided in this section.

42433. With respect to personal property, whether tangible or intangible, at any time after creation of the lien pursuant to Section 42431, the board may file a notice of state tax lien with the Secretary of State pursuant to Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code.

42434. The lien created by Section 42431 shall not be valid as to personal property against any of the following:

(a) The holder of a security interest therein whose interest was perfected pursuant to Section 9303 of the Uniform Commercial Code as against a lien creditor, as defined in Section 9301 of such code, prior to the time the notice of the state tax lien was filed as herein provided.

(b) Any person, other than a person liable for the tax, who, without knowledge of the lien, perfects an interest in the property prior to the time the notice of state tax lien is filed.

(c) A buyer in the ordinary course of business, as defined in subdivision (9) of Section 1201 of the Uniform Commercial Code, who, under Division 9 (commencing with Section 9101) of such code, would have taken free and clear of a security interest held by a third party who had perfected a security interest in the property pursuant to the provisions of such division.

(d) Any person who, under Division 9 (commencing with Section 9101) of the Uniform Commercial Code, would have priority over a security interest held by a third party who had perfected a security interest in the property pursuant to Section 9303 of such code prior to the time that the notice of state tax lien was filed.

42435. The notice of state tax lien recorded or filed pursuant to Section 42432 or 42433 shall include the name and last known address of the person liable for the tax, the amount of the tax, a statement that the tax shall be a lien upon all real or personal property and rights to such property, including all after-acquired property and rights to property belonging to such person, and a statement that the board has complied with all the provisions of this part in the computation and levy of the amount assessed.

42436. Any lien arising pursuant to this article shall continue for 10 years from the date of recording or filing of a notice of state tax lien pursuant to Section 42432 or 42433, unless sooner released or otherwise discharged. The lien may, within 10 years from the date of the recording or filing of the notice of state tax lien or within 10 years from the date of the last extension of the lien in the manner provided in this section, be extended by recording or filing a new notice of state tax lien in the office of the county recorder of any county or with the Secretary of State as provided in Section 42432 or 42433, and from the time of such recording or filing the lien shall be extended for 10 years unless sooner released or otherwise discharged.

42437. Notwithstanding the provisions of Sections 688 and 688.1 of the Code of Civil Procedure, in the event the taxpayer is a party to an action or special proceeding in which the taxpayer may become entitled to property or a money judgment, a lien created pursuant to Section 42431 shall extend to the taxpayer's cause of action and any judgment in favor of the taxpayer subsequently procured in such action or proceeding. Notice of such a lien shall be given to all parties who prior thereto have made an appearance in the action and to judgment creditors who prior thereto have been granted a lien or an order permitting intervention under Section 688.1 of the Code of Civil Procedure. Such lien shall have priority from the time of filing

of the notice in the action. No compromise, dismissal, settlement, or satisfaction shall be entered into by or on behalf of the taxpayer with any other party, lienor, or intervenor in the action without the consent of the board unless the lien is sooner satisfied or discharged. The clerk or judge of the court shall endorse upon the judgment recovered in such action or proceeding a statement of the existence of the lien, the time of the filing of the notice in the action, and the place where entered, and any abstract issued upon the judgment shall contain, in addition to the matters set forth in Sections 674 and 688.1 of the Code of Civil Procedure, a statement of the lien in favor of the board.

42438. The board may at any time release all or any portion of the property subject to any lien provided in this part from the lien or subordinate the lien to other liens and encumbrances if it determines that the amount, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien will not jeopardize the collection of the amount, interest, and penalties.

42439. The board may release any lien imposed under this article if it finds that the liability represented by the lien, including any interest accrued thereon, is legally unenforceable.

42440. A certificate by the board to the effect that any property has been released from the lien or that the lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

Article 5. Warrant for Collection of Assessment

42445. At any time within three years after any person is delinquent in the payment of any amount required by this part to be paid, or within 10 years after the last recording of an abstract under Section 42422 or the recording or filing of a notice of state tax lien under Section 42432 or 42433, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

42446. The board may pay or advance to the sheriff, marshal, or constable, the same fees, commissions, and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

42447. The fees, commissions, and expenses are the obligation of the person required to pay any amount under this part and may be collected from him by virtue of the warrant or in any other manner

provided in this part for the collection of the assessment.

Article 6. Seizure and Sale

42450. At any time within three years after any person is delinquent in the payment of any amount, the board may forthwith collect the amount in the following manner: The board shall seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any interest or penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

Any seizure made to collect an assessment due shall be only of property not exempt from execution under the provisions of the Code of Civil Procedure.

42451. Notice of the sale and the time and place thereof shall be given to the delinquent person in writing at least 10 days before the date set for the sale in the following manner: The notice shall be enclosed in an envelope addressed to the person at the person's last known address or place of business in this state. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county 10 days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due, including interest, penalties, and costs, the name of the delinquent, and the further statement that unless the amount due, interest, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

42452. At the sale the board shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests the interest or title of the person liable for the amount in the purchase. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

42453. If upon the sale the moneys received exceed the total of all amounts, including interest, penalties, and costs due the state, the board shall return the excess to the person liable for the amounts and obtain his receipt. If any person having an interest in or lien upon the property files with the board prior to the sale notice of the person's interest or lien, the board shall withhold any excess pending a determination of the right of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the board shall deposit the excess moneys with the State Treasurer, as trustee for the owner, subject to the order of the person liable for the amount, his heirs,

successors, or assigns.

Article 7. Payment on Termination of Business and Successor's Liability

42460. If any person liable for any amount under this part sells out his business or stock of goods or quits the business, that person's successor or assignee shall withhold sufficient amount of the purchase price to cover such amount until the former owner produces a receipt from the board showing that it has been paid or a certificate stating that no amount is due.

42461. If the purchaser of a business or stock of goods does not withhold purchase price as required, the purchaser shall become personally liable for the payment of the amount required to be withheld, to the extent of the purchase price valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event not later than 90 days after receiving the request or 90 days from the date of the sale of the business or stock of goods, whichever period expires the later, the board shall either issue the certificate or mail notice to the purchaser at the purchaser's address as it appears on the records of the board of the amount that is required to be paid as a condition of issuing the certificate. If the board does not mail the notice, the purchaser shall be released from any further obligation to withhold purchase price as provided in this section. The time within which the obligation of the successor or assignee may be enforced shall start to run at the time the person sells out his business or stock of goods or at the time that the determination against the person becomes final, whichever event occurs the later.

42462. If, at the time a business is discontinued, the board holds security pursuant to Section 42400 in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions, such security when applied to the account of the taxpayer shall be deemed to be a payment on account of any liability of the taxpayer to the board on the date the business is discontinued.

Article 8. Miscellaneous Provisions

42470. The board shall report to the State Controller the amount of collections under this part, and the State Controller shall keep a record thereof.

42471. The remedies of the state provided in this part are cumulative, and no action taken by the board or the Attorney General constitutes an election by the state to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

42472. In all proceedings under this part the board may act on

behalf of the people of the State of California.

CHAPTER 6. OVERPAYMENTS AND REFUNDS

Article 1. Claim for Refund

42500. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person or the person's successor or assignee, administrator, or executor.

In the case, however, of a determination by the board that an amount not exceeding five thousand dollars ($5,000) was not required to be paid under this part, the board, without obtaining approval of the State Board of Control, may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or the person's successor or assignee, administrator, or executor.

42501. (a) Except as provided in subdivision (b), no refund shall be approved by the board after three years from the last day of the second calendar month following the close of the calendar year or other period for which the overpayment was made, or, with respect to determinations made under Article 2, 3, or 4 of Chapter 4 of this part, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the board within such period. No credit shall be approved by the board after the expiration of such period unless a claim for credit is filed with the board within such period, or unless the credit relates to a period for which a waiver is given pursuant to Section 42328.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 42328 if a claim therefor is filed with the board before the expiration of the period agreed upon.

42502. Every claim shall be in writing and shall state the specific grounds upon which the claim is founded.

42503. Failure to file a claim within the time prescribed in this article constitutes a waiver of any demand against the state on account of overpayment.

42504. Within 30 days after disallowing any claim in whole or in part, the board shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency

determination.

42505. Interest shall be paid upon any overpayment of any amount of assessment at the rate of 1 percent per month from the last day of the second calendar month following the close of the calendar year or other period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the board that a claim to be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the assessment or amount against which the credit is applied.

42506. (a) If the board determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

(b) If any person who has filed a claim for refund requests the board to defer action on the claim, the board, as a condition to deferring action, may require the claimant to waive interest for the period during which the person requests the board to defer action on the claim.

Article 2. Suit for Refund

42510. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this part of any assessment or any amount of assessment required to be collected.

42511. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Article 1 (commencing with Section 42500) of this chapter.

42512. Within 90 days after the mailing of the notice of the board's action upon a claim filed pursuant to Article 1 (commencing with Section 42500) of this chapter, the claimant may bring an action against the board on the grounds set forth in the claim in a court of competent jurisdiction in any city or city and county of this state in which the Attorney General has an office for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

Failure to bring action within the time specified constitutes a waiver of any demand against the state on account of alleged overpayments.

42513. If the board fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the mailing of notice by the board of its action on the claim, consider the claim disallowed and bring an action against the board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

42514. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any assessment or amount of assessment due and payable from the plaintiff. The balance of the judgment shall be refunded to the plaintiff.

42515. In any judgment, interest shall be allowed at the rate of 12 percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

42516. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

Article 3. Recovery of Erroneous Refunds

42520. The State Controller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California.

42521. The action shall be tried in the County of Sacramento unless the court, with the consent of the Attorney General, orders a change of place of trial.

42522. The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

Article 4. Res Judicata

42525. In the determination of any case arising under this part the rule of res judicata is applicable only if the liability involved is for the same annual period as was involved in another case previously determined.

Article 5. Cancellations

42530. If any amount in excess of five thousand dollars ($5,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and

certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

CHAPTER 7. ADMINISTRATION

42600. The board shall enforce the provisions of this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

42601. The board may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of this part and may designate representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by this part or other laws of this state upon the board.

42602. Every taxpayer shall keep such records, receipts, invoices, and other pertinent papers in such form as the board may require.

42603. The board or any person authorized in writing by it may examine the books, papers, records, and equipment of any person liable for the assessment under this part and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

42604. In the administration of the assessment the board may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property by any taxpayer. The reports shall be filed when the board requires and shall set forth the names and addresses of purchasers, the sales price, the date of sale, and such other information as the board may require.

42605. It is unlawful for the board or any person having an administrative duty under this part to make known in any manner whatever, the business affairs, operations, or any other information pertaining to any person required to report to the board or pay an assessment pursuant to this part, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person. However, the Governor may, by general or special order, authorize examination by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person of the records maintained

by the board under this part. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid assessment or amounts of assessment required to be collected, interest, and penalties.

42606. Notwithstanding any other provision of law, the board may examine the records of the Department of Benefit Payments or the Employment Development Department, or any agency succeeding to the functions of those departments, for the purpose of determining the number of employees of any person subject to assessment under this part.

CHAPTER 8. DISPOSITION OF PROCEEDS

42651. Money collected pursuant to this part shall be deposited in the State Treasury to the credit of the State Litter Control, Recycling, and Resource Recovery Fund. The money in the fund is hereby continuously appropriated for the 1978–79 to 1982–83, inclusive, fiscal years, for the purposes specified in this chapter.

42652. The money in the State Litter Control, Recycling, and Resource Recovery Fund shall, upon order of the State Controller, be drawn therefrom as follows:

(a) To pay the refunds authorized by this part.

(b) To pay the State Board of Equalization for the cost of administration of this part.

(c) The balance to be expended by the State Solid Waste Management Board, as provided in Title 7.8 (commencing with Section 68000) of the Government Code.

CHAPTER 9. VIOLATIONS

42700. Any person who does not furnish, or refuses to furnish, any return required to be made, or who does not furnish, or refuses to furnish, a supplemental return or other data required by the board, is guilty of a misdemeanor and subject to a fine of not exceeding five hundred dollars ($500) for each offense.

42701. Any person required to make, render, sign, or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made, is guilty of a misdemeanor. Such person shall for each offense be fined not less than three hundred dollars ($300) and not more than five thousand dollars ($5,000), or be imprisoned for not exceeding one year in the county jail, or be subject to both the fine and imprisonment in the discretion of the court.

42702. Any violation of this part, except as otherwise provided, is a misdemeanor.

42703. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after the commission of the offense.

SEC. 18. Section 8 of Chapter 1161 of the Statutes of 1977 is repealed.

SEC. 19. The sum of two million dollars ($2,000,000), or so much thereof as may be necessary, is hereby appropriated from the General Fund to the State Controller for allocation as a loan, upon order of the Director of Finance, to the State Litter Control, Recycling, and Resource Recovery Fund. The money thus allocated may be encumbered by the State Solid Waste Management Board and the State Board of Equalization during the 1977–78 fiscal year for the purposes specified in Section 42652 of the Revenue and Taxation Code and shall be repaid during the 1978–79 fiscal year on such terms and conditions as the Director of Finance may prescribe.

SEC. 20. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 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, because self-financing authority is provided in this act to cover such costs.

SEC. 21. This act shall remain in effect only until July 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date; provided, however, that Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code as it exists on June 30, 1983, if not continued in effect beyond that date, shall remain applicable for the collection of assessments, the liability for which accrued prior to July 1, 1983; the making of any refunds; the effecting of any credits; the disposition of money collected; and the commencement of any action or proceeding pursuant to that part.

SEC. 22. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect, except that the provisions of Part 19 (commencing with Section 39000) of Division 2 of the Revenue and Taxation Code, as existing on January 31, 1978, shall remain applicable for the collection of assessments the liability for which accrued prior to the effective date of this act, the making of any refunds, the effecting of any credits, the disposition of money collected, and the commencement of any action or proceeding pursuant to that part; provided, however, that a person shall not be subject to assessment under that part for business activities during the period January 1, 1978, to the effective date of this act to the extent that those activities are subject to assessment under Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code.

CHAPTER 88

An act to amend Section 66426 of the Government Code, relating to subdivisions.

[Approved by Governor April 10, 1978. Filed with Secretary of State April 11, 1978.]

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

SECTION 1. Section 66426 of the Government Code is amended to read:

66426. A tentative and final map shall be required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil Code, or a community apartment project containing five or more parcels, except where:

(a) The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway and no dedications or improvements are required by the legislative body, or

(b) Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway, or

(c) The land consists of a parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the governing body as to street alignments and widths, or

(d) Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.

A parcel map shall be required for those subdivisions described in subdivisions (a), (b), (c), and (d).

CHAPTER 89

An act to amend Section 987.57 of the Military and Veterans Code, relating to veterans' farm and home purchases.

[Approved by Governor April 10, 1978. Filed with Secretary of State April 11, 1978.]

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

SECTION 1. Section 987.57 of the Military and Veterans Code is amended to read:

987.57. (a) On and after January 1, 1981, all applications for the benefits contained in this article shall be filed with the department

within 25 years from the date of the applicant's discharge from the service, or release from active duty, except applications filed by either:

(1) Veterans who were wounded or are disabled as a result of wartime service; or

(2) Veterans who were previously declared prisoners of war.

(b) The department shall conduct a public information program designed to inform veterans of the provisions of subdivision (a).

CHAPTER 90

An act relating to alcoholic beverages, including the repeal of Section 172.85 of the Penal Code, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature April 13, 1978. Filed with Secretary of State April 13, 1978]

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

SECTION 1. Section 172.85 of the Penal Code is repealed.

SEC. 2. Notwithstanding the provisions of Sections 172, 172a, 172b, 172d, 172f, and 172g of the Penal Code, the Department of Alcoholic Beverage Control may issue a retail off-sale alcoholic beverage license to any person who owns premises within one and one-half miles of the California Institute of Technology provided:

(a) The premises was licensed for the off-sale of alcoholic beverages within the past four years from the effective date of this section;

(b) Application is made within 30 days from the effective date of this section; and

(c) The applicant is otherwise qualified to be issued such off-sale license.

This section shall be operative until January 1, 1979, and on such date is repealed.

SEC. 3. Notwithstanding the repeal of Section 2 of this act, a license issued pursuant to this act shall be entitled to the same privileges, including renewal, and shall be subject to the same restrictions as any other off-sale license issued pursuant to Division 9 (commencing with Section 23000) of the Business and Professions 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:

Inadvertent error was made in Chapter 663 of the Statutes of 1977, and this statute is essential to expedite correction of that error.

CHAPTER 91

An act to amend Section 1523 of the Health and Safety Code, relating to community care facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 14, 1978. Filed with Secretary of State April 14, 1978]

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

SECTION 1. Section 1523 of the Health and Safety Code is amended to read:

1523. No fee shall be charged by the state department for the issuance or renewal of a license or special permit or for processing any application therefor.

No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

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:

It is alleged that the fees payable by community care facilities under existing law are not applicable equally to all community care facilities. In order to equalize the treatment of community care facilities at as early a time as possible, it is necessary for this act to take effect immediately.

CHAPTER 92

An act to amend Sections 5087, 5561, and 7309.7 of, and to add Sections 5078, and 5158 to, the Business and Professions Code, and to amend Section 2 of Chapter 1433 of the Statutes of 1976, relating to business and professions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 14, 1978 Filed with Secretary of State April 14, 1978]

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

SECTION 1. Section 2 of Chapter 1433 of the Statutes of 1976 is amended to read:

Sec. 2. This act shall become operative January 1, 1980.

SEC. 2. Section 5078 is added to the Business and Professions Code, to read:

5078. In each office of a certified public accountant or public

accountant in this state which is not under the personal management of such an accountant, respectively, work shall be supervised by a certified public accountant or public accountant.

SEC. 3. Section 5087 of the Business and Professions Code is amended to read:

5087. The board may waive the examination requirements contained in Section 5082 and issue a certificate as a certified public accountant to any applicant who is a holder of a valid and unrevoked certificate as a certified public accountant issued under the laws of any state, or who is the holder of a comparable certificate or degree issued in a foreign country, if the board determines that the standards under which the applicant received such certificate or degree were as high as the standards established in this article and the applicant also complies with the following:

(1) He shall be over the age of 18, but shall not have committed acts or crimes constituting grounds for the denial of a certificate under Section 480; and

(2) He must be a bona fide resident of California, or have a place in California for the regular practice of public accountancy and be actively engaged in such practice although not necessarily so engaged personally in California.

SEC. 4. Section 5158 is added to the Business and Professions Code, to read:

5158. Each office of an accountancy corporation engaged in the practice of public accountancy in this state shall be managed by a certified public accountant or public accountant.

SEC. 5. Section 5561 of the Business and Professions Code is amended to read:

5561. All accusations against licensees charging the holder of a certificate issued under this chapter with the commission of any act constituting a cause for disciplinary action shall be filed with the board within three years after the act or omission alleged as the ground for such disciplinary action, except that with respect to an accusation alleging a violation of Section 5579, the accusation may be filed within three years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by Section 5579.

SEC. 6. Section 7309.7 of the Business and Professions Code is amended to read:

7309.7. Public members of the board may assist in the preparation or review of an examination administered by the board, but no board member who participates in the management of a school shall directly assist in the preparation, approval, or review of such examinations.

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 provide immediate regulation which will protect the

public from current practices of various licensees and to provide an orderly transition to a new area of regulation, it is necessary that this act go into immediate effect.

CHAPTER 93

An act to add Section 712 to the Evidence Code, relating to witnesses.

[Approved by Governor April 14, 1978. Filed with Secretary of State April 14, 1978]

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

SECTION 1. Section 712 is added to the Evidence Code, to read:

712. Notwithstanding Sections 711 and 1200, at the trial of a criminal action, evidence of the technique used in taking blood samples may be given by a registered nurse, licensed vocational nurse, or licensed clinical laboratory technologist or clinical laboratory bioanalyst, by means of an affidavit. The affidavit shall be admissible, provided the party offering the affidavit as evidence has served all other parties to the action, or their counsel, with a copy of the affidavit no less than 10 days prior to trial. Nothing in this section shall preclude any party or his counsel from objecting to the introduction of the affidavit at any time, and requiring the attendance of the affiant, or compelling attendance by subpoena.

CHAPTER 94

An act to amend Section 71004 of, and to add Section 66604.5 to, the Education Code, relating to postsecondary education.

[Approved by Governor April 14, 1978 Filed with Secretary of State April 14, 1978]

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

SECTION 1. Section 66604.5 is added to the Education Code, to read:

66604.5. Each appointive trustee shall receive actual and necessary travel expenses and fifty dollars ($50) for each day he or she is attending to official business.

SEC. 2. Section 71004 of the Education Code is amended to read:

71004. Members of the board shall receive their actual and necessary traveling expenses while on official business. Each member shall also receive fifty dollars ($50) for each day he or she is attending to official business. The headquarters of the board and

the chief executive officer shall be in Sacramento.

CHAPTER 95

An act to repeal Chapter 491 of the Statutes of 1971, Chapter 1435 of the Statutes of 1972, and Chapter 1021 of the Statutes of 1974, relating to the transfer of the real property of the DeWitt State Hospital facility.

[Approved by Governor April 14, 1978. Filed with Secretary of State April 14, 1978]

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

SECTION 1. To accomplish a public purpose, the County of Placer shall quitclaim to the state all interests of the county in the real property and appurtenances thereto, of the DeWitt State Hospital facility, described as follows:

All that certain real property situate in the Northeast one-quarter (NE ¼) of the Northeast one-quarter (NE ¼) of Section 32, Township 13 North, Range 8 East, M.D.M., Placer County, California, described as follows:

Beginning at a point on the East line of said Section 32, from which point the Northeast corner thereof bears North 01° 33' 20" East 60.06 feet; thence from said POINT OF BEGINNING along said East line South 01° 33' 20" West 563.45 feet; thence leaving said East line and running parallel to the North line of said Northeast one-quarter (NE ¼) South 88° 59' 25" West 355.00 feet; thence leaving said line South 53° 10' 00" West 585.18 feet to a point which lies 197.65 feet Northeasterly at right angles from the fence on the Westerly side of the Nevada Irrigation District ditch; thence along a line 197.69 feet distant from and parallel to said fence North 37° 06' 02" West 807.59 feet to the Southwest corner of that certain parcel of land conveyed to Mount Vernon Grange No. 453 by deed recorded in Volume 371 at Page 481 Placer County Official Records which corner lies on the West line of the East Half of said Northeast one-quarter; thence along the South and East lines of said Grange Parcel the following two (2) courses and distances (1) North 88° 59' 25" East 208.70 feet and (2) North 01° 04' 08" East 252.96 feet to a point 60.00 feet Southerly at right angles from the North line of said Northeast one-quarter (NE ¼); thence along a line 60.00 feet distant from and parallel to said North line North 88° 59' 25" East 1112.55 feet to the point of beginning, and containing 17.83 Acres more or less.

SEC. 2. To accomplish a public purpose of broad public benefit the Director of General Services shall quitclaim to the County of Placer all of the state's right, title and interests in and to the real property and appurtenances thereto, located in the County of Placer, described in deed dated June 22, 1972, recorded in Book 1429,

Page 92; excepting therefrom the portion of the property described in deed dated May 29, 1970, recorded in Book 1298, Page 680, also excepting therefrom the property described in Section 1 hereof.

SEC. 3. The transfer authorized by Sections 1 and 2 shall be made without charge.

SEC. 4. Chapter 491 of the Statutes of 1971 is repealed.

SEC. 5. Chapter 1435 of the Statutes of 1972 is repealed.

SEC. 6. Chapter 1021 of the Statutes of 1974 is repealed.

SEC. 7. The Director of General Services, with approval of the State Public Works Board, is hereby authorized to sell all or any part of the real property described in Section 1, 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.

SEC. 8. The provisions of Article 8 (commencing with Section 25520) of Chapter 5, Part 2, Division 2, Title 3 of the Government Code requiring competitive bidding shall not be applicable to any lease of a portion of the real property conveyed to the County of Placer pursuant to Section 2 of this act, unless the lease includes a provision whereby the lessee may purchase the leased premises.

SEC. 9. As to any property sold, transferred, or exchanged pursuant to Section 1 and 2 of this act and containing 10 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to any such property sold, transferred, or exchanged containing more than 10 acres, the Director of General Services shall except and reserve in the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine and remove such deposits. Such rights to prospect for, mine and remove shall be limited to those areas of the property conveyed which the director determines to be reasonably necessary for the removal of such resources and deposits.

CHAPTER 96

An act making an appropriation to the Department of Justice to pay the claims of Pete J. Gonzales and Susan Gonzales, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 14, 1978 Filed with Secretary of State April 14, 1978.]

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

SECTION 1. The sum of seven hundred fifteen thousand dollars ($715,000) is hereby appropriated from the General Fund to the Department of Justice for payment of claims of Pete J. Gonzales and Susan Gonzales against the State of California in the actions

captioned Pete J. Gonzales v. State of California, et al., No. SOC 36058, and Susan Gonzales v. State of California, et al., No. SOC 37553, both brought in the superior court for the County of Los Angeles. However, this appropriation shall be conditioned upon the receipt and deposit in the General Fund of one hundred thirty-five thousand dollars ($135,000) from the insurance company of the claimant's employer.

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

In order to pay the claims of Pete J. Gonzales and Susan Gonzales and end a hardship to these persons as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 97

An act to amend Sections 44265 and 56725 of the Education Code, relating to teaching credentials.

[Approved by Governor April 14, 1978 Filed with Secretary of State April 14, 1978]

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

SECTION 1. Section 44265 of the Education Code is amended to read:

44265. The minimum requirements for specialist instruction credentials are:

(a) A valid teaching credential; and

(b) Such specialized and professional preparation as the commission may require and is required by other provisions of this code.

In adopting the necessary rules and regulations, the commission shall emphasize appropriate professional specialized preparation at both the undergraduate and postgraduate level; and supervised participation or student teaching, or equivalent experience in the public schools or institutions; or private schools or institutions of equivalent status.

Specialist instruction includes, but is not limited to, those specialties requiring advanced preparation or special competence, as enumerated:

(a) Early childhood education,

(b) Reading specialist,

(c) Mathematics specialist, and

(d) Specialists in special education, which may include teachers of the mentally retarded, educationally handicapped, physically handicapped, and specialists in the teaching of pupils with speech

and hearing disorders.

(e) Teachers of the blind and partially seeing.

Preparation programs which result in concurrent issuance of a specialist credential and a teaching credential may be approved by the commission.

SEC. 2. Section 56725 of the Education Code is amended to read:

56725. (a) No person shall be employed to teach deaf, hard-of-hearing, speech-handicapped, or orthopedically handicapped pupils in a special day or remedial class for such pupils who does not hold a valid credential authorizing such teaching or a designated subject credential in the area of vocational education.

(b) No person shall be employed to teach blind or partially seeing in a special day or remedial class for such pupils unless the person (1) holds a valid specialist instruction credential for teaching blind and partially seeing pupils pursuant to Section 44265, or (2) was issued a specialist instruction credential in special education on or prior to January 1, 1981.

Nothing herein shall be construed as to limit in any way participation of blind and partly sighted students in regular classroom programs.

Nothing herein shall be deemed to prohibit the employment, as a substitute teacher of each such special day class for not more than 20 schooldays in any school year, of a person holding some other valid credential authorizing substitute teaching. Upon application by the school district or county superintendent of schools the Superintendent of Public Instruction may approve an extension of the 20-day period for a given person but not beyond the end of the school year in which submitted.

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.

SEC. 4. This act shall become operative on September 1, 1979.

CHAPTER 98

An act to amend Section 601 of the Code of Civil Procedure, and to amend Sections 1070 and 1070.5 of the Penal Code, relating to juries.

[Approved by Governor April 18, 1978. Filed with Secretary of State April 18, 1978.]

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

SECTION 1. Section 601 of the Code of Civil Procedure is amended to read:

601. Challenges are to individual jurors and are either

peremptory or for cause.

Each party is entitled to challenges for cause.

If there are only two parties, each party shall be entitled to six peremptory challenges. If there are more than two parties, the court shall, for the purpose of allotting peremptory challenges, divide the parties into two or more sides according to their respective interests in the issues. Each side shall be entitled to eight peremptory challenges. If there are several parties on a side, the court shall divide the challenges among them as nearly equally as possible. If there are more than two sides, the court shall grant such additional peremptory challenges to a side as the interests of justice may require; provided that the peremptory challenges of one side shall not exceed the aggregate number of peremptory challenges of all other sides. If any party on a side does not use his full share of peremptory challenges, the unused challenges may be used by the other party or parties on the same side.

Peremptory challenges shall not be taken until the panel is full and then must be taken or passed by the sides alternately, commencing with the plaintiff. When each side passes consecutively, the jury shall then be sworn, unless the court, for good cause, shall otherwise order. The number of peremptory challenges remaining with a side shall not be diminished by any passing of a peremptory challenge.

SEC. 2. Section 1070 of the Penal Code is amended to read:

1070. (a) If the offense charged be punishable with death, or with imprisonment in the state prison for life, the defendant is entitled to 26 and the state to 26 peremptory challenges. Except as provided in subdivision (b), on a trial for any other offense, the defendant is entitled to 10 and the state to 10 peremptory challenges.

(b) If the offense charged be punishable with a maximum term of imprisonment of 90 days or less, the defendant is entitled to six and the state to six peremptory challenges.

SEC. 3. Section 1070.5 of the Penal Code is amended to read:

1070.5. (a) Except as provided in subdivision (b), when two or more defendants are jointly tried for any public offense, whether felony or misdemeanor, the state and the defendants shall be entitled to the number of challenges prescribed by Section 1070, which challenges on the part of the defendants must be exercised jointly. Each defendant shall also be entitled to five additional challenges which may be exercised separately; the state shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

(b) When two or more defendants are jointly tried for any offense punishable with a maximum term of imprisonment of 90 days or less, the state and the defendants shall be entitled to the number of challenges prescribed by Section 1070, which challenges on the part of the defendants must be exercised jointly. Each defendant shall also be entitled to four additional challenges which may be exercised separately; the state shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

CHAPTER 99

An act to amend Sections 73354.5, 73356, and 73358 of the Government Code, relating to courts.

[Approved by Governor April 18, 1978. Filed with Secretary of State April 18, 1978]

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

SECTION 1. Section 73354.5 of the Government Code is amended to read:

73354.5. In a municipal court district having four judges, the following positions are authorized:

(a) One (1) marshal.

(b) One (1) deputy marshal sergeant.

(c) Twelve (12) deputy marshals.

(d) One (1) supervising process clerk.

(e) One (1) process clerk.

(f) Six (6) deputy clerks II or deputy clerks I, not to exceed a combined total of six positions at any one time.

(g) Ten (10) deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

(h) Five (5) reserve deputies who shall not be salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

SEC. 2. Section 73356 of the Government Code is amended to read:

73356. In a municipal court district having three judges, the following positions are authorized:

(a) One (1) marshal.

(b) One (1) deputy marshal sergeant.

(c) Twelve (12) deputy marshals.

(d) One (1) supervising process clerk.

(e) One (1) process clerk.

(f) Six (6) deputy clerks II or deputy clerks I, not to exceed a combined total of six positions at any one time.

(g) Ten (10) deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall

be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

(h) Five (5) reserve deputies who shall not be salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

SEC. 3. Section 73358 of the Government Code is amended to read:

73358. In a municipal court district having two judges, the following positions are authorized:

(a) One (1) marshal.

(b) One (1) deputy marshal sergeant.

(c) Six (6) deputy marshals.

(d) One (1) process clerk.

(e) Four (4) deputy clerks II or deputy clerks I, not to exceed a combined total of four positions at any one time.

(f) Ten (10) deputies, who serve as custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

(g) Five (5) reserve deputies who shall not be salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

CHAPTER 100

An act to amend Section 4488 of the Welfare and Institutions Code, relating to state hospitals.

[Approved by Governor April 18, 1978. Filed with Secretary of State April 18, 1978]

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

SECTION 1. Section 4488 of the Welfare and Institutions Code is amended to read:

4488. As often as a vacancy occurs in a hospital under the jurisdiction of the Director of Developmental Services, he shall appoint, as provided in Section 4481, a clinical director, a hospital administrator, a hospital director, a medical program director, and program directors.

A hospital administrator shall be a college graduate preferably

with an advanced degree in hospital, business or public administration and shall have had experience in this area. He shall receive a salary which is competitive with other private and public mental hospital administrators.

A clinical director for a state hospital for the developmentally disabled shall be a person who is a physician, psychologist, registered nurse, clinical social worker, physical therapist or psychiatric technician, and licensed as such pursuant to the Business and Professions Code, or a person who is a rehabilitation therapist, or a person who possesses a valid and unrevoked teaching credential which authorizes specialist instruction in special education in grades kindergarten through 12 or in the community college, or a person who has had at least five years of experience teaching the developmentally disabled. The clinical director for any state hospital shall be well qualified by training or experience to have proven skills in mental hospital program administration.

The hospital director shall be either the hospital administrator or the clinical director. He shall be selected based on his overall knowledge of the hospital, its programs, and its relationship to its community, and on his demonstrated abilities to administer a large facility.

The standards for the professional qualifications of a program director shall be established by the Director of Developmental Services for each patient program. The director shall not adopt any regulations which prohibit a licensed psychiatrist, psychologist, psychiatric technician, or clinical social worker from employment in a patient program in any professional, administrative, or technical position; provided, however, that the program director of a medical-surgical unit shall be a licensed physician.

If the program director is not a physician, a physician shall be available to assume responsibility for all those acts of diagnosis, treatment, or prescribing or ordering of drugs which may only be performed by a licensed physician.

A medical program director for a state hospital for the developmentally disabled shall be a physician who has passed, or shall pass, an examination for a license to practice medicine in California and who shall be a qualified specialist in a branch of medicine which includes diseases affecting the brain and nervous system, and the care, treatment, and habilitation of the developmentally disabled.

CHAPTER 101

An act to add Section 14016.1 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor April 19, 1978. Filed with Secretary of State April 20, 1978.]

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

SECTION 1. Section 14016.1 is added to the Welfare and Institutions Code, to read:

14016.1. If a patient at a health facility operated by the county either directly or through contract is received in a comatose condition or suffering from amnesia and dies before he is able to cooperate in providing information necessary to a determination of Medi-Cal eligibility, the patient shall be presumed eligible. However, such presumption may be rebutted by the department. All costs incurred in providing care to such patient under such presumption shall be reimbursable to the extent permitted by federal statutes and regulations. If such a patient subsequently is determined ineligible, the department shall make reasonable efforts to recover the costs of care incurred during the period of presumptive eligibility and shall have the right to seek restitution in a civil action.

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 there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 102

An act to amend Section 770.3 of the Insurance Code, relating to insurance.

[Approved by Governor April 19, 1978 Filed with Secretary of State April 20, 1978]

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

SECTION 1. Section 770.3 of the Insurance Code is amended to read:

770.3. No state department or agency shall negotiate any life or disability insurance or require the placing of such insurance through particular agents, brokers, or companies, except to the extent that the state has a direct financial interest in the subject of the insurance. The state has no financial interest in an annuity purchased for an employee where the premium therefor is paid from a deduction from or reduction in the employee's salary, and any annuity paid for through such a deduction or reduction shall not be deemed to have been provided by the state for its employees for purposes of this section, and the state shall not negotiate or require the placing of such annuity through particular agents, brokers, or companies. Nothing herein contained shall affect the program of life and

disability insurance in connection with veterans' farm and home purchases through the Department of Veterans Affairs except that the total life insurance benefit under said program shall in no event exceed one hundred twenty percent (120%) of the unpaid contract balance. Except in those cases where the premium for an annuity is paid entirely from a deduction from or reduction in an employee's salary, nothing contained herein shall affect life or disability insurance programs which may be provided by the state for its employees.

Notwithstanding anything in this section to the contrary, in any case in which a tax-sheltered annuity under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 is to be placed or purchased for an employee, the employee shall have the right to designate the licensed agent, broker, or company through whom the employee's employer shall arrange for the placement or purchase of the tax-sheltered annuity. In any case in which the employee has designated such an agent, broker, or company, the employer shall comply with such designation.

As used in this section, "state department or agency" shall include, but not be limited to, school districts and the University of California.

This section shall apply to all local governmental agencies, as well as state departments and agencies.

CHAPTER 103

An act to amend Sections 1070 and 1070.5 of the Penal Code, relating to juries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 19, 1978. Filed with Secretary of State April 20, 1978.]

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

SECTION 1. Section 1070 of the Penal Code is amended to read:

1070. (a) If the offense charged be punishable with death, or with imprisonment in the state prison for life, the defendant is entitled to 26 and the state to 26 peremptory challenges. Except as provided in subdivision (b), on a trial for any other offense, the defendant is entitled to 13 and the state to 13 peremptory challenges.

(b) If the offense charged be punishable with a maximum term of imprisonment of 90 days or less, the defendant is entitled to six and the state to six peremptory challenges.

SEC. 2. Section 1070.5 of the Penal Code is amended to read:

1070.5. (a) Except as provided in subdivision (b), when two or more defendants are jointly tried for any public offense, whether felony or misdemeanor, the state and the defendants shall be entitled

to the number of challenges prescribed by Section 1070 of this code, which challenges on the part of the defendants must be exercised jointly. Each defendant shall also be entitled to seven additional challenges which may be exercised separately; the state shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

(b) When two or more defendants are jointly tried for any offense punishable with a maximum term of imprisonment of 90 days or less, the state and the defendants shall be entitled to the number of challenges prescribed by Section 1070, which challenges on the part of the defendants must be exercised jointly. Each defendant shall also be entitled to four additional challenges which may be exercised separately; the state shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1063 are both chaptered and become effective on or before January 1, 1979, both bills amend Sections 1070 and 1070.5 of the Penal Code, and this bill is chaptered after Senate Bill No. 1063, that Sections 1070 and 1070.5 of the Penal Code, as amended by Sections 1 and 2 of this act, shall remain operative until the effective date of Senate Bill No. 1063, and on that date, Sections 1070 and 1070.5 as amended by Senate Bill No. 1063 shall prevail over the amendments to those sections made by this bill. Therefore, if this bill and Senate Bill No. 1063 are both chaptered and become operative on or before January 1, 1979, and this bill is chaptered after Senate Bill No. 1063, Sections 1070 and 1070.5 of the Penal Code as amended by this bill shall become operative on the effective date of this act, but on the effective date of Senate Bill No. 1063, the amendments to Sections 1070 and 1070.5 made by Senate Bill No. 1063 shall prevail over the amendments to those sections made by this bill.

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:

Due to technical error, Chapter 1260 of the Statutes of 1977 was not chaptered in time to take effect on January 1, 1978, as intended. Accordingly, in order for the provisions of that chapter to take effect as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 104

An act to add and repeal Section 24050 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

1154 010400

[Approved by Governor April 19, 1978 Filed with Secretary of State April 20, 1978]

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

SECTION 1. Section 24050 is added to the Business and Professions Code, to read:

24050. Notwithstanding any other provision of law, if the department finds that the seasonal business of an on-sale general licensee for seasonal business has been impaired because of conditions resulting from natural disaster, it may issue an extension to such a general license for seasonal business in such an area.

This section shall be operative until December 31, 1978, and on such 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:

The flooding and extraordinary snowfall caused by recent disastrous storms have rendered inaccessible for long periods of time many recreational areas and sports facilities throughout this state. Persons holding on-sale general alcoholic beverage licenses for seasonal business are located in these areas, and rely for most of their business upon those persons who, but for the closing of the areas by storms, would visit the areas for sports and recreational purposes during a part of the year. In many of these areas the on-sale general seasonal licenses issued by the Department of Alcoholic Beverage Control will expire on the last day of March, 1978. Present regulations of the department prohibit the issuance of a seasonal license for more than three consecutive calendar quarters during any 12-month period. The formerly closed areas are once more accessible to visitors, and further great loss of business will result to the holders of these licenses unless the licenses may be extended by the department. It is therefore necessary that this act go into immediate effect.

CHAPTER 105

An act to amend Section 39461 of, and to repeal Section 39493 of, the Food and Agricultural Code, relating to margarine.

[Became law without Governor's signature April 20, 1978 Filed with Secretary of State April 20, 1978]

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

SECTION 1. Section 39461 of the Food and Agricultural Code is amended to read

39461. The following persons shall not place before any patron or

employee, for use as food, any oleomargarine or margarine or any substitute for butter, unless there is displayed in a prominent place in each room where the meals are served, a sign which bears the words: "oleomargarine served here", "margarine served here", or "substitute for butter served here", as the case may be, in blackfaced letters of not less than four inches in height upon a white background, or unless such words are printed on a menu which is furnished to such patrons or employees, in legible type, no smaller than that which is used to describe other food items on the menu, and upon the same portion of the menu where other food items are described, or unless such patron or employee specifically requests that oleomargarine or margarine or any substitute for butter be served to him or her:

(a) The keeper or proprietor, person in charge, or employee of any bakery, hotel, boardinghouse, restaurant, lunch counter, or any other place where food or drink is served to the public.

(b) A person who furnishes board for others than members of his or her own family, or any employee where such board is furnished as compensation or as a part of the compensation of any employee.

SEC. 2. Section 39493 of the Food and Agricultural Code is repealed.

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 106

An act to add Section 24045.6 to the Business and Professions Code, relating to alcoholic beverages, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 21, 1978. Filed with Secretary of State April 21, 1978]

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

SECTION 1. Section 24045.6 is added to the Business and Professions Code, to read:

24045.6. (a) The department may issue a special temporary on-sale wine license to any nonprofit corporation which is exempt from payment of income taxes under the provisions of Section 23701d of the Revenue and Taxation Code and Section 501(c)(3) of the Internal Revenue Code of 1954 of the United States. An applicant for such a license shall accompany the application with a fee of one hundred dollars ($100).

(b) Such a license shall only entitle the licensee to sell wine

bought by, or donated to, such licensee. No such wine shall be sold at less than the minimum retail price therefor, established pursuant to provisions of this division. Notwithstanding any other provision of this division, licensees may donate or sell wine to a nonprofit corporation which obtains a special temporary on-sale license under this section, provided such donations are not made in connection with a sale of an alcoholic beverage.

(c) Such a license shall be for a period not exceeding one day. Only one such license shall be issued to any corporation in any 12-month period.

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 at the earliest possible time designated nonprofit corporations to conduct annual fundraising events it is necessary that this act take immediate effect.

CHAPTER 107

An act to amend Sections 7205, 7208, 7209, 7211, 7211.9, 7214, and 7216 of, and to add Sections 7200.5 , 7209.5, and 7210.6 to, the Business and Professions Code, relating to guide dogs for the blind.

[Approved by Governor April 21, 1978. Filed with Secretary of State April 21, 1978.]

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

SECTION 1. Section 7200.5 is added to the Business and Professions Code, to read:

7200.5. The board shall have exclusive authority in this state to issue licenses for the instruction of blind persons in the use of guide dogs and for the training of guide dogs for use by blind persons. It shall also have exclusive authority in this state to issue licenses to operate schools for the training of guide dogs for the blind, and the instruction of blind persons in the use of guide dogs.

SEC. 2. Section 7205 of the Business and Professions Code is amended to read:

7205. Each member of the board, except the Superintendent of the California School for the Blind and the Director of Rehabilitation or his designated representative, shall receive a per diem and expenses as provided in Section 103. The superintendent and the Director of Rehabilitation or his designated representative shall receive their necessary expenses for each day actually spent in the performance of their duties.

SEC. 3. Section 7208 of the Business and Professions Code is amended to read:

7208. Pursuant to the provisions of the Administrative Procedure Act the board may make such rules and regulations as are reasonably necessary to:

(a) Govern the procedure of the board.

(b) Govern the admission of applicants for examination for license to instruct blind persons in the use of guide dogs or to engage in the business of training, selling, hiring, or being in the business of supplying guide dogs for the blind.

(c) Govern the operation of schools which furnish guide dogs and train blind persons to use guide dogs.

(d) The reissuance of licenses.

(e) The reexamination of licensees.

SEC. 4. Section 7209 of the Business and Professions Code is amended to read:

7209. A person to be eligible for examination as an instructor must (1) have a knowledge of the special problems of the blind and how to teach them, (2) be able to demonstrate by actual blindfold test under traffic conditions his ability to train guide dogs with whom a blind person would be safe, (3) be suited temperamentally and otherwise to instruct blind persons in the use of guide dogs, and (4) have had at least three years' actual experience, comprising such number of hours as the board may require, as an instructor, and have handled twenty-two (22) man-dog units; or its equivalent, as determined by the board, as an apprentice under a licensed instructor or under an instructor in a school satisfactory to the board.

SEC. 4.5. Section 7209.5 is added to the Business and Professions Code, to read:

7209.5. Except as the context otherwise requires, as used in this chapter the term "instructor" means a person who instructs blind persons in the use of guide dogs or who engages in the business of training, selling, hiring, or supplying guide dogs for the blind.

SEC. 5. Section 7210.6 is added to the Business and Professions Code, to read:

7210.6. A person desiring to establish a licensed guide dog school in this state, whose plan of operation has been approved by the State Board of Guide Dogs for the Blind and who has furnished to the board satisfactory evidence of financial responsibility, may secure from such board a license to solicit funds for the establishment of a guide dog training school for a period of one year, provided that:

(a) All funds raised during such one-year period shall be held in a trust and under the control of the trust department of a bank or trust company in this state.

(b) A record of the names and addresses of donors to the fund shall be kept by the fund raiser and furnished to the board on demand with respect to all contributions in excess of ten dollars ($10) in funds or property from any one donor.

(c) In the event sufficient funds have not been raised within one year from the issuance of such license to finance establishment and initial operation of a guide dog school, all such funds, after payment

of the costs of fund raising, and the option to buy land, the cost of which shall not exceed 20 percent of the funds raised, shall be repaid prorata to the donors thereof with respect to any donations in excess of ten dollars ($10) from any one donor.

(d) A fee of fifty dollars ($50) shall be paid upon issuance of a license for advance solicitation. In the discretion of the board, for good cause shown by the applicant, the license for advance solicitation may be extended for one additional year. During the period of advance solicitation, no funds shall be expended for purposes other than the cost of fund raising and the cost of obtaining an option to buy or lease land for a school site.

SEC. 6. Section 7211 of the Business and Professions Code is amended to read:

7211. Each applicant for a license hereunder shall file an application with the secretary of the board at least 10 days before the date fixed for examination, and shall pay to said secretary at the time of filing his application the sum of twenty-five dollars ($25). No license shall be granted until the applicant has satisfactorily completed the examination prescribed by the board and has shown that he is equipped by a school or by equivalent facilities satisfactory to the board to give blind persons at least four weeks' training under traffic conditions. An annual fee of five dollars ($5) shall be required for the renewal of a license.

All fees received under this chapter shall be deposited in the General Fund.

SEC. 7. Section 7211.9 of the Business and Professions Code is amended to read:

7211.9. The board may suspend or revoke a license issued under this chapter if it determines that the licensee or its manager or responsible directing officer has:

(a) Made any false statements or given any false information in connection with an application for a license or a renewal or reinstatement thereof.

(b) Violated any provision of this chapter.

(c) Violated any rule of the board adopted pursuant to the authority contained in this chapter.

(d) Been convicted of a felony or of any crime involving moral turpitude, or has been convicted of any offense involving cruelty to animals. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(e) Committed any act which would be grounds for denial of a license.

SEC. 8. Section 7214 of the Business and Professions Code is amended to read:

7214. The license of a school shall be automatically suspended if there is no licensed instructor in charge of the training of guide dogs and in the instruction of persons in the use of guide dogs. Upon a showing satisfactory to the board that an emergency exists a temporary instructor's permit may be granted under conditions

prescribed by the board.

SEC. 9. Section 7216 of the Business and Professions Code is amended to read:

7216. The board may refuse to issue a license to a school or instructor if the applicant, if an individual, or any officer or partner, if the applicant is other than an individual, has committed any act or crime constituting grounds for denial of licensure under Section 480. Proceedings under this section 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 of the powers granted therein.

CHAPTER 108

An act to amend Sections 25668.1, 25673, 25691, and 25692 of, to add Sections 25666, 25671.1, and 25699.3 to, to repeal and add Article 6 (commencing with Section 25683) of Chapter 7.4 of Division 20 of, and to repeal Sections 25672.1 and 25699.2 of, the Health and Safety Code, and to repeal Section 2 of Chapter 1504 of the Statutes of 1969, relating to radiologic technology, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 26, 1978. Filed with Secretary of State April 26, 1978.]

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

SECTION 1. Section 25666 is added to the Health and Safety Code, to read:

25666. This article is repealed effective January 31, 1982, unless a later enacted statute extends or eliminates such date.

SEC. 1.4. Section 25668.1 of the Health and Safety Code is amended to read:

25668.1. The department may, upon application, on a form prescribed and supplied by the department, by a licentiate of the healing arts, approve the licentiate to give on-the-job training, based on instructional standards prescribed by the department, to a student of radiologic technology if the following requirements are complied with:

(a) The training is restricted to applicants for limited permits in one category or an approved combination of categories.

(b) The training is given by a certified supervisor or operator.

(c) The didactic instruction and clinical experience are equivalent to that required of approved schools for radiologic technology limited permits and shall be outlined by the department in a manual or syllabus.

(d) On-the-job training may not exceed one year for any one student.

(e) There shall not be at any one time more than one student per

licentiate.

(f) Records, subject to department inspection, shall be kept of hours of didactic training given the student and the number and kind of clinical procedures performed by the student. If the licentiate does not choose to give both clinical and didactic on-the-job training, as prescribed by the department, that portion not given by the licentiate shall be taken in a school approved by the department pursuant to Section 25668.

The department may establish and collect fees in an amount sufficient to defray the cost incurred by the department in administering the program of on-the-job training authorized by this section.

SEC. 1.6. Section 25671.1 is added to the Health and Safety Code, to read:

25671.1. It shall be unlawful for any person to direct, order, assist, or abet a violation of Section 25671.

SEC. 2. Section 25672.1 of the Health and Safety Code is repealed.

SEC. 3. Section 25673 of the Health and Safety Code is amended to read:

25673. Certification in radiologic technology pursuant to subdivision (b) or (c) of Section 25668 shall not authorize any of the following:

(a) The use of diagnostic or therapeutic X-ray equipment except under the supervision of a certified supervisor or operator.

(b) The interpretation of any radiograph or a diagnosis based upon it.

(c) The reporting of any diagnosis to a patient except as ordered by a licentiate of the healing arts.

(d) The use of any title or designation indicating or implying the right to practice any of the healing arts.

SEC. 4. Article 6 (commencing with Section 25683) of Chapter 7.4 of Division 20 of the Health and Safety Code is repealed.

SEC. 5. Article 6 (commencing with Section 25683) is added to Chapter 7.4 of Division 20 of the Health and Safety Code, to read:

Article 6. Inspection and Injunctive Proceedings

25683. Any officer, employee, or designated agent of the department may enter at all reasonable times upon any private or public property for the purpose of inspecting and determining whether or not there is compliance with or violation of the provisions of this chapter, or of the rules and regulations promulgated thereunder, and the owner, occupant, or person in charge of such property shall permit such entry and inspection.

25684. Whenever, in the judgment of the department, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any rule, regulation, or order issued thereunder, and at the request of the department, the Attorney General may make

application to the superior court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the department that such person has engaged in or is about to engage in any such acts or practices, a temporary or permanent injunction, restraining order, or other order may be granted.

SEC. 6. Section 25691 of the Health and Safety Code is amended to read:

25691. Certificates and permits may be denied, revoked, or suspended by the department, for any of the following reasons:

(a) Habitual intemperance in the use of any alcoholic beverages, narcotics, or stimulants to such an extent as to incapacitate for the performance of professional duties.

(b) Incompetence or gross negligence in performing radiologic technology functions.

(c) Conviction of practicing one of the healing arts without a license in violation of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(d) Procuring a certificate or permit by fraud, or misrepresentation, or because of mistake.

(e) Use of a designation implying certification as a radiologic technologist by one not so certified.

(f) Nonpayment of fees prescribed in accordance with Section 25694.

(g) Violation of the provisions of Section 25671 or 25673 or any other provision of this chapter or regulation of the department.

(h) Conviction, either within or outside of this state, of a felony or misdemeanor involving moral turpitude, which was committed during the performance of radiologic technology duties. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or misdemeanor involving moral turpitude, which was committed during the performance of radiologic technology duties, is deemed to be a conviction within the meaning of this section. However, upon recommendation of either the court which imposed or suspended sentence of the parole or probation authority having a person under surveillance or having discharged him from surveillance that such person has responded to correctional and rehabilitative processes to a degree which might warrant waiver of the provisions of this section, the department may, at its discretion, take no action pursuant to this subdivision.

SEC. 7. Section 25692 of the Health and Safety Code is amended to read:

25692. Any person who violates or aids or abets the violation of any of the provisions of this chapter or regulation of the department adopted pursuant to this chapter is guilty of a misdemeanor.

SEC. 8. Section 25699.2 of the Health and Safety Code is repealed.

SEC. 9. Section 25699.3 is added to the Health and Safety Code, to read:

25699.3. The department shall keep certificate and permit holders apprised of significant changes in the practice of radiologic

technology and changes in regulation of the practice of radiologic technology through a biannual report. The report shall be furnished to certified radiological technologists and limited permit holders and may be furnished to appropriate licentiates of the healing arts.

SEC. 10. Section 2 of Chapter 1504 of the Statutes of 1969 is repealed.

SEC. 11. 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. 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 the program of on-the-job training of radiologic technology students may be continued, it is necessary that this act go into effect immediately.

CHAPTER 109

An act to amend Sections 4300 and 35041.5 of the Education Code, relating to school attorneys, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 26, 1978 Filed with Secretary of State April 26, 1978.]

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

SECTION 1. Section 4300 of the Education Code is amended to read:

4300. (a) The county counsel, or if there is no county counsel, the district attorney, may provide legal services to the county committee.

(b) In any county in which the board of supervisors has transferred functions and duties to the county board of education pursuant to Section 1080 and the county board of education has agreed to include the expenses of the county committee in the single budget adopted pursuant to Section 1623 for which a county tax is levied, the county committee may appoint legal counsel to be selected by the committee in the same manner as the county superintendent of schools of that county may appoint counsel, and the expenses of such appointment shall be a proper charge against the county school service fund.

SEC. 2. Section 35041.5 of the Education Code is amended to read:

35041.5. Anything in a city, county, or city and county charter to the contrary notwithstanding, the governing board or boards of any school district may, in lieu of appointing an administrative advisor pursuant to Section 35041, or any county board of education or any county superintendent of schools may, appoint a legal counsel and fix and order paid such counsel's compensation as an employee or as an independent contractor. The duties of the legal counsel may include rendering legal advice to the superintendent of schools, the county board of education, and to other officers and employees of the school district or districts and such other administrative duties as may be assigned by the superintendent of schools, the county board of education, and the governing board of the district or governing boards of the districts, and serving as the legal counsel of the superintendent of schools, the county board of education, and the district or districts in the preparation and conduct of school district litigation and administrative proceedings, and rendering advice in relation to school bond and tax increase measures and prepare all legal papers and forms necessary for the voting of school bonds and tax increase measures in the district or districts. The legal counsel shall have been admitted to practice law in the state, and shall not be required to have any certification qualifications. The term "legal counsel" as used herein includes a solo practitioner, partnership, or a law corporation.

The county board of education and the superintendent of schools of the same county shall appoint the same legal counsel.

Neither the county counsel nor the district attorney shall have a duty to perform for the superintendent of schools, the county board of education or a school district or districts any legal services which the legal counsel, while employed by such entities is authorized by this section to perform and which are assigned to legal counsel by the superintendent of schools, the county board of education, or the governing board of a district or governing boards of the districts.

In the event the superintendent of schools, the county board of education or a district or districts ceases to employ legal counsel and requests the resumption of legal services by the county counsel or district attorney, the entity shall notify the county counsel or district attorney of such fact on or before January 1 of the year preceding the fiscal year in which services are to be resumed.

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. The facts constituting such necessity are:

County boards of education and county committees on school district reorganization in those counties in which such committees are fiscally independent from county board of supervisors, are sometimes in need of independent legal counsel. In order to clarify the law in this repsect regarding county boards of education, and in

order to permit county committees on school district reorganization to have the services of such counsel at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 110

An act to amend Section 706 of, to add Sections 706.1 and 706.3 to, and to repeal and add Section 706.2 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 26, 1978. Filed with Secretary of State April 26, 1978.]

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

SECTION 1. Section 706 of the Elections Code is amended to read:

706. Within 60 days after the day of the direct primary or statewide general election, the clerk shall cancel the 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 is not known at the address shown on his affidavit of registration or has moved and left no forwarding address.

SEC. 2. Section 706.1 is added to the Elections Code, to read:

706.1. If a return postal notice, mailed under the provisions of Sections 10007.5 and 10010.1, indicates that a 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 still resides at the old or another domicile within the county.

If such postal notice indicates the voter has moved outside the county, the clerk shall notify the voter that the voter's affidavit of registration shall be cancelled unless the clerk is notified by the voter within 30 days after mailing of such notice that the voter still resides at the old or another domicile within the county. Within 30 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, and shall be designed in a manner which will permit the voter to indicate whether any change of address is temporary or permanent and, if applicable, whether the domicile address, the mailing address, or both are to be corrected on the

affidavit of registration. The provisions of this section shall only apply if a voter failed to vote at the previous direct primary or general election, whichever is later.

SEC. 3. Section 706.2 of the Elections Code is repealed.

SEC. 4. Section 706.2 is added to the Elections Code, to read:

706.2. Any computer tapes of registered voters and any copies of the index to the precinct register which are required to be prepared more than 60 days after a direct primary or statewide general election shall reflect the cancellation of voters and address corrections resulting from the application of Section 706.

SEC. 5. Section 706.3 is added to the Elections Code, to read:

706.3. Before every election and on election day the county clerk shall:

(a) Assign a sufficient number of qualified persons in the office of the clerk to receive and verify claims of erroneous cancellations of affidavits of registration, and cause said affidavits to be immediately reinstated; or

(b) Supply each polling place with a list of voters in the precinct whose affidavits of registration were cancelled as the result of postal notifications received by the clerk preceding the direct primary or statewide general election, whichever occurred last.

At every election the clerk shall provide a page in the Roster of Voters for the signature, under oath, attesting to continuous residency in the precinct, of any voter whose affidavit may have been cancelled because of erroneous postal notification. Cancelled affidavits of registration of voters whose signatures appear on said roster page shall be reinstated by the clerk.

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:

The changes made by this bill are necessary for the November 1978 election.

SEC. 7. 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 111

An act to add Section 73481.5 to the Government Code, relating to courts.

[Approved by Governor April 26, 1978. Filed with Secretary of State April 26, 1978.]

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

SECTION 1. Section 73481.5 is added to the Government Code, to read:

73481.5. There shall be one commissioner. Such commissioner shall exercise, within the jurisdiction of the court, all the powers and perform all the duties authorized by law. Such commissioner shall receive a salary equal to 75 percent of the salary of a judge of the municipal court and shall be entitled to all employee benefits that are provided for or made applicable to the other employees of the court.

SEC. 2. This act shall not become operative until the board of supervisors determines, by resolution, that adequate funds and facilities are available for the commissioner.

CHAPTER 112

An act to add Section 74807.5 to the Government Code, relating to courts.

[Approved by Governor April 26, 1978. Filed with Secretary of State April 26, 1978.]

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

SECTION 1. Section 74807.5 is added to the Government Code, to read:

74807.5. A traffic court referee in the Stockton Municipal Court District shall receive a salary equal to 60 percent of the salary of a judge of the municipal court.

SEC. 2. This act shall not become operative until the board of supervisors determines, by resolution, that adequate funds are available for the traffic court referee.

CHAPTER 113

An act relating to postsecondary education, and making an appropriation therefor.

[Approved by Governor April 26, 1978. Filed with Secretary of State April 26, 1978.]

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

SECTION 1. The Legislature finds and declares that:

(a) Few disadvantaged community college students transfer to four-year colleges. A disproportionately low number of low-income high school graduates are eligible to enter the University of California and the State University and Colleges.

(b) Lack of information about postsecondary opportunities and low achievement levels are primary barriers to college for low-income students.

(c) While educational opportunity programs provide financial aid and support services for low-income students who enter college, additional experimental efforts must be mounted to provide information about postsecondary education for, and to increase achievement levels of, low-income high school and community college students.

(d) Additional financial aid is needed for low-income college students. Stipends for college students of similar low-income backgrounds to provide informational and tutorial help for low-income high school students is a cost-effective method of increasing access and of providing student financial aid.

(e) Additional efforts to increase college access for low-income students should take the form of interinstitutional programs organized regionally to reduce duplication of institutional efforts and student confusion.

SEC. 2. The Student Aid Commission shall apportion funds for the support of planning grants and pilot projects designed to increase the accessibility of postsecondary educational opportunities to low-income high school students and assist low-income community college students, upon completion of their community college programs, to transfer to four-year institutions. Such projects shall primarily (1) increase available information for low-income students on the existence of postsecondary schooling and work opportunities, and (2) raise the achievement levels of low-income students so as to increase the number of low-income high school graduates and community college students eligible to pursue postsecondary learning opportunities. Projects supported by the commission shall also meet the following criteria:

(a) Each project shall be proposed and operated interinstitutionally, involving at least one community college and two of the following educational agencies: school districts, regional occupational centers and programs, nonprofit educational, counseling, or community agencies, eligible proprietary schools, the University of California, independent colleges and universities, or the State University and Colleges. The commission, in awarding project grants, shall give priority to proposals developed by more than two eligible agencies. At least one pilot project shall be located in a rural area. At least one pilot project shall include a private college.

(b) Prior to receiving a pilot project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not limited to, the following information: (1) the agencies participating in the pilot project, (2) the students to be served by the project, (3) the ways in which the project will reduce duplication and related costs, (4) the methods for assessing the project's impact, and (5) the alternative means for long-term

support of the project.

(c) At least 30 percent of each project grant shall be allocated for stipends to peer advisers and tutors who (1) work with low-income high school and community college students, (2) are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student, and (3) have demonstrated financial need for the stipend.

(d) The activities of each project should enhance the activities of existing educational opportunity programs.

The Student Aid Commission may develop additional regulations regarding the award of project grants.

As used in this act "eligible proprietary schools" shall include proprietary schools accredited by a national, state, or regional accrediting association recognized by the United States Office of Education.

(e) The commission shall establish a 15-member project grant advisory committee to advise project directors and the commission on the development and operation of the pilot projects, and consisting of: three educational opportunity program directors, representing the University of California, the California State University and Colleges, and the Board of Governors of the California Community Colleges, appointed by their respective governing boards; one representative of private colleges and universities, appointed by the Association of Independent Colleges and Universities; one representative of the California Postsecondary Education Commission, appointed by the Postsecondary Education Commission; one representative of proprietary schools, appointed by the Council for Private Postsecondary Educational Institutions; and two persons representing the general public, one each appointed by the Speaker of the Assembly and the Senate Rules Committee. The Student Aid Commission shall appoint the following additional members to the advisory committee: two counselors from secondary schools located in low-income communities; one representative from a regional occupation center; two students participating in the Educational Opportunity Program, one of whom shall also be a disadvantaged community college student; one representative of the Student Aid Commission; and one campus financial aid director.

Pilot projects authorized by this section shall not continue beyond June 30, 1983, without additional action by the Legislature.

SEC. 3. The sum of three hundred seven thousand five hundred dollars ($307,500) is hereby appropriated from the General Fund to the Student Aid Commission and shall be disbursed in the following manner for the purposes of this act:

(a) For at least five pilot projects the sum of two hundred fifty thousand dollars ($250,000). Allocation of this appropriation shall be limited to those agencies meeting requirements of this act and providing equal dollar matching support from existing or budgeted increases in federal, state, local, and private funds. The commission shall coordinate implementation of this act with the state plan for

Title I, Part A and Title IV of the federal Higher Education Act of 1965, as amended, and may subcontract with the California Postsecondary Education Commission for partial project support utilizing these federal moneys.

(b) For administration of the program by the Student Aid Commission, the sum of thirty thousand dollars ($30,000).

(c) For evaluation of the program by the California Postsecondary Education Commission, the sum of twenty-seven thousand five hundred dollars ($27,500).

The California Postsecondary Education Commission shall submit its initial evaluation to the Legislature no later than January 1, 1981, and its final evaluation no later than January 1, 1983.

CHAPTER 114

An act to add Section 39253 to the Education Code, relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 27, 1978 Filed with Secretary of State April 28, 1978]

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

SECTION 1. Section 39253 is added to the Education Code, to read:

39253. The governing board of a school district may enter into a lease-purchase agreement for a term not to exceed 30 years involving real property with a building or buildings situated thereon to be used for administrative offices, in accordance with the provisions of Section 18 of Article XVI of the Constitution.

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 school districts to acquire needed facilities at the earliest possible time, and so permit them to carry out their important public functions in the most expeditious manner possible, it is necessary that this act take effect immediately.

CHAPTER 115

An act to amend Section 5 of Chapter 476 of the Statutes of 1977, relating to providing property tax assistance on nonirrigated land used for producing feed for livestock or planted crops in areas declared to be in a state of disaster by reason of drought conditions,

making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 1, 1978. Filed with Secretary of State May 1, 1978.]

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

SECTION 1. Section 5 of Chapter 476 of the Statutes of 1977 is amended to read:

Sec. 5. (a) On or before December 15, 1977, or during the period commencing May 1, 1978, and ending May 31, 1978, inclusive, any assessee or lessee of land may make application by means of an affidavit to the director for property tax assistance as provided in this act. Such application shall state the location of the land, the type of use of the land, the number of acres of land for each type of use, that the land is not irrigated, that the land is used to provide forage for livestock or growing planted grain or other crops, and that such land shall be restricted to such use and compatible uses for a period of one year from the date of such application.

The application shall also state that (1) the applicant's average gross income from farming in taxable years, in the case of an individual, or income years, in the case of a corporation, beginning in 1972 to 1975, inclusive, is at least 75 percent of the average total gross income from all sources for such years, and (2) that the applicant's average gross income from farming for such period is at least five thousand dollars ($5,000), but not more than five hundred thousand dollars ($500,000).

In the case of an applicant which is a corporation or partnership, the application shall state that the majority interest in such corporation or partnership is held by stockholders or partners who meet both requirements of the preceding paragraph with respect to income from farming.

(b) Applications made pursuant to this section shall be made under penalty of perjury and shall only be accepted by the director from persons with authority to restrict the use of the land to which the application pertains.

(c) For purposes of this act, "compatible use" means:

(1) Any compatible use authorized for any property within the county by the board of supervisors prior to January 1, 1977, under the California Land Conservation Act of 1965 provided for in Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code.

(2) If the board of supervisors has not authorized any compatible uses as described in paragraph (1), "compatible use" shall mean those uses described in Section 51238 of the Government Code, housing suitable for the raising of livestock, and all structures suitable for such occupation.

SEC. 1.4. Notwithstanding any other provision of law, the

assessor, in determining the value of property for the 1978 fiscal year or the 1979 fiscal year, shall not take into account the one-year enforceable restriction on such property required by Chapter 476 of the Statutes of 1977 or by this act.

SEC. 1.5. If the amount of approved claims for assistance which are filed pursuant to this act and Chapter 476 of the Statutes of 1977 exceeds ten million dollars ($10,000,000), then the approved claims for assistance, filed pursuant to this act, shall be prorated so that the total amount expended for assistance pursuant to this act and Chapter 476 of the Statutes of 1977 does not exceed ten million dollars ($10,000,000).

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 alleviate the hardships encountered by cattlemen and other raisers of livestock because of the extreme drought conditions and to apply the provisions of Chapter 476 of the Statutes of 1977 as intended by the Legislature, it is necessary that this act take effect immediately.

CHAPTER 116

An act to add Sections 1316.5 and 1316.6 to the Health and Safety Code, relating to health facilities.

[Approved by Governor May 3, 1978. Filed with Secretary of State May 3, 1978.]

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

SECTION 1. The Legislature finds and declares that treatment of psychological problems of persons residing within the community would in some cases be advanced by temporary hospitalization. The interests of the people of this state demand that all appropriate resources, including inpatient facilities, be available to assist in the diagnosis, prevention, treatment, and amelioration of psychological problems and emotional and mental disorders. However, a branch of healing arts predominantly concerned with such afflictions, psychology, is, under present law, unduly restricted in its access to, and utilization of, health facilities. As a result, many patients under the care of a psychologist, when admitted to a hospital, cannot continue to receive care from the therapist of their choice. Additionally, greater availability of licensed psychologists within health facilities would enable improved coordination with the medical profession and provide opportunities for enhanced treatment of medical patients, particularly with respect to the behavioral aspects of illness and patient management, such as

counseling pre-operative and terminally ill patients, management of chronic pain, and treatment of emotional and behavior disorders of children.

The Legislature further finds and declares that psychology is an independent health profession, as set forth and prescribed by the Psychology Licensing Law. The role of the psychologist as a primary provider of mental health care has been repeatedly recognized at both the state and federal levels of government. In the institutional setting, psychologists play a vital role in the clinical operation and program direction of the state hospitals and county Short-Doyle programs.

It is, therefore, the intent of the Legislature, in enacting this act, to authorize health facilities on local determination to make inpatient care available for psychological patients and to expand staff and professional services that may be offered by health facilities to include licensed psychologists having appropriate training and clinical experience.

SEC. 2. Section 1316.5 is added to the Health and Safety Code, to read:

1316.5. (a) The rules of a health facility may enable the appointment of clinical psychologists on such terms and conditions as the facility shall establish. Psychologists may hold membership and serve on committees of the professional staff and may possess clinical privileges and carry professional responsibilites consistent with the scope of their licensure and their competence, subject to the rules of the health facility.

(b) No classification of health facilities by the state department, nor any other classification of health facilities based on quality of service or otherwise, by any person, body, or governmental agency of this state or any subdivision thereof shall be affected by a health facility's provision for use of its facilities by duly licensed clinical psychologists, nor shall any such classification be affected by the subjection of the psychologists to the rules and regulations of the organized professional staff. No classification of health facilities by any governmental agency of this state or any subdivision thereof pursuant to any law, whether enacted prior or subsequent to the effective date of this section, for the purposes of ascertaining eligibility for compensation, reimbursement, or other benefit for treatment of patients shall be affected by a health facility's provision for use of its facilities by duly licensed clinical psychologists, nor shall any such classification be affected by the subjection of the psychologists to the rules and regulations of the organized professional staff which govern the psychologists' use of the facilities.

(c) "Clinical psychologist," as used in this section, means a psychologist licensed by this state and (1) who possesses an earned doctorate degree in psychology from an educational institution meeting the criteria of subdivision (c) of Section 2914 of the Business and Professions Code and (2) has not less than two years clinical experience in a multidisciplinary facility licensed or operated by this

or another state or by the United States to provide health care, or, is listed in the latest edition of the National Register of Health Service Providers in Psychology, as adopted by the Council for the National Register of Health Service Providers in Psychology.

SEC. 3. Section 1316.6 is added to the Health and Safety Code, to read:

1316.6. Notwithstanding any other provision of this chapter, the exercise of privileges in any health facility may be limited, restricted, or revoked for the violation of such health facility's rules, regulations, or procedures which are applied, in good faith, in a nondiscriminatory manner to all practitioners in such health facility exercising such privileges or entitled to exercise such privileges.

CHAPTER 117

An act to amend Section 18653 of the Business and Professions Code, relating to boxing and wrestling.

[Approved by Governor May 3, 1978. Filed with Secretary of State May 3, 1978]

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

SECTION 1. Section 18653 of the Business and Professions Code is amended to read:

18653. (a) This chapter does not apply to any amateur boxing or wrestling contests conducted by a nonprofit organization to which an admission fee is not charged or to such contests to which an admission fee is charged, subject to approval by the State Athletic Commission, provided the entire net proceeds are used to defray the expenses of the contestants, purchase equipment for the contestants, provide medical insurance for the contestants, or to pay any other expenses reasonably necessary for the conduct of such contests. A nonprofit organization conducting an amateur boxing or wrestling contest to which an admission fee is charged shall file a statement of revenues and expenses from such contest, within a period of 90 days, with the State Athletic Commission.

(b) As used in this section, "nonprofit organization" means any of the following:

(1) An organization exempt from taxation under the Bank and Corporation Tax Law.

(2) Incorporated fraternal organizations.

(3) Any university, college or school.

(4) Any nonprofit organization not otherwise within any of the foregoing categories.

(c) Any nonprofit organization conducting any amateur boxing or wrestling contest to which an admission fee is charged pursuant to subdivision (a) shall pay a three-dollar ($3) yearly registration fee to the commission.

CHAPTER 118

An act to amend Section 44270 of the Education Code, relating to certification requirements.

[Approved by Governor May 3, 1978 Filed with Secretary of State May 3, 1978.]

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

SECTION 1. Section 44270 of the Education Code is amended to read:

44270. The minmum requirements for the services credential with a specialization in administrative services are all of the following:

(a) The possession of a valid teaching credential issued under the law and rules and regulations in effect on or before December 31, 1971, requiring the possession of a baccalaureate degree, or as specified in Section 44259, or as specified in Section 44260 provided the applicant also possesses a baccalaureate degree, or a services credential with a specialization in pupil personnel services as specified in Section 44266.

(b) A minimum of three years of successful, full-time classroom teaching experience in the public schools, or in private schools of equivalent status or three years of experience in the field of pupil personnel services.

(c) A program of specialized and professional preparation in administrative services approved by the commission or one year internship in a commission-approved program of supervised in-service training in administrative services or an examination in administrative services.

The services credential with a specialization in administrative services shall authorize the holder to serve as a superintendent, associate superintendent, deputy superintendent, principal, assistant principal, supervisor, consultant, coordinator, or in an equivalent or intermediate level administration position.

Any person who administers a pupil personnel program shall hold a services credential with a pupil personnel or administrative specialization.

CHAPTER 119

An act to amend Section 466.6 of the Penal Code, relating to motor vehicle keys, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 3, 1978 Filed with Secretary of State May 3, 1978.]

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

SECTION 1. Section 466.6 of the Penal Code is amended to read:

466.6. (a) Any person who makes a key capable of operating the ignition of a motor vehicle for another by any method other than by the duplication of an existing key, whether or not for compensation, shall obtain the name, address, telephone number, if any, date of birth, and driver's license number or identification number of the person requesting or purchasing the key; and the registration or identification number, license number, year, make, model, color, and vehicle identification number of the vehicle for which the key is to be made. Such information, together with the date the key was made and the signature of the person for whom the key was made, shall be set forth on a work order. A copy of each such work order shall be retained for one year and shall be open to inspection by any peace officer during business hours.

Any person who violates any provision of this subdivision is guilty of a misdemeanor.

(b) The provisions of this section shall include, but are not limited to, the making of a key from key codes or impressions.

(c) Nothing contained in this section shall be construed to prohibit the duplication of any key for a motor vehicle from another such key.

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 alleviate the burden of the preparation of records not needed to effect the intent of the law, and to avoid excessive retention of records relating to the making of motor vehicle keys, it is necessary that this act take effect immediately.

CHAPTER 120

An act to add Section 25260.1 to the Vehicle Code, relating to vehicles.

[Approved by Governor May 3, 1978 Filed with Secretary of State May 3, 1978]

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

SECTION 1. Section 25260.1 is added to the Vehicle Code, to read:

25260.1. Vehicles actually engaged in the construction, removal, maintenance, or inspection of any oil or gas pipeline may display flashing amber warning lights to the front, sides, or rear when

necessarily parked on a highway or when necessarily moving at a speed slower than the normal flow of traffic and only in accordance with Section 25268.

CHAPTER 121

An act to amend Section 1411 of the Penal Code, relating to unclaimed property.

[Approved by Governor May 3, 1978. Filed with Secretary of State May 3, 1978.]

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

SECTION 1. Section 1411 of the Penal Code is amended to read:

1411. If the ownership of the property stolen or embezzled and the address of the owner, and the address of the owner of a security interest therein, can be reasonably ascertained, the peace officer who took custody of the property shall notify the owner, and a person having a security interest therein, by letter of the location of the property and the method by which the owner may obtain it. Such notice shall be given upon the conviction of a person for an offense involving the theft, embezzlement or possession of such property, or if a conviction was not obtained, upon the making of a decision by the district attorney not to file the case or upon the termination of the proceedings in the case. Except as provided in Section 516 of the Welfare and Institutions Code, if the property stolen or embezzled is not claimed by the owner before the expiration of three months after the giving of such notice, or, in any case in which no such notice was given, before the expiration of six months from the conviction of a person for an offense involving the theft, embezzlement or possession of such property, or if a conviction was not obtained, then from the time the property came into the possession of the peace officer or the case involving the person from whom it was obtained is disposed of, whichever is later, the magistrate or other officer having it in custody may, on the payment of the necessary expenses incurred in its preservation, deliver it to the county treasurer or other proper county officer, by whom it must be sold and the proceeds paid into the county treasury. If such property is transferred to the county purchasing agent it may be sold in the manner provided by Article 7 (commencing with Section 25500) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code for the sale of surplus personal property. If the county officer determines that any such property transferred to him for sale is needed for a public use, such property may be retained by the county and need not be sold. The magistrate or other officer having the property in custody may, however, provide for the sale of such property in the manner provided for the sale of unclaimed property which has been held for at least three months pursuant to Section 2080.4 of the Civil Code.

CHAPTER 122

An act to amend Section 21804 of the Vehicle Code, relating to vehicles.

[Approved by Governor May 3, 1978. Filed with Secretary of State May 3, 1978.]

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

SECTION 1. Section 21804 of the Vehicle Code is amended to read:

21804. The driver of a vehicle about to enter or cross a highway from any public or private property, or from an alley, shall yield the right-of-way to all traffic, as defined in Section 620, approaching on the highway.

CHAPTER 123

An act to amend Section 2506 of, and to add Section 2506.1 to, the Education Code, to amend Section 27421 of the Government Code, to amend Section 17052.6, as added by Chapter 1079 of the Statutes of 1977, to amend Sections 253.6, 401.6, 1603.5, 2132, 2261, 2261.1, 2263, 2264, 2265, 2286, 2296, 2297, 2298, 2350, 2351, 2354, 2355, 2611.5, 17206.5, 17384, 18212, 18433, 20503, 20542, 23602, 24427, 24497, 50000, and 50017 of, to amend and renumber Section 17052.6, as added by Chapter 1100 of the Statutes of 1977, to add Sections 253.7, 2281, 2325.2, 2356, 17737.5, 20505, 20542, and 24443 to, and to repeal Sections 2263.4, 2266.1, 2266.2, 2266.5, 20505, 20505.2, and 20542 of, the Revenue and Taxation Code, to amend Sections 12400 and 14150 of the Welfare and Institutions Code, and to amend Sections 43, 46, and 47 of Chapter 24 of the Statutes of 1978, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 3, 1978. Filed with Secretary of State May 3, 1978]

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

SECTION 1. Section 2506 of the Education Code is amended to read:

2506. (a) The county superintendent shall have a maximum tax rate available for the operation, maintenance and housing of the county office, including any costs associated with the operation of the county board of education and the county committee on school district organization, and for any ongoing program, except children's center programs maintained by the county superintendent of schools, not included in any previous section of this article.

(b) For fiscally independent county superintendent offices, the maximum allowable tax rate shall be the rate levied for these purposes in 1971–72 or 1972–73, whichever is higher, minus that portion of the rate levied for capital outlay and juvenile hall purposes. This maximum rate may be exceeded in the amount and under the terms specified in Section 2506.1.

(c) For county superintendent offices which become independent on and after July 1, 1974, the maximum allowable tax rate shall be that rate which was levied or could have been levied in the preceding fiscal year pursuant to subdivision (d) of this section. This maximum rate may be exceeded in the amount and under the terms specified in Section 2506.1.

(d) For fiscally nonindependent county superintendent offices, the maximum allowable tax rate shall be computed by determining the amount of expenditures for the county superintendent of schools' office, exclusive of capital outlay expenditures and expenditures for juvenile hall purposes, in 1971–72 and 1972–73 which were funded from property tax revenues attributable to the county general fund. The amount for each year shall be converted to a tax rate equivalent for that year by dividing each amount by the assessed value of the county in that year and multiplying the quotient by 100; the higher of the two resulting tax rate equivalents shall be the maximum allowable tax rate. This maximum tax rate may be exceeded in the manner and under the terms specified in Section 2506.1.

(e) The maximum allowable tax rate described in this section is not intended to prohibit a county from augmenting the budget of the county superintendent of schools offices from general county funds. If the budget of the county superintendent of schools, as set by the county, does not require the full amount of the maximum allowable rate, the difference between the maximum rate and the actual rate required shall not be levied and shall not be available for any other county purpose.

(f) The maximum allowable tax rates described in this section may be increased by a majority vote of the qualified electors of the county at an election which may be ordered by the county board of education in fiscally independent county superintendent of schools offices or by the county board of supervisors in fiscally nonindependent county superintendent of schools offices. Such a proposition may be voted only in conjunction with a general countywide election.

(g) Notwithstanding any other provision of this section, where a board of supervisors transfers duties and functions to a board of education pursuant to Section 1080 on or after July 1, 1975, the maximum allowable tax rate described in this section shall be computed by determining the amount of expenditures for the county board of education, the county committee on school district organization and the county superintendent of schools' office, exclusive of capital outlay expenditures and expenditures for juvenile hall purposes in the year immediately preceding the date on which such transfer becomes effective, which were funded from property tax revenues attributed to the county general fund and from property tax revenues attributed to the tax rate authorized in subdivision (c) of this section. The amount for such budget year shall be converted to a tax rate equivalent for that year by dividing the total of the property tax revenues by the assessed value of the county

in that year and multiplying the quotient by 100. In any county in which the public schools under the jurisdiction of the county superintendent of schools have a total average daily attendance in excess of 450,000, in kindergarten and grades 1 to 12, inclusive, the computation prescribed by the preceding sentence shall be made utilizing the secured assessed value of the county, after adjustment for redevelopment increments, with the exclusion of the assessed value with respect to impound tax revenues, and after due allowance for delinquencies. A maximum tax rate computed pursuant to this subdivision may be exceeded in the manner and under the terms specified in Section 2506.1.

SEC. 2. Section 2506.1 is added to the Education Code, to read:

2506.1. This section shall provide an alternate procedure to the other provisions of this article for establishing maximum property tax rates.

The maximum property tax rate which may be levied by, or on behalf of, a local agency shall be a rate equivalent to the following:

(1) The maximum property tax rate which could have been levied for such agency pursuant to any provision of this article for the prior fiscal year, plus

(2) A property tax rate on the secured roll which would produce an amount of property tax revenue equal to the following:

(a) The amount of property tax revenue which would be received by such agency in the current fiscal year by levying the rate identified in subparagraph (1) of this paragraph against the agency's total assessed value for the current fiscal year, subtracted from

(b) The amount of property tax revenue which would be received by such agency in the current fiscal year if its property tax revenue from the prior year were to change by a percentage equal to the following: the percentage change in the population of the agency (as determined pursuant to Sections 2227 or 2228 of the Revenue and Taxation Code) plus the percentage change in the cost of living (as determined pursuant to Section 2212 of the Revenue and Taxation Code) which is applicable to the agency.

As used in this section "property tax revenue from the prior year" means the revenue which would have been received by a local agency in the prior fiscal year by levying the maximum property tax rate authorized by this article against the total assessed value for such year.

As used in this section "total assessed value" means all assessed value subject to ad valorem property taxation by a local agency plus assessed value attributable to the homeowners' property tax exemption and to the business inventory property tax exemption.

SEC. 3. Section 27421 of the Government Code, as amended by Chapter 24 of the Statutes of 1978, is amended to read:

27421. The county assessor in each county who is designated to perform the duty of assessing property for a local taxing jurisdiction shall, upon request of the governing body of such jurisdiction, excluding a school district, furnish not later than May 15th of each

year an estimate of:

(a) The assessed value of owner-occupied dwellings, as defined in Section 2261 of the Revenue and Taxation Code, on the secured roll which will be common to both the next succeeding fiscal year's secured roll and the current roll, as defined by such section; and

(b) The assessed value of all property, other than owner-occupied dwellings, on the secured roll which will be common to both the next succeeding fiscal year's secured roll and the current roll, as defined in such Section 2261.

Such request shall be made on or before February 20th of each year. Effective with all such requests made subsequent to January 1, 1978, such request shall remain in effect each year thereafter until such time as the governing body notifies the assessor that it does not wish to receive an estimate for the succeeding fiscal year.

The estimate required herein shall contain estimates of the total of each of the items contained on the assessment roll, including total assessed valuation of all owner-occupied dwellings and total assessed valuation of all properties, other than owner-occupied dwellings.

SEC. 4. Section 253.6 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

253.6. Any person who is not receiving or is not eligible for the homeowners' exemption who is the owner of an owner-occupied dwelling may claim eligibility for treatment of the property as an owner-occupied dwelling for purposes of Chapter 3 (commencing with Section 2201) of Part 4 of this division, by filing with the assessor an affidavit of eligibility in such form and giving such information as the board shall prescribe. Such information shall include, but not be limited to, the name of the person making the claim, the social security numbers of the claimant and the spouse of the claimant, the address of the property, and a statement to the effect that the claimant owned and occupied the property as his or her principal residence on the lien date.

The affidavit shall be filed with the assessor any time convenient to the taxpayer during normal working hours of the assessor, but no later than 5 p.m. on April 15 preceding the fiscal year for which the claim is first effective.

A claim for eligibility, once granted, shall remain in effect until such time as title to the property changes, the owner does not occupy the home as his or her principal place of residence on the lien date, or the property is otherwise ineligible.

SEC. 5. Section 253.7 is added to the Revenue and Taxation Code, to read:

253.7. For the 1979–80 fiscal year and thereafter, county assessors shall each year mail a notice to all persons who claimed and received treatment as an owner of an owner-occupied dwelling pursuant to Section 253.6 in the immediately preceding year, except where such person has transferred title in the property since the immediately preceding lien date. The notice shall inform the taxpayer of the circumstances under which he or she becomes ineligible for the

treatment and of his or her duty to inform the assessor when he or she is no longer eligible for the treatment. Failure to receive the notice shall not excuse the taxpayer of the duty to inform the assessor of his or her ineligibility for the treatment.

SEC. 6. Section 401.6 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

401.6. For each parcel of land for which the homeowners' property tax exemption is claimed pursuant to Section 218 or for which an affidavit of eligibility under Section 253.6 has been filed, the assessor shall assess the land and improvements on the entire parcel of property and shall, if necessary, make a determination of the value attributable to the residential dwelling as defined in Section 20508 of this code, and a separate determination of the value of the remainder of the property. The sum of the separate values shall equal the total value of the parcel before separation.

Any separations of property values pursuant to this section are for tax purposes only, and are not intended to create a legal building site or to supersede requirements pursuant to any ordinances regulating land use or subdivision of land, including but not limited to zoning, building, lot split or subdivision ordinances.

The board shall prescribe rules and regulations to govern assessors when making separate valuations of such residential dwellings.

The assessor shall enter the separate valuation or valuations, along with the separate description or descriptions of the separately valued property, on the roll. If the assessor has delivered the roll to the auditor, then the assessor shall transmit the separate valuation or valuations of the residential dwelling and of the remainder of the property to the auditor, who shall enter the description or descriptions and the valuation or valuations of the parcel on the roll, and shall compute the amount of tax due thereon.

SEC. 7. Section 1603.5 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

1603.5. When an applicant requests a reduction in the separate valuations made pursuant to Section 401.6, whether the reduction is requested on grounds of valuation of the entire parcel, on grounds of misclassification of property attributable to the residential dwelling, or for any other cause, the county board shall make a determination of the full cash value of the whole property and shall order a change in the separate valuations only if the assessed value of the whole requires equalization, or shall adjust the separate valuations so that each is equalized and the value of the whole property is accounted for.

The board shall be bound by the same principles of separate valuation that are applicable to the assessor.

SEC. 8. Section 2132 of the Revenue and Taxation Code is amended to read:

2132. (a) If a resolution has been adopted pursuant to Section 2131, the board of directors shall:

(1) Determine the total amounts of revenue required by the

district which will be derived from an ad valorem tax or ad valorem assessment on owner-occupied dwellings and other property, as defined in Section 2261 on the secured roll.

(2) Divide the amounts determined pursuant to paragraph (1) among the counties in which the district is situated in the proportions that the estimated full values of taxable property on the secured roll within the district in the respective counties bear to the estimated total full value of such property within the district.

(b) The estimated full values shall be determined by (1) dividing the assessed value of owner-occupied dwellings and other property, as defined in Section 2261 within the district on the secured roll in each county by the ratio published by the board for such county under Section 1819; and (2) adding the figures thus derived for the several counties.

SEC. 9. Section 2261 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

2261. (a) The maximum property tax rate which may be levied by, or on behalf of, a local agency on owner-occupied dwellings shall be a property tax rate which, if applied to common dwellings on the current fiscal year's secured roll, would produce an amount of property tax revenue equal to the amount which would have been received in the prior fiscal year had the prior year's secured tax rate for owner-occupied dwellings been applied to the prior year's assessed value of common dwellings, and the result adjusted by the percentage change in price deflator.

After a maximum tax rate has been computed by the county auditor pursuant to subdivision (h), a local agency may levy a property tax rate on owner-occupied dwellings lower than the maximum rate computed pursuant to this subdivision, but no lower than a rate which would produce the same amount of property tax revenue from common dwellings as was derived from such dwellings in the prior year. If a local agency wishes to levy a tax rate on owner-occupied dwellings lower than that provided for in this subdivision, it must do so pursuant to subdivision (d).

(b) The maximum property tax rate which may be levied by, or on behalf of, a local agency on other property shall be a property tax rate which, if applied to all properties on the current fiscal year's secured roll (including owner-occupied dwellings) which are common properties, would produce an amount of property tax revenue, when added to the property tax revenue produced by the unsecured roll, equal to the sum of (1) the amount which would have been received in the prior fiscal year had the prior year's secured tax rate for other property been applied to the prior year's assessed valuation of all common properties, and the result adjusted by the percentage change in price deflator, plus (2) the property tax revenue received in the prior year from the unsecured roll adjusted by the percentage change in price deflator.

(c) (1) Whenever the maximum tax rate computed under subdivision (a) exceeds the maximum tax rate computed under

subdivision (b), the maximum tax rate computed under subdivision (a) shall be reduced to equal the maximum tax rate computed under subdivision (b).

(2) Whenever the maximum property tax rate computed under subdivision (b) is greater than the prior year's secured tax rate for other property, and the maximum property tax rate computed under subdivision (a) or (c) (1) is lower than the prior year's secured tax rate for owner-occupied dwellings, then the maximum tax rate computed under subdivision (b) shall be reduced to a rate no higher than the prior year's secured tax rate for other property.

(d) After a maximum tax rate has been computed by the county auditor pursuant to subdivision (h), a local agency may levy property tax rates lower than the rates provided in subdivisions (a) or (c), and (b) or (c), of this section, in which case the two tax rates shall be below their respective rates established pursuant to subdivisions (a) or (c), and (b) or (c), by the same percentage.

(e) If the total amount of property tax revenue which would be produced for a local agency from levying the maximum property tax rates pursuant to subdivisions (a) and (b) on common dwellings, and other common properties, when added to the property tax revenue from the unsecured roll, is less than the prior year's property tax revenue from such properties plus the prior year's property tax revenue from the unsecured roll, the sum adjusted by the percentage change in price deflator, the maximum tax rate computed pursuant to subdivision (b) may be increased to produce, when added to the property tax revenue from the current fiscal year's unsecured roll, no more than the amount of property tax revenue received in the prior year from common properties other than common dwellings, when added to the property tax revenue from the prior fiscal year's unsecured roll, the sum adjusted by the percentage change in price deflator. If the maximum property tax rate computed pursuant to this subdivision exceeds the prior year's secured tax rate on other property, then such rate shall be reduced to the prior year's secured tax rate on other property.

(f) If the maximum property tax rates computed pursuant to subdivision (a) or (c), and (b), (c) or (e), would produce a total amount of property tax revenue for a local agency from common dwellings, and other common properties, when added to the amount of property tax revenue from the current fiscal year's unsecured roll, which is less than the prior year's revenue from such properties, including property tax revenue from the unsecured roll, adjusted by a percentage equal to the percentage change in cost-of-living (as determined pursuant to Section 2212), the maximum tax rate determined pursuant to subdivisions (a) or (c) may be increased so that the total amount of property tax revenue which would be produced from common dwellings, and other common property, when added to the amount of property tax revenue from the current fiscal year's unsecured roll, is equal to the revenue received in the prior year from such properties, including property tax revenue

from the unsecured roll, adjusted by a percentage equal to the percentage change in cost-of-living.

If the computations pursuant to this subdivision produce a higher property tax rate on owner-occupied dwellings than the prior year's secured tax rate on owner-occupied dwellings, then the tax rate on owner-occupied dwellings shall be reduced to a rate equal to the prior year's secured tax rate on owner-occupied dwellings. Then the local agency may increase both tax rates by an equal number of cents per one hundred dollars ($100) of assessed valuation in order to derive the amount of revenue computed pursuant to this subdivision.

Before using this subdivision, a local agency shall first compute its maximum tax rate on other property pursuant to subdivision (e), if applicable.

(g) If there is a dissolution of a local agency and the services provided by such agency are assumed by another local agency, the local agency assuming the new responsibilities shall include in its prior year's revenue for the purposes of computing maximum tax rates pursuant to this section the revenue of the dissolved agency which was attributable to the performance of such assumed service by the dissolved agency in that year.

(h) The county auditor shall be responsible for computing maximum tax rates pursuant to this article and shall transmit such rates to the governing board of each local agency within 30 days of the completion and delivery of the local roll.

For districts located in more than one county, the computation shall be performed by the auditor of the county in which the district's treasury is located.

(i) In computing tax rates pursuant to this section, a city which used the city assessment roll in 1977–78, may use either the city or county assessment roll applicable to that city in such year.

(j) As used in this section:

(1) "Property tax revenue" means the amount of money which would be due and payable as a result of imposing the tax rates determined pursuant to the provisions of this article. "Property tax revenue" includes revenue received from state reimbursements for the homeowners' exemption and the tax rate reductions provided by Article 10 of this chapter, and excludes all revenues attributable to taxation of business inventories, including state reimbursements.

"Property tax revenue from the unsecured roll" excludes property tax revenue from owner-occupied dwellings on the unsecured roll.

(2) "Owner-occupied dwelling" means a property, or that portion thereof for which a separate assessment is made pursuant to Section 401.6, which has qualified for a homeowners' exemption or for which an affidavit of eligibility, filed pursuant to Section 253.6, has been approved, and for which a timely filing for such exemption, or the affidavit described in Section 253.6, has been made. For the provisions of this chapter, for a "cooperative housing corporation" as defined in Section 17265, the ratio of owner-occupied units in the cooperative to the total number of units shall be determined. Such

ratio shall be applied to the total assessed value of the cooperative, to determine the assessed value of the owner-occupied dwellings.

(3) "Common to both the current and prior years' secured rolls":

(A) Means, for owner-occupied dwellings, property receiving the homeowners' exemption on both rolls;

(B) Means, for other property, those properties for which the improvement valuation has changed by less than 50 percent of the prior year's total real property valuation. Personal property on the secured roll shall be considered common to both the current and prior year's secured rolls if the real property to which it is secured is common to the current and prior year's secured rolls; however, personal property of institutions which are subject to the tax imposed by Section 23181 or 23183, and business inventories, shall not be considered common to both the current and prior year's secured rolls;

(C) Excludes state-assessed property;

(D) Except where otherwise excluded from the definition of "common to both the current and prior years' secured rolls," includes property which was contained within the boundaries of the local agency for purposes of the current year's roll, but was not contained within the boundaries of the local agency for purposes of the prior year's roll, due to a change in the local agency's boundaries from the prior to the current year;

(E) Excludes the entire assessed valuation of a redevelopment agency pursuant to Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code;

(F) Excludes those properties requiring two separate valuations pursuant to Section 401.6.

(4) (A) "Common dwellings" means owner-occupied dwellings common to both the current and prior years' secured rolls.

(B) "Common properties" means properties common to both the current and prior years' secured rolls.

(5) "Other property" means properties other than owner-occupied dwellings.

(6) "Prior year's secured tax rate" means:

(A) For 1978–79, the secured property tax rate actually levied by or for the local agency pursuant to this article for 1977–78;

(B) For fiscal years after 1978–79, the maximum authorized secured tax rate computed pursuant to this article by or for the local agency for the prior year.

(7) "Percentage change in the price deflator" means:

(A) For computation of maximum property tax rates for fiscal years 1978–79 and 1979–80, a percentage equal to the percentage change from the first calendar quarter of the prior year to the first calendar quarter of the current year in the Gross National Product deflator for goods and services purchased by state and local government, as published by the United States Department of Commerce;

(B) For computation of maximum property tax rates for fiscal

years after 1979–80, a percentage equal to the percentage change from the first calendar quarter of the prior year to the first calendar quarter of the current year in the California Local Agency Price Deflator, a statewide index which the California Department of Industrial Relations shall prepare for local agencies in California in a manner similar to that used by the United States Department of Commerce in preparing the Gross National Product deflator for goods and services purchased by state and local government, and shall make available to local agencies in May of each year. There shall be established in the Department of Industrial Relations a California Local Agency Price Deflator Advisory Commission, composed of a representative from the Assembly, or designee, as appointed by the Speaker, a representative of the Senate, or designee, as appointed by the Senate Rules Committee, the Legislative Analyst or his designee, the Director of Finance or his designee, a representative of the League of California Cities, a representative of the County Supervisors Association of California, and a representative of the California Special Districts Association. The Advisory Commission shall advise and assist the department in preparing the price deflator and shall report to the Legislature its independent evaluation of the department's progress no later than June 30, 1979, and of the department's final proposal.

(8) Any reference to revenue derived in the prior year, or application of the prior year's secured tax rate, as it pertains to a property defined as common pursuant to paragraph (3) (D) of this subdivision refers to last year's secured tax rate for the local agency within the boundaries of which the property lies for purposes of the current year's roll or to the revenue that would have been generated had such rate been applied to the prior year's assessed value.

(9) For any computation within this section, whenever the assessed valuation of common properties, common dwellings or other common properties, for either the current or prior fiscal year, is less than 30 percent of the total taxable assessed valuation of that type of property on the secured roll for that fiscal year, then the computation shall be based on the total taxable assessed valuation of that type of property on the current year's secured roll and the total taxable assessed valuation of that type of property on the prior year's secured roll, rather than the assessed valuation of that type of property common to both the current and prior years' secured rolls.

"Taxable assessed valuation" means the assessed valuation net of all exemptions except the homeowners' exemption. "Taxable assessed valuation" does not include business inventories.

(k) For computation of maximum property tax rates for the 1978–79 fiscal year only, if the amount of property tax revenue received in 1977–78, when added to the amount of revenue received in 1977–78 pursuant to Section 38905 (Timber Yield Tax), is less than the amount of property tax received in 1976–77 by such agency, then the maximum property tax rates computed pursuant to the first paragraph of subdivision (a) of this section, and subdivision (b) of

this section, shall be increased by the percentage that the 1976–77 revenue referred to in this subdivision exceeds the 1977–78 revenue referred to in this subdivision.

If the computations pursuant to this subdivision produce a higher tax rate for 1978–79 on other property than levied on other property in 1977–78, and a lower tax rate on owner-occupied dwellings for 1978–79 than levied on such property in 1977–78, then the rate for other property shall be reduced to a rate no higher than that levied in 1977–78.

SEC. 10. Section 2261.1 of the Revenue and Taxation Code is amended to read:

2261.1. (a) Any county which was providing structual fire protection services in unincorporated areas of the county during the 1971–1972 or the 1972–1973 fiscal years and which did not levy a property tax for such services as provided in Section 25643 of the Government Code, may establish a maximum property tax rate for such areas as provided in this section. The maximum property tax rate for such areas shall be determined in the manner provided in subdivisions (b) and (c).

(b) For the first fiscal year in which such maximum rate is to be determined, such rate shall be the rate determined by dividing the receivable property tax revenue of the district by the total assessed value within the district. For subsequent fiscal years maximum rates shall be determined as otherwise provided in this article.

(c) As used in this section:

(1) "Receivable property tax revenue" means the amount of revenue from ad valorem property taxation which a district would have received in any fiscal year if the district's ad valorem property taxes for such year had been collected for all taxable property within the district, without regard to delinquencies, penalties or other modifications or adjustments.

(d) Whenever a maximum property tax rate has been established for an unincorporated area as provided in subdivision (a), such unincorporated area shall be a "special district", as provided in Section 2216, for all purposes of this chapter.

SEC. 11. Section 2263 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

2263. For cities and special districts formed after January 1, 1977, the maximum property tax rate for the first fiscal year in which a property tax is levied or could be levied, shall be the rate approved by the voters when the city or district was formed; provided, however, that the maximum property tax rate for a maintenance district formed pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) or the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code) may be established prior to or concurrently with the formation of such district by any petition or by supplemental written consent executed by property holders owning at least 60 percent of

the land to be benefited. The procedures for such petition or supplemental written consent shall follow the procedures in the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800) of the Streets and Highways Code).

SEC. 12. Section 2263.4 of the Revenue and Taxation Code is repealed.

SEC. 13. Section 2264 of the Revenue and Taxation Code, as amended by Chapter 24 of the Statutes of 1978, is amended to read:

2264. In the event that a local agency elects to follow the provisions of Part 3.5 (commencing with Section 2131) of this division, for levying a property tax rate in certain special districts, the maximum property tax rates for such districts shall be determined as provided in this chapter. For all purposes of this chapter, such maximum property tax rates shall be applied to the total assessed value within such district. In such situations the actual property tax rates for such a district shall be levied in each county in which the district is situated as provided in Part 3.5 without regard to the limitations provided elsewhere in this article.

As used in this section, "total assessed value within the district" means all assessed value in each county in which the district is located which is subject to ad valorem property taxation by, or on behalf of, such district; plus the assessed value in each such county which is attributable to the homeowners' property tax exemption and which otherwise would have been subject to ad valoreum property taxation by, or on behalf of, such district.

SEC. 14. Section 2265 of the Revenue and Taxation Code, as amended by Chapter 24 of the Statutes of 1978, is amended to read:

2265. In lieu of the maximum property tax rates for owner-occupied dwellings and for other property established by other provisions of this article, the voters of a local agency may establish a maximum property tax rate for such agency pursuant to the provisions of Article 6 (commencing with Section 2285).

If voted maximum property tax rates are established for a local agency, the voted property tax rates shall both differ from the maximum property tax rates computed pursuant to Section 2261 for the prior fiscal year by the same number of cents per one hundred dollars ($100) of assessed valuation.

After the first year in which any voted maximum rate established pursuant to this section is effective, the maximum property tax rates shall be established pursuant to Section 2261.

SEC. 15. Section 2266.1 of the Revenue and Taxation Code is repealed.

SEC. 16. Section 2266.2 of the Revenue and Taxation Code is repealed.

SEC. 17. Section 2266.5 of the Revenue and Taxation Code is repealed.

SEC. 18. Section 2281 is added to the Revenue and Taxation Code, to read:

2281. Notwithstanding any other provision of this article, with respect to costs for which additional tax rates are authorized by this article, if any such cost was incurred by a local agency in the 1977–78 fiscal year and funded partly or entirely from sources other than an additional property tax rate authorized by this article, then such cost shall not be funded in any greater proportion from an additional tax rate pursuant to this article in the 1978–79 fiscal year, or thereafter, than in the 1977–78 fiscal year.

SEC. 19. Section 2286 of the Revenue and Taxation Code is amended to read:

2286. (a) No local agency formed after the effective date of this chapter shall levy, or have levied on its behalf, any property tax rate, except an additional property tax rate authorized pursuant to Article 5 (commencing with Section 2270) of this chapter, unless a maximum property tax rate has been approved for such agency. If an election is held on the formation of a local agency, the maximum property tax rate for such agency shall be included in describing the local agency on the ballot in the formation question.

(b) In the event that a local agency which was in existence on the effective date of this chapter desires to change its maximum property tax rate, the governing body of such agency shall call a special election, pursuant to the provisions of this article, to approve a new maximum property tax rate for the agency.

If voted maximum property tax rates are established for a local agency, the voted property tax rates shall both differ from the maximum property tax rates computed pursuant to Section 2261 for the prior fiscal year by the same number of cents per one hundred dollars ($100) of assessed valuation.

After the first year in which any voted maximum rate established pursuant to this section is effective, the maximum property tax rates shall be established pursuant to Section 2261.

(c) No maximum property tax rate described in subdivision (a) or (b) shall be approved except by a majority vote of the qualified voters of that local agency voting on the issue.

(d) Subdivisions (a), (b) and (c) of this section shall not apply to an improvement district formed prior to, or after, the effective date of this chapter for the purpose of levying an ad valorem tax as defined in Section 2202 of the Revenue and Taxation Code for the purpose of apportioning the costs of facilities and services made available by a local agency, so long as the total property tax rate within such improvement district does not exceed the maximum rate which could be levied upon the property therein by a local agency without regard to the existence of such improvement district.

SEC. 20. Section 2296 of the Revenue and Taxation Code is amended to read:

2296. Except as provided in Section 2263, whenever a governmental reorganization occurs, the maximum property tax rate for any local agency whose boundaries are changed by such reorganization shall be determined as provided in this article.

SEC. 21. Section 2297 of the Revenue and Taxation Code is amended to read:

2297. In the event that the boundaries of a local agency are altered by a governmental reorganization, or that a local agency becomes responsible, as a result of a governmental reorganization, for providing a program or service it has not heretofore provided, the maximum property tax rate for such an agency, after the reorganization has occurred, shall be the maximum property tax rate which had been established, pursuant to the provisions of this article or of Article 4, for such agency prior to the reorganization.

SEC. 22. Section 2298 of the Revenue and Taxation Code is amended to read:

2298. In the event that a governmental reorganization makes it necessary or desirable or a local agency to exceed the maximum property tax rate provided in Section 2297, the governing body of such agency shall call an election pursuant to the provisions of Article 6 to establish a new maximum property tax rate for such agency. Such an election may be consolidated with any election which may be called on the proposed governmental reorganization.

If voted maximum property tax rates are established for a local agency, the voted property tax rates shall both exceed the maximum property tax rates computed pursuant to Section 2261 by the same number of cents per one hundred dollars ($100) of assessed valuation.

After the first year in which any voted maximum rate established pursuant to this section is effective, the maximum property tax rates shall be established pursuant to Section 2261.

SEC. 23. Section 2325.2 is added to the Revenue and Taxation Code, to read:

2325.2. In the event that the Controller determines that an error has occurred in establishing the maximum tax rate or rates pursuant to Article 4, he shall notify the appropriate county auditor of such error. The county auditor, in computing the maximum property tax rates for the next succeeding fiscal year, shall revise the prior year's secured tax rate, as defined in Section 2261, to correct for such error.

SEC. 24. Section 2350 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

2350. Notwithstanding any other provisions of the law, for fiscal years 1978–79 and thereafter, with respect to owner-occupied dwellings as defined in Section 2261, each county shall tentatively set a tax rate pursuant to the provisions of this chapter without reference to this section. Such tentative tax rate shall then be reduced by the sum of the tax rates computed pursuant to subdivisions (1), (2), and (3) of this section. and the resulting lower tax rate shall be levied.

(1) A tax rate computed by dividing the amount for the fiscal year determined under Section 12400 of the Welfare and Institutions Code, as estimated each year by the Controller and supplied to each county prior to August 1 of each fiscal year, and increased or decreased by any error in the prior year's estimate, by the total

taxable assessed value for the county for the fiscal year, and multiplying the quotient by 100;

(2) A tax rate computed by dividing the amount determined for the fiscal year under Section 14150 of the Welfare and Institutions Code, as estimated each year by the Controller and supplied to each county prior to August 1 of each fiscal year, and increased or decreased by any error in the prior year's estimate, by the total taxable assessed value for the county for the fiscal year, and multiplying the quotient by 100; and

(3) A tax rate computed by dividing the county cost, as estimated each year by the Department of Social Services and supplied to each county auditor prior to August 1 of each fiscal year, and increased or decreased by any error in the prior year's estimate, of grants for AFDC and BHI, not including the offset for collections received from absent fathers, pursuant to Section 11457 of the Welfare and Institutions Code, by the total taxable assessed value for the county for the fiscal year, and multiplying the quotient by 100.

SEC. 25. Section 2351 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1977, is amended to read:

2351. The amounts payable by each county pursuant to Section 12400 and Section 14150 of the Welfare and Institutions Code shall be reduced by the actual reductions in revenue (including reductions in subventions for homeowners' exemptions) caused by the tax rate reductions provided in subparagraphs (1) and (2) of Section 2350.

The state's share of AFDC and BHI funding shall be increased by the amount of actual reduction in revenue (including reductions in subventions for homeowners' exemptions) caused by the tax rate reduction provided in subparagraph (3) of Section 2350.

SEC. 26. Section 2354 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

2354. (a) If the reduction in the total ad valorem property tax rate levied on owner-occupied dwellings due to application of Section 2350 is less than 30 percent of the total ad valorem tax rate which would apply to owner-occupied dwellings before the application of Section 2350, then the net combined ad valorem property tax rate shall be adjusted to equal a tax rate 30 percent less than the total ad valorem property tax rate which would apply to owner-occupied dwellings before the application of Section 2350.

(b) The amount of property tax reduction for each owner-occupied dwelling shall be computed by determining the difference in the total ad valorem property tax rate before and after the adjustment provided in subdivision (a), dividing the result by 100, and multiplying the quotient by the taxable assessed valuation of the owner-occupied residence. The tax rate reduction provided in subdivision (a) shall be shown as an aggregate tax rate reduction, and shall not reduce the rate of any individual local agency or school district.

(c) As used in this section, "total ad valorem property tax rate" means the sum of the combined total property tax rates, to which the

homeowners' exemption applies, of all local agencies and school districts applicable to the property as shown on the property tax bill, collected by the county tax collector, plus the difference between the tentative county tax rate and the levied county tax rate pursuant to Section 2350.

(d) As used in this section, "net combined ad valorem property tax rate" means the sum of the combined total property tax rates, to which the homeowners' exemption applies, of all local agencies and school districts applicable to the property as shown on the property tax bill, collected by the county tax collector.

(e) When a local agency bills its property tax separately from the county tax bill, or where an agency levies a property tax rate on land only, or on land and improvements only, the tax rate on owner-occupied dwellings which would otherwise have been levied by the agency pursuant to the provisions of this chapter shall be reduced by 30 percent, and any resulting revenue loss shall be reimbursed pursuant to Section 2355.

SEC. 27. Section 2355 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

2355. The county auditor shall compute the total amount of revenue loss by each taxing agency due to the tax rate reductions provided in Section 2354 and shall file for reimbursement for this amount with the Controller no later than November 15 of each year. The Controller shall transmit to each county auditor one-half of the total reimbursement amount no later than December 10 of each year, and the remaining reimbursement amount no later than April 10 of each year. The county auditor shall allocate the reimbursement among local agencies and school districts as though the amount had been paid by the taxpayers.

SEC. 28. Section 2356 is added to the Revenue and Taxation Code, to read:

2356. The tax rate reductions provided by this article shall be performed by the county auditor, or by the local agency in the case of agencies which bill property tax separately from the county tax bill, only after compliance with all other provisions of the law which establish property tax rates.

SEC. 29. Section 2611.5 of the Revenue and Taxation Code as amended by Chapter 24 of the Statutes of 1978, is amended to read:

2611.5. (a) The following information shall be included either in each county tax bill or in a separate statement accompanying the tax bill:

(1) The full value and the assessed value of locally assessed property; if in addition thereto a different assessment is required for irrigation district purposes pursuant to Section 26625.1 of the Water Code, the assessed value for such purpose.

(2) The assessment ratio used to determine the assessed value.

(3) The tax rates or the dollar amounts of taxes levied by each revenue district and taxing agency on the property covered by the tax bill. An asterisk, or other distinctive mark, shall appear before the

names of all special districts for which the county board of supervisors serves as the governing body.

(4) In lieu of itemizing the information required by paragraph (3) of this subdivision, the tax rates or dollar amounts of taxes levied on the property covered by the bill for county and city purposes. The tax rates or dollar amounts of taxes levied on the property for other purposes shall be itemized. This option is available only if the information is included on the tax bill.

(b) With respect to any property for which the homeowners' property tax exemption is granted, the tax bill or accompanying statement shall include, in addition to the information required by subdivision (a), the following:

(1) The gross taxes prior to the application of the homeowners' exemption;

(2) The amount of tax reduction attributable to the homeowners' exemption;

(3) The amount of tax reduction attributable to rate reductions pursuant to Article 10 (commencing with Section 2350) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code; and

(4) The total taxes due on the property covered by the tax bill.

(c) The information required by subdivision (b) for single-family homes shall be in the form of the following example:

(1) Gross taxes prior to the application of the homeowners' exemption	$1,200
(2) Tax reduction attributable to the state-financed homeowners' property tax relief program	$175
(3) Tax reduction attributable to state financed program of cutting tax rates by 30%	$307
(4) Total taxes due	$718

(d) In any year in which all of the assessments on the local secured roll have been raised or lowered as a result of a board order adopted pursuant to Section 18, Article XIII of the California Constitution, the full value may be omitted or, if shown, the tax bill shall include an explanation of the inconsistency of that figure with the equalized assessed value and the announced assessment ratio. The explanation required by this subdivision may be printed on an enclosure accompanying such bill.

SEC. 30. Section 17052.6 of the Revenue and Taxation Code, as added by Chapter 1079 of the Statutes of 1977, is amended to read:

17052.6. (a) (1) In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subdivision (c) (1)), there shall be allowed as a credit against the "net tax" (as defined in paragraph (2)) imposed by this part for the taxable year an amount equal to 3 percent of the employment-related expenses (as defined in subdivision (c) (2)) paid by such individual during the taxable year.

(2) For the purposes of this section, the term "net tax" means the

tax imposed under either Section 17041 or 17048 minus the credits for personal exemption provided for in Section 17054 and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(3) The credit provided by paragraph (1) shall be reduced by 2 percent for each one hundred dollars ($100) of adjusted gross income in excess of fifteen thousand dollars ($15,000).

(b) For purposes of this section—

(1) The term ' qualifying individual" means—

(A) A dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a credit under Section 17054(c),

(B) A dependent of the taxpayer who is physically or mentally incapable of caring for himself.

(C) The spouse of the taxpayer, if he is physically or mentally incapable of caring for himself.

(2) (A) The term "employment-related expenses" means amounts paid for the following expenses, but only if such expenses are incurred to enable the taxpayer to be gainfully employed for any period for which there are one or more qualifying individuals with respect to the taxpayer:

(i) Expenses for household services, and

(ii) Expenses for the care of a qualifying individual.

(B) Employment-related expenses described in subparagraph (A) which are incurred for services outside the taxpayer's household shall be taken into account only if incurred for the care of a qualifying individual described in paragraph (1) (A).

(c) The amount of the employment-related expenses incurred during any taxable year which may be taken into account under subdivision (a) shall not exceed—

(1) Two thousand dollars ($2,000) if there is one qualifying individual with respect to the taxpayer for such taxable year, or

(2) Four thousand dollars ($4,000) if there are two or more qualifying individuals with respect to the taxpayer for such taxable year.

(d) (1) Except as otherwise provided in this subdivision, the amount of the employment-related expenses incurred during any taxable year which may be taken into account under subdivision (a) shall not exceed—

(A) In the case of an individual who is not married at the close of such year, such individual's earned income for such year, or

(B) In the case of an individual who is married at the close of such year, the lesser of such individual's earned income or the earned income of his spouse for such year.

(2) In the case of a spouse who is a student or a qualified individual described in subdivision (c) (1) (C), for purposes of paragraph (I), such spouse shall be deemed for each month during which such spouse is a full-time student at an educational institution, or is such a qualifying individual, to be gainfully employed and to have earned

income of not less than—

(A) One hundred sixty-six dollars ($166) if subdivision (d) (1) applies for the taxable year, or

(B) Three hundred thirty-three dollars ($333) if subdivision (d) (2) applies for the taxable year. In the case of any husband and wife, this paragraph shall apply with respect to only one spouse for any one month.

(e) For purposes of this section—

(1) An individual shall be treated as maintaining a household for any period only if over half the cost of maintaining the household for such period is furnished by such individual (or, if such individual is married during such period, is furnished by such individual and his spouse).

(2) If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subdivision (a) only if the taxpayer and his spouse file a joint return for the taxable year.

(3) An individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(4) If—

(A) An individual who is married and who files a separate return—

(i) Maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and

(ii) Furnishes over half of the cost of maintaining such household during the taxable year, and

(B) During the last six months of such taxable year such individual's spouse is not a member of such household, such individual shall not be considered as married.

(5) If—

(A) A child (as defined in Section 17054(c) (4)) who is under the age of 15 or who is physically or mentally incapable of caring for himself receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

(B) Such child is in the custody of one or both of his parents for more than one-half of the calendar year,

in the case of any taxable year beginning in such calendar year such child shall be treated as being a qualifying individual described in subparagraph (A) or (B) of subdivision (c) (1), as the case may be, with respect to that parent who has custody for a longer period during such calendar year than the other parent, and shall not be treated as being a qualifying individual with respect to such other parent.

(6) (A) Except as provided in subparagraph (B), no credit shall be allowed under subdivision (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in subdivision (a) through (h), inclusive, of Section

17056(a) (relating to definition of dependent) or to a dependent described in subdivision (i) of such section.

(B) Subparagraph (A) shall not apply to any amount paid by the taxpayer to an individual with respect to whom, for the taxable year of the taxpayer in which the service is performed, neither the taxpayer nor his spouse is entitled to a credit under Section 17054(c) (relating to credit for personal exemptions for dependents), but only if the service with respect to which such amount is paid constitutes employment within the meaning of Section 3121(b) of the Internal Revenue Code of 1954.

(7) The term "student" means an individual who during each of five calendar months during the taxable year is a full-time student at an educational organization.

(8) The term "educational organization" means an educational organization described in Section 17215.1(b)(2).

(f) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

SEC. 31. Section 17052.6 of the Revenue and Taxation Code, as added by Chapter 1100 of the Statutes of 1977, is amended and renumbered to read:

17052.7. (a) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (e)) an amount equal to 10 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of water application or distribution equipment, whether new or used, which results in the improvement of agricultural irrigation efficiency through the reduction of water usage from the installation of systems which include, but are not limited to, drip irrigation systems, tail water recovery systems, sprinkler systems, pipelines, and lining of ditches or canals, on agricultural land in California which was cultivated and irrigated during any growing season during the period commencing January 1, 1971, and ending December 31, 1976, and which is owned and controlled by the taxpayer at the time of installation. The credit shall be taken in the year of installation and shall not exceed five hundred dollars ($500).

(b) The credit for such cost shall be in addition to any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) For the purposes of this section:

(1) The term "net tax" means the tax imposed under either Section 17041 or 17048 minus the credit for dependent care services expenses provided for in Section 17052.6, the credits for personal exemption provided for in Section 17054, and the credits for taxes paid other states provided for in Chapter 12 (commencing with Section 18001).

(2) "Agricultural land" means any land used for the production of food or fiber.

(e) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this law.

(f) The credit allowed by this section shall be allowed only with regard to the installation of water application or distribution equipment on agricultural land used in a trade or business for the production of farm income.

(g) The tax credit provided by this section shall apply only to a taxpayer (1) whose average gross income from farming in the taxable year and the immediately preceding two taxable years is at least 75 percent of the average total gross income from all sources for such years, and (2) whose adjusted gross income in the taxable year is at least five thousand dollars ($5,000), but not more than five hundred thousand dollars ($500,000).

(h) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(i) This section shall be in effect with respect to taxable years ending on or before December 31, 1980, and as of December 31, 1980, is repealed unless a later enacted statute which is chaptered before December 31, 1980, deletes or extends such date.

SEC. 32. Section 17206.5 of the Revenue and Taxation Code is amended to read:

17206.5. Notwithstanding the provisions of subdivision (a) of Section 17206, any loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the federal government under an applicable federal disaster act may, at the election of the taxpayer, be deducted for the taxable year immediately preceding the taxable year in which the disaster occurred. Such deduction shall not be in excess of so much of the loss as would have been deductible in the taxable year in which the casualty occurred, based on facts existing at the date the taxpayer claims the loss. If an election is made under this section, the casualty resulting in the loss will be deemed to have occurred in the taxable year for which the deduction is claimed.

SEC. 33. Section 17384 of the Revenue and Taxation Code is amended to read:

17384. For purposes of those provisions of this chapter to which the rules contained in this section are expressly made applicable—

(a) (1) An individual shall be considered as owning the stock owned, directly or indirectly, by or for—

(A) His spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance); and

(B) His children, grandchildren, and parents.

(2) For purposes of subparagraph (1) (B), a legally adopted child of an individual shall be treated as a child of such individual by blood.

(b) (1) Stock owned, directly or indirectly, by or for a partnership or estate shall be considered as being owned proportionately by its partners or beneficiaries.

(2) (A) Stock owned, directly or indirectly, by or for a trust (other

than an employees' trust described in Section 17501 which is exempt from tax under Section 17631) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

(B) Stock owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under Sections 17781 to 17792, inclusive (relating to grantors and others treated as substantial owners), shall be considered as owned by such person.

(3) If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned, directly or indirectly, by or for that corporation, in that proportion which the value of the stock which such person so owns bears to the value of all the stock in such corporation.

(c) (1) Stock owned, directly or indirectly, by or for a partner or a beneficiary of an estate shall be considered as owned by the partnership or estate.

(2) (A) Stock owned, directly or indirectly, by or for a beneficiary of a trust (other than an employees' trust described in Section 17501 which is exempt from tax under Section 17631) shall be considered as owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this subparagraph, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of the trust property.

(B) Stock owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under Sections 17781 to 17792, inclusive (relating to grantors and others treated as substantial owners), shall be considered as owned by the trust.

(3) If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such corporation shall be considered as owning the stock owned, directly or indirectly, by or for such person.

(d) If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this subdivision an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(e) (1) Except as provided in paragraphs (2) and (3), stock constructively owned by a person by reason of the application of subdivision (a), (b), (c), or (d) shall, for purposes of applying subdivision (a), (b), (c), or (d), be treated as actually owned by such person.

(2) Stock constructively owned by an individual by reason of the application of subdivision (a) shall not be treated as owned by him for purposes of again applying subdivision (a) in order to make another the constructive owner of such stock.

(3) Stock constructively owned by a partnership, estate, trust, or

corporation by reason of the application of subdivision (c) shall not be considered as owned by it for purposes of applying subdivision (b) in order to make another the constructive owner of such stock.

(4) For purposes of this subdivision, if stock may be considered as owned by an individual under subdivision (a) or (d), it shall be considered as owned by him under subdivision (d).

SEC. 34. Section 17737.5 is added to the Revenue and Taxation Code, to read:

17737.5. In the case of a cemetery perpetual care fund which—

(a) Was created pursuant to local law by a taxable cemetery corporation for the care and maintenance of cemetery property, and

(b) Is treated for the taxable year as a trust for purposes of this part,

any amount distributed by such fund for the care and maintenance of gravesites which have been purchased from the cemetery corporation before the beginning of the taxable year of the trust and with respect to which there is an obligation to furnish care and maintenance shall be considered to be a distribution solely for purposes of Sections 17751 and 17761, but only to the extent that the aggregate amount so distributed during the taxable year does not exceed five dollars ($5) multiplied by the aggregate number of such gravesites.

SEC. 35. Section 18212 of the Revenue and Taxation Code is amended to read:

18212. (a) Except as otherwise provided in this section—

(1) (A) If Section 18212 property is disposed of after December 31, 1976, then the applicable percentage of the lower of—

(i) That portion of the additional depreciation (as defined in subdivision (a) or (d) of Section 18213) attributable to periods after December 31, 1976, in respect of the property, or

(ii) The excess of the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such property (in the case of any other disposition), over the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provisions of this part.

(B) For purposes of subparagraph (A), the term "applicable percentage" means—

(i) In the case of Section 18212 property with respect to which a mortgage is insured under Section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of state or local laws and with respect to which the owner is subject to the restrictions described in Section 1039(b)(1)(B) of the Internal Revenue Code of 1954, 100 percent minus one percentage point for each full month the property was held after the date the property was held 100 full months;

(ii) In the case of dwelling units which, on the average, were

held for occupancy by families or individuals eligible to receive subsidies under Section 8 of the United States Housing Act of 1937, as amended, or under the provisions of state or local law authorizing similar levels of subsidy for lower income families, 100 percent minus one percentage point for each full month the property was held after the date the property was held 100 full months;

(iii) In the case of Section 18212 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under Section 17211.7, 100 percent minus one percentage point for each full month in excess of 100 full months after the date on which such property was placed in service;

(iv) In the case of Section 18212 property with respect to which a loan is made or insured under Title V of the Housing Act of 1949, 100 percent minus one percentage point for each full month the property was held after the date the property was held 100 full months; and

(v) In the case of all other Section 18212 property, 100 percent. In the case of a building (or a portion of a building devoted to dwelling units), if, on the average, 85 percent or more of the dwelling units contained in such building (or portion thereof) are units described in clause (ii), such building (or portion thereof) shall be treated as property described in clause (ii).

Clauses (i), (ii), and (iv) shall not apply with respect to the additional depreciation described in subdivision (a) of Section 18213.

(2) (A) If Section 18212 property is disposed of after December 31, 1970, and the amount determined under clause (ii) of subparagraph (A) of paragraph (1) exceeds the amount determined under clause (i) of subparagraph (A) of paragraph (1), then the applicable percentage of the lower of—

(i) That portion of the additional depreciation attributable to periods after December 31, 1970, and before January 1, 1977, in respect of the property, or

(ii) The excess of the amount determined under clause (ii) of subparagraph (A) of paragraph (1) over the amount determined under clause (i) of subparagraph (A) of paragraph (1),

shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this part.

(B) For purposes of subparagraph (A), the term "applicable percentage" means—

(i) In the case of Section 18212 property disposed of pursuant to a written contract which was, on December 31, 1970, and at all times thereafter, binding on the owner of the property, 100 percent minus one percentage point for each full month the property was held after the date the property was held 20 full months;

(ii) In the case of Section 18212 property with respect to which a mortgage is insured under Section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct

loan or tax abatement under similar provisions of state or local laws, and with respect to which the owner is subject to the restrictions described in Section 1039(b)(1)(B) of the Internal Revenue Code of 1954, 100 percent minus one percentage point for each full month the property was held after the date the property was held 20 full months;

(iii) In the case of residential rental property (as defined in Section 17211.7 other than that covered by clauses (i) and (ii)), 100 percent minus one percentage point for each full month the property was held after the date the property was held 100 full months;

(iv) In the case of Section 18212 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under Section 17211.7, 100 percent minus one percentage point for each full month in excess of 100 full months after the date on which such property was placed in service; and

(v) In the case of all other Section 18212 property, 100 percent.

Clauses (i), (ii), and (iii) shall not apply with respect to the additional depreciation described in subdivision (a) of Section 18213.

(3) (A) If Section 18212 property is disposed of after December 31, 1963, and the amount determined under clause (ii) of subparagraph (A) of paragraph (1) exceeds the sum of the amounts determined under clause (i) of subparagraph (A) of paragraph (1), and clause (i) of subparagraph (A) of paragraph (2), then the applicable percentage of the lower of—

(i) That portion of the additional depreciation attributable to periods before January 1, 1971, in respect of the property, or

(ii) The excess of the amount determined under clause (ii) of subparagraph (A) of paragraph (1) over the sum of the amounts determined under clause (i) of subparagraph (A) of paragraph (1) and clause (i) of subparagraph (A) of paragraph (2),

shall also be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this part.

(B) For purposes of subparagraph (A), the term "applicable percentage" means 100 percent minus one percentage point for each full month the property was held after the date on which the property was held for 20 full months.

(b) The amendment made to this section by the 1977–78 Regular Session of the Legislature shall apply to taxable years ending after December 31, 1976.

SEC. 36. Section 18433 of the Revenue and Taxation Code is amended to read:

18433. (a) The Franchise Tax Board may grant a reasonable extension of time for filing any return, declaration, statement or other document required by this part. Except for taxpayers residing or traveling abroad, requests for extensions must be made on or before the due date for filing the return, declaration, statement, or other document, and no such extension or extensions shall be for more than six months, except that no such extension or extensions of

the time for filing and payment of withheld tax under Section 18491 may exceed 60 days. In the case of taxpayers residing or traveling abroad, returns shall be filed no later than the 15th day of the sixth month following the close of the taxable year unless a request for extension has been made on or before the above date.

(b) A reasonable extension for payment of tax required by this part may be granted by the Franchise Tax Board whenever in its judgment good cause exists.

SEC. 37. Section 20503 of the Revenue and Taxation Code, as added by Chapter 43 of the Statutes of 1978, is amended to read:

20503. (a) "Income" means adjusted gross income as defined in Section 17072 plus the following cash items:

(1) Public assistance and relief;

(2) Gross amount of pensions and annuities;

(3) Social security benefits (except Medi-Care);

(4) Railroad retirement benefits;

(5) Unemployment insurance payments;

(6) Veteran's benefits;

(7) Interest received from any source, whether or not exempt from income tax;

(8) Gifts and inheritances in excess of $300, other than transfers between members of the household. Gifts and inheritances includes noncash items;

(9) Amounts contributed on behalf of the contributor to a tax-sheltered retirement plan or deferred compensation plan;

(10) Temporary worker's compensation payments;

(11) Sick-leave payments;

(12) Nontaxable military compensation as defined in Sections 17146, 17146.5 or 17146.7;

(13) Nontaxable scholarship and fellowship grants as defined in Section 17150;

(14) Nontaxable gain from the sale of a residence as defined in Section 17154;

(15) Life insurance proceeds; and

(16) If a tax on preference income is required to be paid pursuant to Chapter 2.1 (commencing with Section 17062), the amount of tax preference income (whether or not cash) in excess of net business loss which resulted in the preference tax liability.

(b) For purposes of this chapter, 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 assistance is claimed.

(c) For purposes of Chapter 2 (commencing with Section 20581) and Chapter 3 (commencing with Section 20625) of this part, total income shall be determined for the calendar year ending immediately prior to the commencement of the fiscal year for which postponement is claimed; provided, that for claims filed after January 1, 1978, for the 1977–78 fiscal year, total income may, at the election of the claimant, be determined for the 1977 calendar year.

Notwithstanding any other provision of law, for purposes of claimants electing to determine household income for the 1977 calendar year pursuant to this subdivision, the household income shall not exceed twenty thousand dollars ($20,000).

This subdivision shall apply only to claims for the 1977–78 fiscal year.

SEC. 38. Section 20505 of the Revenue and Taxation Code is repealed.

SEC. 39. Section 20505 is added to the Revenue and Taxation Code, to read:

20505. "Claimant" means an individual who—

(a) For purposes of this chapter was 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) of Section 20503, whichever is applicable, who was a member of the household, and who was either: (1) the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (b) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503.

(b) For purposes of Chapter 2 (commencing with Section 20581) and Chapter 3 (commencing with Section 20625) was a member of the household and an owner and occupier of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (c) of Section 20503, and who was 62 years of age or older by December of the fiscal year for which postponement is claimed provided, for purposes of eligibility for postponement of taxes for the 1977–78 fiscal year, an individual must be 62 years of age or older by March 15, 1978.

(c) Where amounts have been postponed for any given fiscal year and the claimant continues to own and occupy the residential dwelling on December 31 of the calendar year in which such fiscal year begins, and the claimant sells such dwelling and buys a new residential dwelling in this state on or before June 30 of such fiscal year and the new dwelling is the claimant's principal place of residence, then in such event, the claimant shall be deemed to be a qualified claimant for the purpose of this section.

(d) For the purposes of this chapter, "claimant" also includes an individual who is the unmarried surviving spouse of a decedent who received assistance under this chapter, and who satisfies all eligibility requirements for assistance under this chapter, except the age requirement.

SEC. 40. Section 20505 is added to the Revenue and Taxation Code, to read:

20505. "Claimant" means an individual who—

(a) For purposes of this chapter was 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) of Section 20503, whichever is applicable, who was a member of the household, and who was either: (1) the owner and occupier of a residential dwelling on the last day of the year

designated in subdivision (b) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503.

(b) For purposes of Chapter 2 (commencing with Section 20581) and Chapter 3 (commencing with Section 20625) was a member of the household and an owner and occupier of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (c) of Section 20503, and who was 62 years of age or older by December 31 of the fiscal year for which postponement is claimed provided, for purposes of eligibility for postponement of taxes for the 1977–78 fiscal year, an individual must be 62 years of age or older by March 15, 1978.

(c) Where amounts have been postponed for any given fiscal year and the claimant continues to own and occupy the residential dwelling on December 31 of the calendar year in which such fiscal year begins, and the claimant sells such dwelling and buys a new residential dwelling in this state on or before June 30 of such fiscal year and the new dwelling is the claimant's principal place of residence, then in such event, the claimant shall be deemed to be a qualified claimant for the purpose of this section.

SEC. 41. Section 20505.2 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is repealed.

SEC. 42. Section 20542 of the Revenue and Taxation is amended to read:

20542. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 20561), of this chapter, shall provide assistance to the claimant based on the property tax accrued and paid by the claimant on the residential dwelling as provided in Section 20543 or the statutory property tax equivalent pursuant to Section 20544. 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 chapter. When two or more individuals of a household are able to meet the qualifications for an owner-claimant, they may determine whom 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 deemed 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 20563.

(4) If an individual postponed taxes for any given property tax fiscal year under Chapter 2 (commencing with Section 20581) or Chapter 3 (commencing with Section 20625) of this part, then any claim for assistance under this chapter for the same property tax fiscal year shall be filed by such individual (assuming all other eligibility requirements in this chapter are satisfied) and not an otherwise qualified member of the individual's household.

SEC. 43. Section 20542 of the Revenue and Taxation Code is repealed.

SEC. 44. Section 20542 is added to the Revenue and Taxation Code, to read:

20542. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 20561), of this chapter, shall provide assistance to the claimant based on a percentage of the property tax accrued and paid by the claimant on the residential dwelling as provided in Section 20543 or the statutory property tax equivalent pursuant to Section 20544. 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 residential dwelling 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 residential dwelling 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 chapter. When two or more individuals of a household are able to meet the qualifications for an owner-claimant, they may determine whom 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 20563.

SEC. 45. Section 23602 of the Revenue and Taxation Code is amended to read:

23602. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 10 percent of the costs (including installation charges but excluding interest charges) incurred by the taxpayer of water application or distribution equipment, whether new or used, which results in the improvement of agricultural irrigation efficiency through the reduction of water usage from the installation of systems which include, but are not limited to, drip irrigation systems, tail water recovery systems, sprinkler systems, pipelines, and lining of ditches or canals, on agricultural land in California which was cultivated and irrigated during any growing season during the period commencing January 1, 1971, and ending December 31, 1976, and which is owned and controlled by the taxpayer at the time of installation. The credit shall be taken in the year of installation and shall not exceed five hundred dollars ($500).

(b) The credit for such cost shall be in addition to any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) When either (1) the income from sources within this state of two or more corporations which are commonly owned or controlled is determined in accordance with Chapter 17 (commencing with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division, or (2) two or more commonly owned or controlled corporations derive income from sources solely within this state, whose business activities are such that if conducted within and without this state, the income derived from sources within this state would be determined in accordance with Chapter 17 (commencing

with Section 25101) of this part or Part 18 (commencing with Section 38001) of this division (hereinafter referred to as "wholly intrastate corporations"), then such corporations shall determine the credit prescribed in subdivision (a) as if such corporations were one corporation. As to wholly intrastate corporations, the amount of the credit prescribed in subdivision (a) shall be prorated among them in the ratio to which the cost of such equipment to each corporation bears to the total cost of such equipment for all corporations.

(d) The credit allowed by this section shall be allowed only with regard to the installation of water application or distribution equipment on agricultural land used in a business for the production of farm income.

(e) The tax credit provided by this section shall apply only to a taxpayer (1) whose average gross income from farming in the income year and immediately preceding two income years is at least 75 percent of the average total gross income from all sources for such years, and (2) whose net income in the income year is at least five thousand dollars ($5,000), but not more than five hundred thousand dollars ($500,000).

(f) For the purpose of this section, the term "agricultural land" means any land used for the production of food or fiber.

(g) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) This section shall be in effect with respect to income years ending on or before December 31, 1980, and as of December 31, 1980, is repealed unless a later enacted statute which is chaptered before December 31, 1980, deletes or extends such date.

SEC. 46. Section 24427 of the Revenue and Taxation Code is amended to read:

24427. No deduction shall be allowed—

In respect of losses from sales or exchanges of property (other than losses in cases of distributions in corporate liquidations), directly or indirectly, between persons specified within any one of the paragraphs of Section 24228.

In respect of expenses, otherwise deductible under Section 24343, or of interest, otherwise deductible under Section 24344—

(a) If within the period consisting of the income year of the taxpayer and two and one-half months after the close thereof (1) such expenses or interest are not paid, and (2) the amount thereof is not includable in the gross income of the person to whom the payment is to be made; and

(b) If, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includable in the gross income of such person for the income year in which or with which the income year of the taxpayer ends; and

(c) If, at the close of the income year of the taxpayer or at any time within 2½ months thereafter, both the taxpayer and the person to whom the payment is to be made are persons specified within

Section 24428.

SEC. 47. Section 24443 is added to the Revenue and Taxation Code, to read:

24443. (a) If any employee attends more than two foreign conventions during the income year—

(1) The taxpayer shall select not more than two of such conventions to be taken into account for purposes of this section, and

(2) No deduction allocable to the employee's attendance at any foreign convention during such income year (other than a foreign convention selected under paragraph (1)) shall be allowed under Section 24343.

(b) In the case of any foreign convention, no deduction for the expenses of transportation outside the United States to and from the site of such convention shall be allowed under Section 24343 in an amount which exceeds the lowest coach or economy rate at the time of travel charged by a commercial airline for transportation to and from such site during the calendar month in which such convention begins. If there is no such coach or economy rate, the preceding sentence shall be applied by substituting "first class" for "coach or economy."

(c) In the case of any foreign convention, a deduction for the full expenses of transportation (determined after the application of subdivision (b) to and from the site of such convention shall be allowed only if more than one-half of the total days of the trip, excluding the days of transportation to and from the site of such convention, are devoted to business-related activities. If less than one-half of the total days of the trip, excluding the days of transportation to and from the site of the convention, are devoted to business-related activities, no deduction for the expenses of transportation shall be allowed which exceeds the percentage of the days of the trip devoted to business-related activities.

(d) In the case of any foreign convention, no deduction for subsistence expenses shall be allowed except as follows:

(1) A deduction for a full day of subsistence expenses while at the convention shall be allowed if there are at least six hours of scheduled business activities during such day and the employee attending the convention has attended at least two-thirds of these activities, and

(2) A deduction for one-half day of subsistence expenses while at the convention shall be allowed if there are at least three hours of scheduled business activities during such day and the employee attending the convention has attended at least two-thirds of these activities.

Notwithstanding paragraphs (1) and (2), a deduction for subsistence expenses for all of the days or half days, as the case may be, shall be allowed if the employee attending the convention has attended at least two-thirds of the scheduled business activities, and each such full day consists of at least six hours of scheduled business activities and each such half day consists of at least three hours of scheduled business activities.

(e) In the case of any foreign convention, no deduction for subsistence expenses while at the convention or traveling to or from such convention shall be allowed at a rate in excess of the dollar per diem rate for the site of the convention which has been established under Section 5702(a) of Title 5 of the United States Code and which is in effect for the calendar month in which the convention begins.

(f) For purposes of this section—

(1) The term "foreign convention" means any convention, seminar, or similar meeting held outside the United States, its possessions, and the Trust Territory of the Pacific.

(2) The term "subsistence expenses" means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler. Such term includes tips and taxi and other local transportation expenses.

(3) In any case where the transportation expenses or the subsistence expenses are not separately stated, or where there is reason to believe that the stated charge for transportation expenses or subsistence expenses or both does not properly reflect the amounts property allocable to such purposes, all amounts paid for transportation expenses and subsistence expenses shall be treated as having been paid solely for subsistence expenses.

(4) This section shall apply to deductions otherwise allowable under Section 24343.

(g) No deduction shall be allowed under Section 24343 for transportation or subsistence expenses allocable to attendance at a foreign convention unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

(1) A written statement signed by the employee attending the convention which includes—

(A) Information with respect to the total days of the trip, excluding the days of transportation to and from the site of such convention, and the number of hours of each day of the trip which such individual devoted to scheduled business activities,

(B) A program of the scheduled business activities of the convention, and

(C) Such other information as may be required in regulations prescribed by the Franchise Tax Board;

and

(2) A written statement signed by an officer of the organization or group sponsoring the convention which includes—

(A) A schedule of the business activities of each day of the convention,

(B) The number of hours which the employee attending the convention attended such scheduled business activities, and

(C) Such other information as may be required in regulations prescribed by the Franchise Tax Board.

SEC. 48. Section 24497 of the Revenue and Taxation Code is amended to read:

24497. For purposes of those provisions of this chapter to which

the rules contained in this section are expressly made applicable—

(a) (1) An individual shall be considered as owning the stock owned, directly or indirectly, by or for—

(A) His spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance); and

(B) His children, grandchildren, and parents.

(2) For purposes of subparagraph (1) (B), a legally adopted child of an individual shall be treated as a child of such individual by blood.

(b) (1) Stock owned, directly or indirectly, by or for a partnership or estate shall be considered as owned proportionately by its partners or beneficiaries.

(2) (A) Stock owned, directly or indirectly, by or for a trust (other than an employees' trust described in Section 17501 of Part 10 of Division 2 of this code which is exempt from tax under Section 17631 of Part 10 of Division 2 of this code) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

(B) Stock owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under Sections 17781 to 17792, inclusive, of Part 10 of Division 2 of this code (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

(3) If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned, directly or indirectly, by or for such corporation, in that proportion which the value of the stock which such person so owns bears to the value of all the stock in such corporation.

(c) (1) Stock owned, directly or indirectly, by or for a partner or a beneficiary of an estate shall be considered as owned by the partnership or estate.

(2) (A) Stock owned, directly or indirectly, by or for a beneficiary of a trust (other than an employees' trust described in Section 17501 of Part 10 of Division 2 of this code which is exempt from tax under Section 17631 of Part 10 of Division 2 of this code) shall be considered as owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this subparagraph, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarilly, is 5 percent or less of the value of the trust property.

(B) Stock owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under Sections 17781 to 17792, inclusive, of Part 10 of Division 2 of this code (relating to grantors and others treated as substantial owners) shall be considered as owned by the trust.

(3) If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such corporation

shall be considered as owning the stock owned, directly or indirectly, by or for such person.

(d) If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(e) (1) Except as provided in paragraphs (2) and (3), stock constructively owned by a person by reason of the application of subdivision (a), (b), (c), or (d) shall, for purposes of applying subdivision (a), (b), (c), or (d), be treated as actually owned by such person.

(2) Stock constructively owned by an individual by reason of the application of subdivision (a) shall not be treated as owned by him for purposes of again applying subdivision (a) in order to make another the constructive owner of such stock.

(3) Stock constructively owned by a partnership, estate, trust, or corporation by reason of the application of subdivision (c) shall not be considered as owned by it for purposes of applying subdivision (b) in order to make another the constructive owner of such stock.

(4) For purposes of this paragraph, if stock may be considered as owned by an individual under subdivision (a) or (d), it shall be considered as owned by him under subdivision (d).

SEC. 49. Section 50000 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

50000. "State" shall mean the State of California.

SEC. 50. Section 50017 of the Revenue and Taxation Code, as added by Chapter 24 of the Statutes of 1978, is amended to read:

50017. Revenues in excess of the maximum state revenue limit may be used only upon the following circumstances:

(a) Upon a separately recorded two-third vote of both houses of the Legislature, recorded in the journal, and concurred in by the Governor, such vote to be accompanied by an explanation of the reasons for the state retaining and using such revenues rather than their being returned to the taxpayers as provided in subsection (b).

(b) All revenues not appropriated pursuant to subdivision (a) shall be used exclusively for the following purposes:

(1) To pay for "additional" property tax relief programs funded by the state;

(2) To reduce state taxes below current statutory levels;

(3) To maintain a "prudent" surplus not to exceed 3 percent of total revenues;

(4) For emergencies, if the Governor declares an emergency and such emergency is concurred in by the Legislature by concurrent resolution; or

(5) To fund a revenue sharing program with local government.

SEC. 51. Section 12400 of the Welfare and Institutions Code, as amended by Chapter 24 of the Statutes of 1978, 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) Beginning with the fiscal year 1978–79, the amount payable by each county shall be determined by adjusting the amount payable in the prior fiscal year, as computed pursuant to this section, by the lesser of:

(1) The percentage change from the prior fiscal year to the current fiscal year in the amount of property tax derived from tax rates levied pursuant to Article 4 of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, including reimbursements for the homeowners' exemption, the business inventory exemption, and the tax rate reductions for homeowners provided by Article 10 of that chapter; or

(2) The percentage change in modified assessed value from the prior fiscal year.

(c) The term "modified assessed value" for the current year 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 41200 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years.

The term "modified assessed value" for the base year means the total of (1) the taxable 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 factor certified for the base year under Section 41200 of the Education Code for the local roll of the county. The factor referred to herein is as corrected pursuant to subdivision (b) of Section 1819 of the Revenue and Taxation Code. 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.

(d) The counties' share toward the cost of care and administration provided under this chapter shall be paid to the state monthly.

SEC. 52. Section 14150 of the Welfare and Institutions Code, as amended by Chapter 24 of the Statutes of 1978, 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.

Beginning with the 1978–79 fiscal year, the amount payable by each county shall be determined by adjusting the amount payable in the prior fiscal year, as computed pursuant to this section, by the lesser of:

(1) The percentage change from the prior fiscal year to the current fiscal year in the amount of property tax derived from tax rates levied pursuant to Article 4 of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, including reimbursements for the homeowners' exemption, the business inventory exemption and the tax rate reductions for homeowners provided by Article 10 of that chapter; or

(2) The percentage change in modified assessed value from the prior fiscal year.

(b) The term "modified assessed value" for the current year 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 41200 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years.

The term "modified assessed value" for the base year means the total of (1) the taxable 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 factor certified for the base year under Section 41200 of the Education Code for the local roll of the county. The factor referred to herein is as corrected pursuant to subdivision (b) of Section 1819 of the Revenue and Taxation Code. 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.

(d) Notwithstanding the provisions of Sections 5707, 5709.5, 5710, and 5714, payment for the costs of health care services provided under Part 2 (commencing with Section 5600), Division 5, of this code, the Short-Doyle Act, shall be made in accordance with the provisions of this section.

(e) Notwithstanding the provisions of Section 7511, payment for the share of costs of health care services provided under Chapter 4 (commencing with Section 7500), Division 7, of this code, shall be made in accordance with the provisions of this section.

SEC. 53. Section 43 of Chapter 24 of the Statutes of 1978 is amended to read:

Sec. 43. (a) Assessors, and other local officials responsible for preparing an assessment roll, shall begin immediately to determine properties common to both current and prior rolls, as required by Section 10 of this act, and to separate and identify the value attributable to the residential dwelling, when necessary, as required by Section 4 of this act, and to identify those properties which will be subject to tax as owner-occupied dwellings if Proposition 8 on the ballot for the statewide election on June 6, 1978 is approved by the voters.

(b) County auditors, and other local officials, where applicable, may submit claims to the Controller for reimbursement of costs mandated by this act, which have been incurred prior to July 1, 1978. Such claims shall be filed on or before August 15, 1978, in a manner prescribed by the Controller and shall be paid from any appropriation made for such purpose by the Legislature.

(c) Local agencies shall be reimbursed for any costs mandated by this act in 1978–79 and subsequent fiscal years in accordance with Section 2231 of the Revenue and Taxation Code from appropriations in the annual State Budget acts.

SEC. 54. Section 46 of Chapter 24 of the Statutes of 1978 is amended to read:

Sec. 46. The provisions of this act shall have the following operative dates:

(a) Sections 1, 2, 7 to 27, inclusive, 30 and 31 shall become operative beginning with the 1978–79 fiscal year;

(b) Section 32 shall become operative with respect to taxable years beginning on and after January 1, 1978;

(c) Sections 39.2, 39.4 and 40 shall become operative beginning with claims for 1977–78 property taxes;

(d) Sections 41 and 42 shall apply to county payments beginning in 1978–79.

(e) Section 40.5 shall be operative for the 1979–80 fiscal year and each year thereafter.

SEC. 55. Section 47 of Chapter 24 of the Statutes of 1978 is amended to read:

Sec. 47. All provisions of this act, except Section 43, shall be repealed on June 7, 1978, unless Proposition 8 on the ballot for the statewide election on June 6, 1978 is approved by the voters and Proposition 13 on the ballot for the statewide election on June 6, 1978 is rejected by the voters, or is declared unconstitutional by the courts.

SEC. 57. Sections 1 to 29, inclusive, 39, and 49 to 55, inclusive, of this act shall become operative only if Proposition 8 on the ballot for the statewide election on June 6, 1978, is approved by the voters and Proposition 13 on that ballot is rejected by the voters.

SEC. 58. Section 40 of this act shall become operative only if Proposition 8 on the ballot for the statewide election on June 6, 1978, is rejected by the voters and Proposition 13 on that ballot is approved by the voters.

SEC. 59. Section 42 of the act shall become operative only if Proposition 8 on the ballot for the statewide election on June 6, 1978, is approved by the voters and Proposition 13 on that ballot is rejected by the voters. Sections 43 and 44 of the act shall become operative only if Proposition 8 on the ballot for the statewide election on June 6, 1978, is rejected by the voters and Proposition 13 on the ballot is approved by the voters.

SEC. 60. Notwithstanding subdivision (a) of Section 20563 of the Revenue and Taxation Code, claims for property tax assistance for 1977–78 shall be filed after June 15, 1978 and before September 30, 1978.

SEC. 61. After May 1, 1978 and before May 15, 1978, the Franchise Tax Board shall mail a notice to senior citizen homeowners and renters who filed for property tax assistance for the 1976–77 property tax fiscal year. The notice shall indicate that claim forms and instructions for 1977–78 will not be mailed until after the June 6, 1978, statewide election and the filing period for such claims will begin on June 16, 1978, rather than May 16, 1978. This delay of notice is necessary because the specific benefits available to senior citizen claimants will not be determined until the election results are known inasmuch as the new table of benefits provided by Chapter 24 of the Statutes of 1978 will not be in effect unless Proposition 8 is approved and Proposition 13 is rejected at the June 6, 1978, election.

SEC. 62. The provisions of this act affecting the Personal Income Tax Law and the Bank and Corporation Tax Law shall be applied in the computation of taxes for taxable years and income years beginning on or after the first day of the calendar year in which this act becomes effective, provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act shall apply in the computation of taxes for taxable years and income years beginning on or after the first day of

the calendar year following the effective date. With respect to changes affecting the provisions of Part 10.5 (commencing with Sec. 20501) of Division 2 of the Revenue and Taxation Code, this act shall apply to claims for assistance for the 1977–78 property tax fiscal years and thereafter.

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:

Senate Bill No. 1 of this session, enacted into law as Chapter 24 of the Statutes of 1978, provided a program of property tax relief. There were a number of oversights and technical errors in that bill. In order to effectively implement the program authorized by Senate Bill No. 1, it is necessary that this act take effect immediately.

CHAPTER 124

An act to add Section 232.3 to the Civil Code, relating to parent and child.

[Approved by Governor May 3, 1978. Filed with Secretary of State May 3, 1978.]

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

SECTION 1. It is the intention of the Legislature in enacting this legislation to recognize the devastating effects upon a child who remains in foster care indefinitely and is shifted from one home to another over a period of years and to also recognize the importance of a child's need for a permanent family of his own as quickly as possible.

SEC. 2. Section 232.3 is added to the Civil Code, to read:

232.3. (a) Notwithstanding any other provision of law, an action to declare a child free from parental custody and control pursuant to Section 232 shall be heard not more than 45 days after filing of a petition therefor and completion of service thereon in the manner prescribed by law for service of civil process. Final determination of such matter shall be made as expeditiously as possible.

(b) In order to obtain a motion for a continuance of the hearing, written notice shall be filed within two court days of the date set for the hearing, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance. Continuances shall be granted only upon a showing of good cause. Neither a stipulation between counsel nor the convenience of the parties is in and of itself a good cause.

A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the

motion. Wherever any continuance is granted, the facts proven which require the continuance shall be entered upon the minutes of the court.

CHAPTER 125

An act to amend Section 5955 of the Harbors and Navigation Code, relating to harbor improvement districts.

[Approved by Governor May 3, 1978. Filed with Secretary of State May 3, 1978]

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

SECTION 1. Section 5955 of the Harbors and Navigation Code is amended to read:

5955. Notwithstanding the provisions of Sections 5940 to 5954, inclusive, the district may acquire, develop, operate, or maintain public beaches or inland parks and recreation areas without holding the hearings and making the findings required by such provisions if there is compliance with Section 21151 of the Public Resources Code and Section 65402 of the Government Code; provided, however, that the board of supervisors shall hold at least one public hearing prior to the approval of any such project. Harbor improvement district funds may be expended prior to the public hearing for the purpose of obtaining compliance with Section 21151 of the Public Resources Code and Section 65402 of the Government Code.

CHAPTER 126

An act to amend Section 53647 of the Government Code, relating to local funds.

[Approved by Governor May 3, 1978 Filed with Secretary of State May 3, 1978]

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

SECTION 1. Section 53647 of the Government Code is amended to read:

53647. (a) Interest on all money deposited belongs to, and shall be paid quarterly into the general fund of, the local agency represented by the officer making the deposit, unless otherwise directed by law.

(b) Notwithstanding the provisions of subdivision (a), and except as otherwise directed by law, if the governing body of the local agency represented by the officer making the deposit so directs, such

interest shall be paid to the fund which contains the principal on which the interest accrued.

CHAPTER 127

An act to amend Section 71660 of the Water Code, relating to municipal water districts.

[Approved by Governor May 3, 1978 Filed with Secretary of State May 3, 1978]

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

SECTION 1. Section 71660 of the Water Code is amended to read:

71660. A district may construct, maintain, improve, and operate public recreational facilities appurtenant to facilities operated or contracted to be operated by the district. It may by ordinance provide regulations binding upon all persons to govern the use of such facilities, including regulations imposing reasonable charges for the use thereof. Violation of district regulations relating to vehicle or boat speed limits, defacement of district property, the use, possession or discharge of firearms, weapons or fireworks, the creation of fire hazards, being under the influence of intoxicating beverages or dangerous drugs, or remaining on, or reentering district premises after an authorized district officer or employee has specifically withdrawn consent for a person to utilize district facilities, is a misdemeanor. Violation of any other regulation of the district adopted pursuant to this section is an infraction.

CHAPTER 128

An act relating to the practice of medicine, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature May 4, 1978. Filed with Secretary of State May 4, 1978.]

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

SECTION 1. It is the intent of the Legislature in passing this act during the 1978 portion of the 1977–78 legislative session to only rectify an administrative error made in 1961 during the processing of osteopathic physicians' and surgeons' applications for obtaining the degree of doctor of medicine. This act is deemed by the Legislature to be procedural in nature and is not intended to be a substantive determination of the qualifications of any person to be

licensed as a doctor of medicine. The Legislature does not intend to reverse the decision of any courts on the validity of Proposition 22 of the general election of 1962, nor does the Legislature intend to open the degree of doctor of medicine to osteopathic physicians and surgeons generally.

SEC. 2. The Division of Licensing of the Board of Medical Quality Assurance, upon payment of the certificate application fee, shall issue a physician's and surgeon's certificate to an applicant who filed an "application for the awarding of the degree doctor of medicine from an accredited school of medicine" in 1961, was eligible to receive the degree of doctor of medicine at that time, and who has maintained licensure as a physician and surgeon or osteopathic physician and surgeon in this state since that time without any disciplinary action from the board under which he or she was licensed as a physician and surgeon or osteopathic physician and surgeon. In order to receive a certificate from the Division of Licensing, such osteopathic physician and surgeon shall demonstrate that he or she in good faith and in a timely manner filed the "application for the awarding of the degree doctor of medicine from an accredited school of medicine."

SEC. 3. This act shall be in effect only until the 91st day after the effective date of the act, and on such date is repealed.

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:

There is an acute shortage of physicians and surgeons in this state and this act would authorize the issuance of a physician's and surgeon's certificate to any persons meeting the requirements of this act.

CHAPTER 129

An act to amend Sections 19491.5, 19531, 19549.6, 19549.7, 19612.1, 19612.3, 19612.5, 19614.2, 19618, and 19705 of, to add Sections 19612.2 and 19612.6 to, and to repeal Sections 19533.1 and 19614.1 of, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 10, 1978. Filed with Secretary of State May 11, 1978.]

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

SECTION 1. Section 19491.5 of the Business and Professions Code is amended to read:

19491.5. Notwithstanding the provisions of subdivision (a) of Section 19491, an association, including the California Exposition and

State Fair or a county or district agricultural association fair, which conducts, or whose predecessor association has conducted, a horseracing meeting during the preceding year at which the total amount handled in the parimutuel pools operated by the association, or by such predecessor association, is not more than one hundred twenty-five million dollars ($125,000,000) shall be exempt from payment of that portion of the license fee provided in subdivision (a) of Section 19491 on the amount handled by it under fifty million dollars ($50,000,000).

"Predecessor association," as used in this section, means a person who was previously licensed to conduct racing of the same kind and at the same racing facility as the presently existing association.

It is the intent of the Legislature that the amendment to this section at its 1970 Regular Session shall be deemed to be a clarification of the effect of this section, and that such amendment does not constitute a substantive change.

SEC. 2. Section 19531 of the Business and Professions Code is amended to read:

19531. The maximum number of racing weeks which may be allocated for horseracing other than at the California Exposition and State Fair, or county or district agricultural association fairs shall be as follows:

(a) For thoroughbred racing: 33 weeks per year in the northern zone; and 41 weeks per year in the central and southern zones, to be allocated between the two zones.

(b) For harness racing: 15 weeks per year in the northern zone; 15 weeks per year in the central zone; and 9 weeks per year in the southern zone.

(c) For quarter horse racing: 15 weeks per year in the northern zone; and 22 weeks per year in the southern zone.

(d) In its written application for a license, an applicant shall state the time of day (subject to Section 19571) during which it will conduct its racing meeting, and particularly the first race starting time for the various racing days. After receiving a license, a licensee shall not change such first race starting time without securing prior approval of the board.

SEC. 3. Section 19533.1 of the Business and Professions Code is repealed.

SEC. 4. Section 19549.6 of the Business and Professions Code is amended to read:

19549.6. Notwithstanding subdivision (b) of Section 19531 and Section 19549, the board may allocate a maximum of 12 additional weeks of harness racing to a lessee of the California Exposition and State Fair in Sacramento to be raced at the California Exposition and State Fair in Sacramento.

SEC. 5. Section 19549.7 of the Business and Professions Code is amended to read:

19549.7. Notwithstanding subdivision (c) of Section 19531 and Section 19549, the board may allocate a maximum of 12 additional

weeks of quarter horse racing to a lessee of the California Exposition and State Fair in Sacramento to be raced at the California Exposition and State Fair in Sacramento.

SEC. 6. Section 19612.1 of the Business and Professions Code is amended to read:

19612.1. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of more than six hundred fifty thousand dollars ($650,000) , which conducts a harness or quarter horse meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio: to the association as additional commission, 59.5 percent; to the horsemen as additional purses, 40.5 percent.

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board the amount of such deduction shall not be changed during the course of the meeting.

SEC. 7. Section 19612.2 is added to the Business and Professions Code, to read:

19612.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less, except an association subject to Section 19614.2, which conducts a harness or quarter horse meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses as follows:

(1) For quarter horse meetings conducted pursuant to Section 19612.5, as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

(2) For harness meetings conducted pursuant to Section 19612.5 or for harness and quarter horse meetings conducted pursuant to Section 19612.6, 50 percent as commissions and 50 percent as purses.

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a) and its distribution between commissions and purses. Except with the consent of the board, the amount of such deduction and its distribution shall not be changed during the course of the meeting.

SEC. 8. Section 19612.3 of the Business and Professions Code is amended to read:

19612.3. (a) Notwithstanding any other provision of law, with respect to harness racing associations other than those conducting a meeting pursuant to Sections 19612.5 and 19612.6, an additional 1 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 such harness racing parimutuel pools shall be decreased to 0.5 percent and shall be distributed equally between license fees, purses, and commissions.

(b) With respect to harness racing associations conducting a meeting pursuant to Section 19612.5 or 19612.6, an additional 1 percent of the parimutuel pool shall be retained and shall be distributed as additional commissions until December 31, 1986.

SEC. 9. Section 19612.5 of the Business and Professions Code is amended to read:

19612.5. (a) Notwithstanding the provisions of Sections 19610, 19611, and 19612, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less in parimutuel pools operated by it during the course of a racing meeting shall deduct 15.75 percent thereof to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each such association shall pay a daily license fee at the following rates:

Daily Handle	License Fee Rate
$100,000 and under	2.5 percent of the handle
$100,001 to $200,000	$2,500 plus 3.5 percent of the handle in excess of $100,000
$200,001 to $300,000	$6,000 plus 4.5 percent of the handle in excess of $200,000
$300,001 to $400,000	$10,500 plus 5.5 percent of the handle in excess of $300,000
$400,001 to $600,000	$16,000 plus 6.5 percent of the handle in excess of $400,000
$600,001 and over	$29,000 plus 7.5 percent of the handle in excess of $600,000

(c) For harness meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter horse meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

(d) In the event that any association qualified to operate its meeting pursuant to the provisions of this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

SEC. 10. Section 19612.6 is added to the Business and Professions

Code, to read:

19612.6. (a) Notwithstanding the provisions of Sections 19610, 19611, 19612, 19612.5, and 19614, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less which conducts a racing meeting pursuant to Sections 19549, 19549.5, 19549.6, or 19549.7, shall deduct 15.75 percent thereof to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each such association shall pay a daily license fee at the following rates:

Daily Handle	License Fee Rate
$300,000 and under	1.0 percent of the handle
$300,001 to $350,000	$3,000 plus 1.5 percent of the handle in excess of $300,000
$350,001 to $400,000	$3,750 plus 2.0 percent of the handle in excess of $350,000
$400,001 to $450,000	$4,750 plus 2.5 percent of the handle in excess of $400,000
$450,001 to $500,000	$6,000 plus 3.0 percent of the handle in excess of $450,000
$500,001 to $550,000	$7,500 plus 3.5 percent of the handle in excess of $500,000
$550,001 or more	$9,250 plus 4.0 percent of the handle in excess of $550,000

(c) For harness racing, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter horse meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

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.

(d) In the event that any association qualified to operate its meeting pursuant to the provisions of this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

SEC. 11. Section 19614.1 of the Business and Professions Code is repealed.

SEC. 12. Section 19614.2 of the Business and Professions Code is amended to read:

19614.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, the California Exposition and State Fair, or a district or county fair may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses.

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a) and its distribution between commissions and purses. Except with the consent of the board the amount of such deduction and its distribution shall not be changed during the course of the meeting.

(c) From the amount deducted for thoroughbred purses at the California Exposition and State Fair and at district and county fairs under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California-breds winning at the meeting. Such sum shall be deposited within seven days of the close of the meeting with the official registering agency of California thoroughbred racehorses in a depository approved by the board. After deduction of expenses, not to exceed 5 percent, and approval of all such deductions by the board, the fund shall then be distributed on a prorated percentage basis of first moneys earned to the persons owning California-bred thoroughbreds at the time of their wins at races having a total purse value of five thousand dollars ($5,000) or more.

SEC. 13. Section 19618 of the Business and Professions Code is amended to read:

19618. (a) No person licensed under this chapter to conduct a racing meeting shall pay or distribute directly or indirectly to or on behalf of any horse owner, or to any agent, or person or organization representing any horse owner or owners, as purses or similar payment to or for the benefit of horsemen, any consideration other than that expressly provided for in this chapter.

(b) No horse owner, nor any agent or person or organization representing any horse owner or owners, shall receive, solicit or obtain from any person licensed under this chapter to conduct a race meeting as purses or similar payment to or for the benefit of horsemen, any consideration other than that expressly provided for in this chapter.

(c) No plaque, cup, tray, ribbon, trophy, or similar award given in recognition of achievement or special event shall be deemed to be consideration for the purpose of this section.

(d) Except for associations conducting a meeting pursuant to Section 19612.5 or 19612.6, this section shall not apply to any contribution by any association to a welfare fund established by an organization of horse breeders or owners.

(e) This section shall not apply to any payment by an association in connection with any match race or special racing event.

(f) This section shall not apply to any payment or distribution by

a non-dividend-paying corporation in accordance with its articles and bylaws.

SEC. 14. Section 19705 of the Business and Professions Code is amended to read

19705. The association licensed pursuant to this chapter shall deduct the applicable license fees, commissions, and purses in the same percentages as provided for in Article 9.5 (commencing with Section 19610) of Chapter 4. The association may also deduct an additional amount of up to 3 percent on multiple wagering pools in the same manner as provided for by Section 19614.2.

SEC. 15. 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:

Smaller racing meetings, especially those operating at the California Exposition and State Fair racing facility, cannot operate profitably under the existing license fee schedules. Should such racing meetings discontinue operations, the state would lose substantial revenues to the General Fund and would cease to receive rental and concession income for the use of the Cal-Expo racing facility. In order to protect the state's interest in the continued operation of these meetings, it is necessary that this act take effect immediately.

CHAPTER 130

An act to amend the heading of Article 1 (commencing with Section 1750) of Chapter 9 of Division 2 of, to amend Sections 1750, 1755, 1756, 1760, and 1760.6 of, to add Section 1751 to, and to add Article 4 (commencing with Section 1765) to Chapter 9 of Division 2 of, the Health and Safety Code, relating to emergency medical services.

[Became law without Governor's signature May 11, 1978. Filed with Secretary of State May 11, 1978.]

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

SECTION 1. The heading of Article 1 (commencing with Section 1750) of Chapter 9 of Division 2 of the Health and Safety Code is amended to read:

Article 1. General Provisions

SEC. 2. Section 1750 of the Health and Safety Code is amended to read:

1750. It is the intent of the Legislature in enacting this chapter to promote the development, accessibility, and provision of emergency medical services to the people of the State of California.

Further, it is the policy of the State of California that people shall be encouraged and trained to assist others at the scene of a medical emergency. Local governments, agencies, and other organizations shall be encouraged to offer training in cardiopulmonary resuscitation and lifesaving first aid techniques so that people may be adequately trained, prepared, and encouraged to assist others immediately.

SEC. 3. Section 1751 is added to the Health and Safety Code, to read:

1751. An emergency medical care committee shall be established in each county in this state. Nothing in this chapter shall be construed to prevent two or more adjacent counties from establishing a single committee for review of emergency medical care in these counties.

SEC. 4. Section 1755 of the Health and Safety Code is amended to read:

1755. The emergency medical care committee shall, at least annually, review the operations of each of the following:

(a) Ambulance services operating within the county.

(b) Emergency medical care offered within the county, including programs for training large numbers of people in cardiopulmonary resuscitation and lifesaving first aid techniques.

(c) First aid practices in the county.

SEC. 5. Section 1756 of the Health and Safety Code is amended to read:

1756. Every emergency medical care committee shall, at least annually, report to the Advisory Health Council, the state department, and the areawide comprehensive health planning agency for its area its observations and recommendations relative to its review of the ambulance services, emergency medical care, and first aid practices, and programs for training people in cardiopulmonary resuscitation and lifesaving first aid techniques, and public participation in such programs in that county. The emergency medical care committee shall submit its observations and recommendations to the county board or boards of supervisors which it serves and shall act in an advisory capacity to the county board or boards of supervisors which it serves, and to the county department having charge of emergency medical services, on all matters relating to emergency medical services, including first aid, ambulance services, communications, medical equipment, training, personnel, facilities, and any other matters relating to emergency medical services as directed by the board or boards of supervisors.

SEC. 6. Section 1760 of the Health and Safety Code is amended to read:

1760. The State Department of Health shall maintain, in cooperation with local agencies, an emergency medical services program including, but not limited to, the following:

(a) Collection of data on the use of emergency medical services which will be of value in their development.

(b) Evaluation of emergency medical services.

(c) Establishment of recommended standards for emergency medical services.

(d) Provision of plans for optional programs whereby the largest possible number of people can be trained in cardiopulmonary resuscitation and lifesaving first aid techniques.

(e) Provision of plans whereby community medical emergency services can be augmented by assistance from nearby communities and from other resources throughout the state at large.

(f) Providing consultation services with the emergency medical care committee of each county established under Section 1750 of this code.

(g) Establishment of emergency medical training and educational standards for ambulance personnel.

SEC. 7. 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, widespread training of people in cardiopulmonary resuscitation and lifesaving first aid techniques, 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.

SEC. 8. Article 4 (commencing with Section 1765) is added to Chapter 9 of Division 2 of the Health and Safety Code, to read:

Article 4. Participation in Emergency Medical Care Services and Limitations on Liability

1765. The State Department of Health shall promote the development of programs to train large numbers of people in cardiopulmonary resuscitation and lifesaving first aid techniques. Local agencies and other organizations desiring to establish such public training programs shall receive the full cooperation and assistance of the state department.

1766. In order to encourage local agencies and other organizations to train people in emergency medical services, no local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of people, excluding physicians and surgeons, registered nurses, licensed vocational nurses, and clinical laboratory technologists as defined in Section 1204 of the Business and Professions Code, in emergency medical services shall be liable for any civil damages alleged to result from such training programs.

1767. In order to encourage people to participate in emergency medical services training programs and to render emergency medical services to others, no person who in good faith renders emergency care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. This section shall not apply to any person who renders such emergency care to an individual with the expectation that such person or the person's employer will receive compensation from the individual for providing the emergency care, other than as set forth in Section 1769. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered.

1768. (a) In any action for damages involving a claim of negligence against a physician and surgeon arising out of emergency medical services provided in a general acute care hospital emergency department, the trier of fact shall consider, together with all other relevant matters, the circumstances constituting the emergency, as defined herein, and the degree of care and skill ordinarily exercised by reputable members of the physician and surgeon's profession in the same or similar locality, in like cases, and under similar emergency circumstances.

(b) For the purposes of this article, "emergency medical services" and "emergency medical care" means those medical services required for the immediate diagnosis and treatment of medical conditions which, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death.

(c) In any action for damages involving a claim of negligence against a physician and surgeon providing emergency medical coverage for a general acute care hospital emergency department,

the court shall admit expert medical testimony only from physicians and surgeons who have had substantial professional experience within the last five years while assigned to provide emergency medical coverage in a general acute care hospital emergency department. For purposes of this section, "substantial professional experience" shall be determined by the custom and practice of the manner in which emergency medical coverage is provided in general acute care hospital emergency departments in the same or similar localities where the alleged negligence occurred.

1769. In addition to the provisions of Section 1483 of this code and of Section 1714.2 of the Civil Code and in order to encourage the provision of emergency medical services by firemen, policemen, or other local law enforcement officers, and mobile intensive care paramedics, as defined in Section 1481 of this code, a fireman, policeman or other local law enforcement officer, or mobile intensive care paramedic who renders emergency medical services at the scene of an emergency shall only be liable in civil damages for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. A public agency employing such a fireman, policeman, or other local law enforcement officer, or mobile intensive care paramedic shall not be liable for civil damages if the fireman, policeman, or other local law enforcement officer, or mobile intensive care paramedic is not liable.

CHAPTER 131

An act to amend Sections 11380, 11421, 11422.1, 11423, 11424, 11425, and 11445 of, and to add Section 11428 to, the Government Code, relating to administrative regulations.

[Approved by Governor May 11, 1978. Filed with Secretary of State May 11, 1978.]

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

SECTION 1. Section 11380 of the Government Code is amended to read:

11380. Every state agency shall:

(a) Transmit to the department for filing with the Secretary of State and with the Rules Committee of each house of the Legislature a certified copy of every regulation adopted by it except one which:

(1) Establishes or fixes rates, prices or tariffs.

(2) Relates to the use of public works, including streets and highways, under the jurisdiction of any state agency when the effect of such order is indicated to the public by means of signs or signals.

(3) Is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

(b) Transmit to the department for filing with the Secretary of

State and with the Rules Committee of each house of the Legislature a certified copy of every order of repeal of a regulation required to be filed under subdivision (a) of this section.

(c) Deliver to the department at the time of transmittal for filing a regulation or order of repeal six duplicate copies of the regulation or order of repeal together with a citation of the authority pursuant to which it or any part thereof was adopted.

(d) Deliver to the department a copy of the notice of proposed action required by Section 11423.

SEC. 2. Section 11421 of the Government Code is amended to read:

11421. (a) The provisions of this article shall not apply to any regulation not required to be filed with the Secretary of State under this chapter, and only this section and Section 11422 of this article shall apply to any regulation prescribing an agency's organization or procedure or to an emergency regulation adopted pursuant to subdivision (b) of this section.

(b) Except as provided in subdivision (c), if a state agency makes a finding that the adoption of a regulation or order of repeal is necessary for the immediate preservation of the public peace, health and safety or general welfare, the regulation or order of repeal may be adopted as an emergency regulation or order of repeal.

Any finding of an emergency shall include a written statement containing the following:

(1) The specific facts constituting the need for immediate action.

(2) 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.

(3) Either the express terms of the emergency regulation, or an informative digest containing a concise and clear summary of existing laws and regulations, if any, related directly to the proposed action, and the effect of the proposed action.

(4) The name and telephone number of the agency officer to whom inquiries concerning the emergency regulation or order of repeal may be directed.

(5) An estimate of the direct costs or savings to any state agency which would result from the adoption of the proposed action, and if matching funding is involved, the direct cost or savings to the federal government and the direct combined cost or savings to local agencies.

The statement shall be filed immediately with the Senate Committee on Rules and the Speaker of the Assembly and shall be published in the next issue of the notice supplement to the California Administrative Register.

The agency officer designated in paragraph (4) of subdivision (b) shall make available to the public upon request the express terms of the proposed action using underline to indicate additions to, and strikeouts to indicate deletions from, the California Administrative

Code. The officer shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related directly to the proposed action.

(c) Notwithstanding any other provision of the law, no board or commission shall have the power to adopt an emergency regulation to interpret, implement, or make specific provisions of the law relating to campaign disclosure except by a unanimous vote of all members of such board or commission present at the proceeding at which such regulation is adopted.

SEC. 3. Section 11422.1 of the Government Code is amended to read:

11422.1. (a) No regulation adopted as an emergency shall remain in effect more than 120 days unless the adopting agency has complied with Sections 11423, 11424, and 11425, prior to the adoption of the emergency regulation, or has, within said 120-day period, given notice of the adoption of the emergency regulation in a manner substantially similar to that required for the proposed adoption of a regulation and has afforded interested persons the opportunity to present statements, arguments, or contentions in a manner substantially similar to that required by Section 11425. The agency shall, prior to the expiration of the 120-day period, transmit to the department for filing with the Secretary of State and with the Rules Committee of each house of the Legislature, a certification that either Sections 11423, 11424, and 11425 were complied with prior to adoption, or that compliance was had with this section within the said period.

(b) In the event an emergency regulation was filed as an amendment of an existing regulation, upon failure of the adopting agency to file a certificate of compliance as provided in (a) above, the regulation as it existed prior to such emergency amendment shall thereupon become effective and, after notice to the adopting agency by the Office of Administrative Hearings shall be reprinted in the California Administrative Code in the place of such emergency amendment.

(c) In the event a regulation is originally adopted and filed as an emergency and the adopting agency fails to file a certificate of compliance as provided in (a) above, such failure shall constitute a repeal thereof and, after notice to the adopting agency by the Office of Administrative Hearings, shall be deleted from the California Aministrative Code.

(d) A regulation adopted as an emergency regulation or, an emergency regulation substantially equivalent thereto, shall not be readopted as an emergency regulation except with the express prior approval of the Governor.

SEC. 4. Section 11423 of the Government Code is amended to read:

11423. At least 30 days prior to the hearing on 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) Published in the California Administrative Register as prepared by the Office of Administrative Hearings.

The effective period of a notice issued pursuant to this section shall not exceed one year from the date thereof. If the action proposed in such notice is not commenced within such period of one year, a notice of the proposed action shall again be issued pursuant to the provisions of this article.

The Office of Administrative Hearings shall make the California Administrative Register available to the public and state agencies at a nominal cost which is consistent with a policy of encouraging the widest possible notice distribution to interested persons.

The Office of the State Printer shall provide the same priority for printing the notice supplement to the California Administrative Register as is provided for printing legislative publications.

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. 5. 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 of, or an informative digest containing a concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and the effect of the proposed action.

(d) Such other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations;

(e) An estimate of the direct costs or savings to any state agency which would result from the adoption of the proposed action and if matching funding is involved, the direct cost or savings to the federal government and the direct combined cost or savings to local agencies.

(f) The name and telephone number of the agency officer to whom inquiries concerning the proposed administrative action may be directed; and

(g) 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.

The agency officer designated in subdivision (f) shall make available to the public upon request the express terms of the proposed action using underline to indicate additions to, and strikeouts to indicate deletions from, the California Administrative Code. The officer shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related to the proposed action.

SEC. 6. Section 11425 of the Government Code is amended to read:

11425. On the date and at the time and place designated in the notice the state agency shall afford any interested person or his duly authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with or without opportunity to present the same orally. The state agency shall consider all relevant matter presented to it before adopting, amending or repealing any regulation.

In any hearing under this section the state agency or its duly authorized representative shall have authority to administer oaths or affirmations, and may continue or postpone such hearing from time to time to such time and at such place as it shall determine.

The state agency shall make no substantial change or modification to a proposed adoption, amendment, or repeal of a regulation unless such change or modification is related directly to the same subject or issue noticed pursuant to Section 11424.

SEC. 7. Section 11428 is added to the Government Code, to read:

11428. A clear and concise summary of any regulation adopted, amended, or repealed pursuant to this article shall be printed in the next issue of the notice supplement to the California Administrative Register.

SEC. 8. Section 11445 of the Government Code is amended to read:

11445. (a) Except as provided in subdivision (b), Articles 4 and 5 of this chapter shall not apply to the Public Utilities Commission or the Industrial Accident Commission, and Articles 2 and 3 of this

chapter shall apply only to the rules of procedure of said state agencies.

(b) The Public Utilities Commission and the Division of Industrial Accidents shall comply with the provisions of subdivision (b) of Section 11423 with respect to regulations which are required to be filed with the Secretary of State pursuant to Section 11380.

CHAPTER 132

An act to amend Section 8002 of the Vehicle Code, relating to vehicles.

[Approved by Governor May 11, 1978. Filed with Secretary of State May 12, 1978.]

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

SECTION 1. Section 8002 of the Vehicle Code is amended to read:

8002. (a) It shall be incumbent upon the commission, wherever practicable, to enter into agreements or arrangements for the proportionate registration and licensing of vehicles or payment of fees therefor under Article 5 (commencing with Section 8150).

(b) The commission may enter into an agreement for participation in the International Registration Plan for the proportionate registration of commercial vehicles. Such agreement shall include exceptions to the plan which the commission deems necessary to protect the state's interest. The commission may enter into such agreement upon unanimous decision of the members present declaring that joining the plan under the commission's specified conditions would not result in a loss of revenue to the Motor Vehicle Account in the Transportation Tax Fund or to the cities and counties, as those revenues are produced under the provisions of this code and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code. No such agreement may be implemented unless and until legislation is enacted which resolves any conflicting provisions among the agreement, the Vehicle Code, and the Revenue and Taxation Code, as to those vehicles to be registered in accordance with the agreement.

CHAPTER 133

An act to add Section 66 to the Labor Code, relating to mediation.

[Approved by Governor May 11, 1978 Filed with Secretary of State May 12, 1978]

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

SECTION 1. Section 66 is added to the Labor Code, to read:

66. The services of the department pursuant to Section 65 shall be conducted by a unit within the department to be known as the California State Mediation and Conciliation Service.

CHAPTER 134

An act to add Section 1501.2 to the Financial Code, relating to nonprofit corporations.

[Approved by Governor May 11, 1978. Filed with Secretary of State May 12, 1978.]

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

SECTION 1. Section 1501.2 is added to the Financial Code, to read:

1501.2. Nothing in this division shall prohibit a nonprofit corporation from acting as a receiver pursuant to the appointment of any court.

CHAPTER 135

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, and to provide limitations of time within which actions may be commenced in connection therewith, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 11, 1978 Filed with Secretary of State May 12, 1978]

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

SECTION 1. The following terms shall have the following meanings herein:

(a) The term "public body" means counties, cities and counties, cities, and the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500), Division 7, Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.
Bridge and highway districts.
Bridge, highway, and transportation districts.
California water district distribution districts.
California water district improvement districts.
California water districts.
Cemetery districts.
Citrus pest control districts.
City general improvement district improvement districts.
City general improvement districts.
City maintenance districts.
Community college districts.
Community facilities districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100), Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.

Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local health districts.
Local hospital districts.
Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.

Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Sewer maintenance districts.
Special transit service districts.
Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control districts.
Zones of flood control and water conservation districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) The term "bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, and all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, and all instruments payable from revenues or special funds of such public bodies, and all instruments funding or refunding any thereof or any indebtedness.

SEC. 2. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every ~~such public body shall have all the rights, powers, and privileges, and~~ be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 3. The boundaries of every public body as heretofore

established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 4. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 5. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for the authorization, issuance, sale, or exchange of bonds of any such public body for any public purpose are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, or exchange of such bonds.

All bonds of any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 6. (a) The foregoing provisions of this act shall operate to supply such legislative authorization as may be necessary to validate any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under

which such acts or proceedings were taken.

(b) The foregoing provisions of this act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) The foregoing provisions of this act shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to confirm, validate, or legalize a contract between any district and the United States.

SEC. 7. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for the authorization, issuance, sale, or exchange of bonds thereof upon any ground involving an alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of said matters shall be held to be valid and in every respect legal and incontestable. This section shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 8. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by said sections.

SEC. 9. As used in this act, the word "now" means the date this act takes effect; the word "heretofore" means any time prior to such effective date; and the word "hereafter" means any time subsequent to such effective date.

SEC. 10. This act may be cited as the First Validating Act of 1978.

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:

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 136

An act to amend Section 11161.5 of the Penal Code, relating to child abuse.

[Approved by Governor May 11, 1978 Filed with Secretary of State May 12, 1978.]

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

SECTION 1. Section 11161.5 of the Penal Code is amended to read:

11161.5. (a) In any case in which a minor is brought to a physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner for diagnosis, examination or treatment, or is under his charge or care, or in any case in which a minor is observed by any registered nurse when in the employ of a public health agency, school, or school district and when no physician and surgeon, resident, or intern is present, by any superintendent, any supervisor of child welfare and attendance, or any certificated pupil personnel employee of any public or private school system or any principal of any public or private school, by any teacher of any public or private school, by any licensed day care worker, by an administrator of a public or private summer day camp or child care center, or by any social worker, by any peace officer, or by any probation officer, and it appears to the physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, religious practitioner, registered nurse, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, school principal, teacher, licensed day care worker, administrator of a public or private summer day camp or child care center, social worker, peace officer, or probation officer, from observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that the minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor, he shall report such fact by telephone and in writing, within 36 hours, to both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department, or to the county health department. The report shall state, if known, the name of the minor, his whereabouts and the character and extent of the injuries or molestation.

Whenever it is brought to the attention of a director of a county welfare department or health department that a minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that a minor has been sexually molested, or that any injury prohibited by the terms of

Section 273a has been inflicted upon a minor, he shall file a report without delay with the local police authority having jurisdiction and with the juvenile probation department as provided in this section.

No person shall incur any civil or criminal liability as a result of making any report authorized by this section unless it can be proven that a false report was made and the person knew or should have known that the report was false.

No person required to make a report pursuant to this section, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating such photographs with the reports required by this section. However, the provisions of this section shall not be construed to grant immunity from such liability with respect to any other use of such photographs.

Copies of all written reports received by the local police authority shall be forwarded to the Department of Justice. If the records of the Department of Justice maintained pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon, sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a upon, the same minor or any other minor in the same family by other than accidental means, or if the records reveal any arrest or conviction in other localities for a violation of Section 273a inflicted upon the same minor or any other minor in the same family, or if the records reveal any other pertinent information with respect to the same minor or any other minor in the same family, the local reporting agency and the local juvenile probation department shall be immediately notified of the fact.

Reports and other pertinent information received from the department shall be made available to: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with regard to his patient or client; any director of a county welfare department, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, or school principal having a direct interest in the welfare of the minor; and any probation department, juvenile probation department, or agency offering child protective services.

(b) If the minor is a person specified in Section 600 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 576.5 of the Welfare and Institutions Code and the report is made to the local police authority having jurisdiction, then the report required by subdivision (a) of this section shall be made to the county welfare department.

CHAPTER 137

An act to amend Section 19143 of, and to add Section 19143.5 to, the Government Code, relating to state civil service, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 11, 1978 Filed with Secretary of State May 12, 1978.]

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

SECTION 1. Section 19143 of the Government Code is amended to read:

19143. Notwithstanding any other provision of the law to the contrary, except as provided in Section 19143.5, an employee whose continuity of employment in the state service as either an exempt or civil service employee is broken for six months or longer by a permanent separation such as resignation, dismissal, or rejection during a probationary period, and who is subsequently reemployed after December 31, 1949, shall not be credited for service prior to such separation for purposes of layoff or sick leave, nor shall he be credited with any sick leave which he had accumulated prior to his separation, and he shall again serve the months required to qualify for vacation credit. The State Personnel Board shall adopt rules governing the crediting of service before and after such a break in service for purposes of vacation as specified in Section 18050 and the keeping of service records related thereto.

When an employee has a break in the continuity of his state employment because of a temporary separation such as layoff, suspension, leave of absence, military leave, disability retirement, or medical termination, his prior service shall be counted upon his return to state service for purposes of layoff, sick leave and vacation.

If an employee had a break in the continuity of his state employment because of absence occasioned by his evacuation and relocation 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 such employee was in state service on March 5, 1942, and returned to state service on or before December 31, 1949, the time of absence during which such orders were in effect shall be counted for purposes of layoff.

SEC. 2. Section 19143.5 is added to the Government Code, to read:

19143.5. When a civil service employee has a break in the continuity of his state employment which is not because of dismissal, or rejection during a probationary period, and such break exceeds a period of six months but not three years, the employee shall receive one-half the seniority credit accumulated for service prior to his resignation for purposes of layoff if the employee's resignation was his first resignation from state service, exceeding six months.

It is the responsibility of the employee to inform the State Personnel Board in writing that the provisions of this section apply to his or her service credit calculations. The employee must certify under what conditions he or she is eligible to receive this portion of the service credit. The board shall verify the adequacy of the employee's certification and calculate the seniority credits accordingly.

The provisions of this section shall apply only to transactions occurring after the effective date of 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:

In order that the benefits of this act shall be available to state employees as soon as possible, this act must take effect immediately.

CHAPTER 138

An act to amend Section 16754 of the Government Code, relating to State General Obligation Bonds.

[Approved by Governor May 17, 1978 Filed with Secretary of State May 17, 1978]

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

SECTION 1. Section 16754 of the Government Code is amended to read:

16754. 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 so continued, at public sale, upon sealed bids, to the bidder whose bid will result in the lowest interest cost on account of such bonds, but the State Treasurer must reject any and all bids for the bonds which shall be below the par value thereof plus the interest which shall have accrued thereon from the date thereof (or, if any past due coupon or coupons have been detached from said bonds prior to the delivery thereof, then from the due date of the latest coupon so detached) to the date of the purchaser's payment for said bond. The method of determining the lowest interest cost bid shall be prescribed in the bond resolution and shall be limited to either the net interest cost method or the present worth basis method (also referred to as the true interest cost, bond book basis and Canadian interest cost method). The net interest cost of each bid shall be determined by ascertaining the total amount of interest which the state would be required to pay under that bid, from the date of the bonds to the respective maturity dates of the bonds then offered for sale, at the coupon rate or rates specified in such bid, less the total

amount of the premium, if any, offered by such bid. The bid under which the amount so ascertained is the least shall be deemed to be the bid resulting in the lowest net interest cost. Under the present worth basis method the bonds will be awarded to the bidder submitting the lowest interest rate bid determined by doubling the semiannual interest rate, compounded semiannually, necessary to discount the debt service payments to the specified interest computation date and to the price bid. Under either method such sale shall be for cash, payable upon the delivery of the bonds in definitive form, or if the right to deliver temporary securities has been reserved, then upon the delivery of such temporary securities.

CHAPTER 139

An act to amend Section 10666 of the Fish and Game Code, relating to refuges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 17, 1978 Filed with Secretary of State May 17, 1978.]

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

SECTION 1. Section 10666 of the Fish and Game Code is amended to read:

10666. In the James V. Fitzgerald Marine Reserve the following fish and mollusks may be taken under the authority of a sport fishing license as authorized by this code: abalone, rockfish (Sebastes), lingcod, surfperch (Embiotocidae), monkeyface eel, rock eel, white croaker, halibut, and smelt (Osmeridae and Antherinidae). No such fish having fins may be taken except by hook and line or by spearfishing. All other fish and forms of aquatic life are protected and may not be taken without a written permit from the department.

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 authority to take eel under a sport fishing license within the James V. Fitzgerald Marine Reserve terminated on January 1, 1978. In order to continue such authority and to make other changes necessary to effectively protect marine life within the preserve at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 140

An act to amend Sections 2533 and 2534 of the Streets and Highways Code, relating to roads, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 17, 1978 Filed with Secretary of State May 17, 1978]

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

SECTION 1. Section 2533 of the Streets and Highways Code is amended to read:

2533. The county or city responsible for the construction 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 three 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. 2. Section 2534 of the Streets and Highways Code is amended 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 may 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. 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 moneys appropriated to counties will not lapse and to increase conformity to federal law, it is necessary that this act take effect at the earliest opportunity.

CHAPTER 141

An act to amend Section 31652 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor May 17, 1978. Filed with Secretary of State May 17, 1978.]

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

SECTION 1. Section 31652 of the Government Code is amended to read:

31652. (a) Any member may redeposit in the retirement fund, prior to filing an application for retirement, by lump sum payment or by installment payments over a period of one year or for a longer time upon approval of the board, an amount equal to all of the accumulated normal contributions which he has withdrawn, plus regular interest thereon from the date of separation from the retirement system, and his membership is the same as if unbroken by such termination. Except as provided in this section his rate of contribution shall be based on age at the nearest birthday at time of reentrance into the system. If he does not redeposit all of the accumulated normal contributions previously withdrawn he shall be considered as a new member without credit for any previous service.

"Regular interest" as used in this section shall mean that amount of interest which would have been credited to the account of the member on the amount to be deposited at the interest rates established for the system if the contributions required by this section had been on deposit from the date of separation from the retirement system until the amount required to be deposited has been paid.

(b) Any member who left county service on or before December 31, 1971, and thereafter again became a member of the county system which he left and (1) who did not withdraw his accumulated normal contributions, or (2) who elected to leave his accumulated normal contributions on deposit pursuant to Article 9 (commencing with Section 31700), or (3) who redeposited or redeposits withdrawn accumulated normal contributions plus interest as authorized in this section, shall be eligible for all benefits granted a member entering a reciprocal retirement system under Article 15 (commencing with Section 31830), including the benefits granted to members who left their accumulated contributions on deposit or who redeposited their accumulated contributions pursuant to Section 31831.1. This paragraph shall not be applicable to any member entering service after December 31, 1977.

(c) Any member who left county service on or after January 1, 1972, and who within 90 days thereafter again became a member of the county system which he left and (1) who did not withdraw his accumulated normal contributions, or (2) who elected to leave his accumulated normal contributions on deposit pursuant to Article 9 (commencing with Section 31700), or (3) who redeposits or redeposited his withdrawn accumulated normal contributions plus interest as authorized by Section 31652 within 180 days after leaving county service, shall be eligible for all benefits granted a member entering a reciprocal retirement system under Article 15 (commencing with Section 31830), except that Section 31831.1 shall not apply to such members.

(d) This section shall not apply to members who are retired or who are not in service of an employer making him a member of this system.

CHAPTER 142

An act to amend Section 6103 of the Government Code, relating to courts.

[Approved by Governor May 17, 1978. Filed with Secretary of State May 17, 1978]

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

SECTION 1. Section 6103 of the Government Code is amended to read:

6103. Neither the state nor any county, city, district, or other political subdivision, nor any public officer or body, acting in his official capacity on behalf of the state, or any county, city, district or other political subdivision, shall pay or deposit any fee for the filing of any document or paper, for the performance of any official service, or for the filing of any stipulation or agreement which may constitute an appearance in any court by any other party to the stipulation or agreement. This section does not apply to the State Compensation Insurance Fund or where a public officer is acting with reference to private assets or obligations which have come under his jurisdiction by virtue of his office, or where it is specifically provided otherwise. No fee shall be charged for the filing of a confession of judgment in favor of any of the public agencies named in this section.

No fee shall be charged any of the public agencies named in this section to defray the costs of reporting services by court reporters. Such fees shall be recoverable as costs as provided in Section 6103.5.

CHAPTER 143

An act to amend Sections 8894, 8961.4, and 9002 of the Health and Safety Code, relating to cemeteries.

[Approved by Governor May 17, 1978 Filed with Secretary of State May 17, 1978.]

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

SECTION 1. Section 8894 of the Health and Safety Code is amended to read:

8894. "Nonresident fee," as used in this part, means a fee established by the trustees which meets the following criteria:

(a) The fee shall be established at an amount which will permit that portion of the cemetery in which the grave is located to be maintained on a self-supporting basis and shall be such as will at least reimburse the district for the cost of the grave and the cost of services.

(b) The fee shall include a surcharge of at least 15 percent of the amount required by subdivision (a).

(c) The fee shall also include a deposit to the endowment care fund, if one exists, which shall be established by the trustees in an amount not less than the minimum amount set forth in Section 8738 or any amendments thereto. The amount of such deposits shall not be greater than what is required to produce sufficient income to defray actual costs of care and maintenance of the cemetery or cemeteries for which the endowment care fund has been established.

SEC. 2. Section 8961.4 of the Health and Safety Code is amended to read:

8961.4. The board of trustees shall establish rates to be charged for burials within cemeteries of the district, which rates shall insofar as possible, be established at an amount which will permit that portion of the cemetery in which the grave is located to be maintained on a self-supporting basis and shall be such as will at least reimburse the district for the cost of the grave and the cost of services.

The board shall require a deposit in the endowment care fund, if one exists, which shall be established by the trustees in an amount not less than the minimum amount set forth in Section 8738 or any amendments thereto. The amount of such deposits shall not be greater than what is required to produce sufficient income to defray actual costs of care and maintenance of the cemetery or cemeteries for which the endowment care fund has been established.

SEC. 3. Section 9002 of the Health and Safety Code is amended to read:

9002. The trustees may invest and reinvest the principal of the fund in:

(a) Securities and obligations set forth in Section 53601 of the Government Code.

(b) Obligations of the United States or obligations for which the faith and credit of the United States are pledged for payment of principal and interest. These shall not be limited to maturity dates of one year or less.

(c) Obligations issued under authority of law by any county, municipality, or school district in this state for which are pledged the faith and credit either of the county, municipality, or school district for the payment of principal and interest, if within 10 years immediately preceding the investment such county, municipality, or school district was not in default for more than 90 days in the payment of principal or interest upon any legally authorized obligations issued by it.

(d) Obligations of this state or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(e) Interest-bearing obligations issued by a corporation organized under the laws of any state, or of the United States provided that they bear a Standard and Poor's financial rating of AAA at the time of such investment.

(f) Certificates of deposit or other interest-bearing accounts in any bank in this state insured by the Federal Deposit Insurance Corporation.

(g) Investment certificates or shares in any state or federally chartered savings and loan association insured by the Federal Savings and Loan Insurance Corporation.

CHAPTER 144

An act to add Section 42244.9 to the Education Code, relating to revenue limits, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 17, 1978 Filed with Secretary of State May 17, 1978]

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

SECTION 1. Section 42244.9 is added to the Education Code, to read:

42244.9. (a) In the event the county superintendent of schools discontinues the levy of the tax authorized by the provisions of the second paragraph of Section 1705, school districts subject to the payments required by the first paragraph of Section 1705 may request the adjustment of their revenue limits pursuant to subdivision (b) of this section.

(b) The revenue limit of each school district may be increased, upon the request of the governing board of the district, by an amount sufficient to raise proceeds equal to the amount paid, if any, to a county superintendent of schools pursuant to Section 1705 in the preceding fiscal year less the amount paid, if any, pursuant to the predecessor of Section 1705 in the 1972–73 fiscal year.

(c) In the event a county superintendent of schools commences the levy of the tax authorized by the second paragraph of Section 1705, the revenue limits of school districts no longer subject to the payments required by the first paragraph of Section 1705 shall be reduced by the amount, if any, by which the revenue limit had been adjusted pursuant to subdivision (b).

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 school districts to reimburse county superintendents of schools pursuant to this act as soon as possible and in order for the related necessary administrative adjustments to be made on or before the commencement of the 1977–78 fiscal year it is necessary that this act take effect immediately.

CHAPTER 145

An act relating to domestic water supply systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 17, 1978. Filed with Secretary of State May 18, 1978.]

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

SECTION 1. A grant in the amount of two hundred thousand dollars ($200,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the Rand Communities County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall verify that all expenditures under this act are necessary and appropriate.

SEC. 2. The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there is a critical need within the Rand Communities County Water District to immediately develop a secondary water supply in order to enable the over 900 residents of the community to have a dependable and potable water supply.

SEC. 3. The Legislature further finds and declares that a community comprising thousands of acres of high desert area with over 900 residents is entirely dependent for its water supply on a single water well. Much of the existing water system consists of substandard and inadequate sized water lines dating back to 1900. An increasing number, now estimated to approach 90 percent, of the residents of this community are senior citizens, many of whom are partially dependent on state and federal agencies for assistance. The existing reservoir system without the continuing supply from the single water well will only meet several days' needs of the community. This community currently has the highest known water rate for domestic water in the state and is without an industrial or commercial tax base to permit increasing the tax rate to assist in otherwise providing funds for needed improvements.

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 authorize a grant from a California Safe Drinking Water Fund to the Rand Communities County Water District to resolve the critical water supply problem of such district at the earliest possible time, and so that the improvements needed can be undertaken prior to the hot summer high use, it is necessary that this act go into immediate effect.

CHAPTER 146

An act to amend Section 86 of the Code of Civil Procedure, relating to courts.

[Approved by Governor May 17, 1978 Filed with Secretary of State May 18, 1978]

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

SECTION 1. Section 86 of the Code of Civil Procedure is amended 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 fifteen thousand dollars ($15,000) 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 fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when such relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), 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 fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of such liens is fifteen thousand dollars ($15,000) 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 fifteen thousand dollars ($15,000) 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 fifteen thousand dollars ($15,000) 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 or 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 fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(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 fifteen thousand dollars ($15,000).

(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.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 2. The provisions of this act shall become operative on July 1, 1979.

CHAPTER 147

An act to amend Sections 70045.9, 74938, and 74939 of the Government Code, relating to courts.

[Approved by Governor May 22, 1978 Filed with Secretary of State May 22, 1978]

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

SECTION 1. Section 70045.9 of the Government Code is amended 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 investigtions 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

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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.

(d) During the hours during which the court is open as prescribed by the Shasta County Superior Court for the transaction of judicial business, official court reporters shall devote full time to the performance of the duties required of them by law and shall not engage or solicit to engage in any other employment in their professional capacity.

SEC. 2. Section 74938 of the Government Code is amended to read:

74938. The sheriff of Butte County shall be the ex officio marshal of the Chico Judicial District.

SEC. 3. Section 74939 of the Government Code is amended to read:

74939. The deputies of the sheriff of Butte County shall be ex officio deputy marshals of the Chico Judicial District.

CHAPTER 148

An act to add Section 35412 to the Water Code, relating to water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 22, 1978. Filed with Secretary of State May 22, 1978.]

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

SECTION 1. Section 35412 is added to the Water Code, to read:

35412. The Irish Beach Water District may acquire, construct, and operate facilities for providing fire protection to the district and its inhabitants, including buildings, engines, hose, hose carts, or carriages, and other appliances and supplies for the full equipment of a fire company or department.

The Irish Beach Water District for the purpose of providing fire protection services may exercise any of the powers, functions, and duties which are vested in, or imposed upon, a fire protection district pursuant to the Fire Protection District Law of 1961, Part 2.7 (commencing with Section 13801), Division 12 of the Health and Safety Code.

If the district includes any part of a city, fire protection district, or other local agency which provides fire protection service to any territory in the district, or if the Department of Forestry provides fire protection service to any territory in the district, the district shall have no authority pursuant to this section regarding the prevention and suppression of fires in such territories, unless such district has obtained the consent of such city, fire protection district, other local agency, or the Department of Forestry.

The provisions of this section are necessary because of the great need for fire protection services within the area of the Irish Beach Water District. There is no other local governmental entity willing to provide such service to the people of the district. 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 Irish Beach Water District.

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 Irish Beach Water District is presently without adequate fire protection service. Such protection is urgently needed, and the

district is willing to provide such service. In order therefore to authorize the Irish Beach Water District to undertake to provide fire protection services within the district at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 149

An act to amend Section 26726 of the Government Code, relating to storage of property.

[Approved by Governor May 22, 1978 Filed with Secretary of State May 22, 1978]

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

SECTION 1. Section 26726 of the Government Code is amended to read:

26726. When a keeper is used in the levy of a motor vehicle, the fee for keeping, inventorying, and driving such vehicle to storage, shall not exceed twenty dollars ($20). In all other cases, the fee for keeping and caring for property under attachment, execution, or claim and delivery is not to exceed thirty-five dollars ($35) when necessarily employed for any eight (8) hour period or any part thereof. Should an additional keeper or keepers be required during such periods, the fee for such additional keeper or keepers shall be the same as herein fixed, but, in no event shall any one keeper receive more than seventy dollars ($70) during any twenty-four (24) hour period when so employed.

Notwithstanding any other fee charged, a keeper shall receive eight dollars and fifty cents ($8.50) when pursuant to Section 26738 a levying officer prepares a Not Found Return.

CHAPTER 150

An act to amend Section 1856 of the Code of Civil Procedure, relating to the parol evidence rule.

[Approved by Governor May 22, 1978 Filed with Secretary of State May 22, 1978]

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

SECTION 1. Section 1856 of the Code of Civil Procedure is amended to read:

1856. (a) Terms set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any

prior agreement or of a contemporaneous oral agreement.

(b) The terms set forth in a writing described in subdivision (a) may be explained or supplemented by evidence of consistent additional terms unless the writing is intended also as a complete and exclusive statement of the terms of the agreement.

(c) The terms set forth in a writing described in subdivision (a) may be explained or supplemented by course of dealing or usage of trade or by course of performance.

(d) The court shall determine whether the writing is intended by the parties as a final expression of their agreement with respect to such terms as are included therein and whether the writing is intended also as a complete and exclusive statement of the terms of the agreement.

(e) Where a mistake or imperfection of the writing is put in issue by the pleadings, this section does not exclude evidence relevant to that issue.

(f) Where the validity of the agreement is the fact in dispute, this section does not exclude evidence relevant to that issue.

(g) This section does not exclude other evidence of the circumstances under which the agreement was made or to which it relates, as defined in Section 1860, or to explain an extrinsic ambiguity or otherwise interpret the terms of the agreement, or to establish illegality or fraud.

(h) As used in this section, the term agreement includes deeds and wills, as well as contracts between parties.

CHAPTER 151

An act to add Section 482.060 to the Code of Civil Procedure, relating to attachment.

[Approved by Governor May 22, 1978 Filed with Secretary of State May 22, 1978]

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

SECTION 1. Section 482.060 is added to the Code of Civil Procedure, to read:

482.060. (a) Except as otherwise provided in subdivision (b), the judicial duties to be performed under this title are subordinate judicial duties within the meaning of Section 22 of Article VI of the California Constitution and may be performed by appointed officers such as court commissioners.

(b) The judicial duties to be performed in the determination of the following matters are not subordinate judicial duties:

(1) A contested claim of exemption.

(2) A contested motion for determination of the liability and damages for wrongful attachment.

(3) A contested third party claim.

(4) A contested action to enforce a garnishee's liability.

(c) Nothing in subdivision (b) limits the power of a court to appoint a temporary judge pursuant to Section 21 of Article VI of the California Constitution.

CHAPTER 152

An act to amend Sections 11115, 11116.5, 11116.6, 11116.7, 11116.8, 11116.10, 11117, 13150, 13151, and 13152 of, to add Section 13151.1 to, and to repeal Sections 11112 and 11116 of, the Penal Code, relating to criminal records, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 1978. Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 11112 of the Penal Code is repealed.

SEC. 2. Section 11115 of the Penal Code is amended to read:

11115. In any case in which a sheriff, police department or other law enforcement agency makes an arrest and transmits a report of the arrest to the Department of Justice or to the Federal Bureau of Investigation, it shall be the duty of such law enforcement agency to furnish a disposition report to such agencies whenever the arrested person is transferred to the custody of another agency or is released without having a complaint or accusation filed with a court. The disposition report in such cases shall be furnished to the appropriate agencies within 30 days of release or transfer to another agency.

If either of the following dispositions is made, the disposition report shall so state:

(a) "Arrested for intoxication and released," when the arrested party is released pursuant to paragraph (2) of subdivision (b) of Section 849.

(b) "Detention only," when the detained party is released pursuant to paragraph (1) of subdivision (b) of Section 849 or issued a certificate pursuant to subdivision (b) of Section 851.6. In such cases the report shall state the specific reason for such release, indicating that there was no ground for making a criminal complaint because (1) further investigation exonerated the arrested party, (2) the complainant withdrew the complaint, (3) further investigation appeared necessary before prosecution could be initiated, (4) the ascertainable evidence was insufficient to proceed further, (5) the admissible or adducible evidence was insufficient to proceed further, or (6) other appropriate explanation for release.

SEC. 3. Section 11116 of the Penal Code is repealed.

SEC. 4. Section 11116.5 of the Penal Code is amended to read:

11116.5. Any dismissal and reason therefor provided by Section 11115 or 13151.1 may be used by the person subject to the disposition as an answer to any question regarding his arrest or detention history or any question regarding the outcome of a criminal proceeding against him.

SEC. 5. Section 11116.6 of the Penal Code is amended to read:

11116.6. The dispositions provided by Sections 11115 and 13151.1 must be entered on all appropriate records of the party arrested, detained, or against whom criminal proceedings are brought.

SEC. 6. Section 11116.7 of the Penal Code is amended to read:

11116.7. Whenever an accusatory pleading is filed in any court of this state alleging a public offense for which a defendant may be punished by incarceration, for a period in excess of 90 days, the court shall furnish upon request of the defendant named therein a certificate of disposition which describes the disposition of the accusatory pleading in that court when such disposition is one described in Section 13151.1. The certificate of disposition shall be signed by the judge, shall substantially conform with the requirements of Section 11116.8, and the seal of the court shall be affixed thereto.

In the event that the initial disposition of the accusatory pleading is changed, a new disposition certificate showing the changed disposition shall be issued by the court changing the same upon request of the defendant or his counsel of record.

SEC. 7. Section 11116.8 of the Penal Code is amended to read:

11116.8. The certificate of disposition provided by Section 11116.7 shall describe the charge or charges set forth in the original and any amended accusatory pleading, together with the disposition of each charge in the original and any amended accusatory pleading.

SEC. 8. Section 11116.10 of the Penal Code is amended 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 13151.1.

(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, not to 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. 9. Section 11117 of the Penal Code is amended to read:

11117. The Department of Justice shall prescribe and furnish the

procedures and forms to be used for the disposition and other reports required in this article and in Sections 13151 and 13152. The department shall add the reports received to all appropriate criminal records.

Neither the reports required in this article nor those required in Sections 13151 and 13152 shall be admissible in evidence in any civil action.

SEC. 9.5. Section 11117 of the Penal Code is amended to read:

11117. The Department of Justice shall prescribe and furnish the procedures and forms to be used for the disposition and other reports required in this article and in Sections 13151 and 13152. The department shall add the reports received to all appropriate criminal records. The department shall add the notation "Exonerated" to the disposition reports and criminal records when required by subdivision (f) of Section 849.5.

Requests from arresting agencies for retrieval of arrest records pursuant to subdivision (b) of Section 849.5 shall be forwarded to the Federal Bureau of Investigation within 30 days of receipt.

Neither the reports required in this article nor those required in Sections 13151 and 13152 shall be admissible in evidence in any civil action.

SEC. 10. Section 13150 of the Penal Code is amended to read:

13150. For each arrest made, the reporting agency shall report to the Department of Justice, concerning each arrest, the applicable identification and arrest data described in Section 13125 and fingerprints, except as otherwise provided by law or as prescribed by the Department of Justice.

SEC. 11. Section 13151 of the Penal Code is amended to read:

13151. The superior, municipal, or justice court that disposes of a case for which an arrest was required to be reported to the Department of Justice pursuant to Section 13150 or for which fingerprints were taken and submitted to the Department of Justice by order of the court shall assure that a disposition report of such case containing the applicable data elements enumerated in Section 13125, or Section 13151.1 if such disposition is one of dismissal, is furnished to the Department of Justice within 30 days according to the procedures and on a format prescribed by the department. The court shall also furnish a copy of such disposition report to the law enforcement agency having primary jurisdiction to investigate the offense alleged in the complaint or accusation. Whenever a court shall order any action subsequent to the initial disposition of a case, the court shall similarly report such proceedings to the department.

SEC. 12. Section 13151.1 is added to the Penal Code, to read:

13151.1. When a disposition described in Section 13151 is one of dismissal of the charge, the disposition report shall state one of the following reasons, as appropriate:

(a) Dismissal in furtherance of justice, pursuant to Section 1385 of the Penal Code. In addition to this dismissal label, the court shall set forth the particular reasons for dismissal.

(b) Case compromised; defendant discharged because restitution or other satisfaction was made to the injured person, pursuant to Sections 1377 and 1378.

(c) Court found insufficient cause to believe defendant guilty of a public offense; defendant discharged without trial pursuant to Section 871.

(d) Dismissal due to delay; action against defendant dismissed because the information was not filed or the action was not brought to trial within the time allowed by Section 1381, 1381.5, or 1382.

(e) Accusation set aside pursuant to Section 995. In addition to this dismissal label, the court shall set forth the particular reasons for the dismissal.

(f) Defective accusation; defendant discharged pursuant to Section 1008, when the action is dismissed pursuant to that section after demurrer is sustained, because no amendment of the accusatory pleading is permitted or amendment is not made or filed within the time allowed.

(g) Defendant became a witness for the people and was discharged pursuant to Section 1099.

(h) Defendant discharged at trial because of insufficient evidence, in order to become a witness for his codefendant pursuant to Section 1100.

(i) Judgment arrested; defendant discharged, when the court finds defects in the accusatory pleading pursuant to Sections 1185 to 1187, inclusive, and defendant is released pursuant to Section 1188.

(j) Judgment arrested; defendant recommitted, when the court finds defects in the accusatory pleading pursuant to Sections 1185 to 1187, inclusive, and defendant is recommitted to answer a new indictment or information pursuant to Section 1188.

(k) Mistrial; defendant discharged. In addition to this dismissal label, the court shall set forth the particular reasons for its declaration of a mistrial.

(*l*) Mistrial; defendant recommitted. In addition to this dismissal label, the court shall set forth the particular reasons for its declaration of a mistrial.

(m) Any other dismissal by which the case was terminated. In addition to the dismissal label, the court shall set forth the particular reasons for the disposition.

SEC. 13. Section 13152 of the Penal Code is amended to read:

13152. Admissions or releases from detention facilities shall be reported by the detention agency to the Department of Justice within 30 days of such action.

SEC. 13.5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3336 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 11117 of the Penal Code, and this bill is chaptered after Assembly Bill No. 3336, that Section 11117 of the Penal Code, as amended by Section 2 of Assembly Bill No. 3336, be further amended on the effective date of this act in the form set forth in Section 9.5 of this act to incorporate

the changes in Section 11117 proposed by this bill. Therefore, if this bill and Assembly Bill No. 3336 are both chaptered and become effective on or before January 1, 1979, and Assembly Bill No. 3336 is chaptered before this bill and amends Section 11117, Section 9.5 of this act shall become operative on the effective date of this act and Section 9 of this act shall not become operative.

SEC. 14. 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.

SEC. 14.5. The sum of seven hundred ninety-five thousand dollars ($795,000) is hereby appropriated from fingerprint fees deposited in the General Fund, pursuant to subdivision (e) of Section 11105 of the Penal Code, for support of the Department of Justice for the 1977–78 fiscal year to be transferred to, and in augmentation of, Item 39 of the Budget Act of 1977.

SEC. 15. This act, except for Section 14.5, shall become operative on July 1, 1978. Section 14.5 shall become operative immediately.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act may become operative upon the operative date of the provisions governing the compilation of criminal offender record information, it is necessary that this act take effect immediately.

CHAPTER 153

An act to amend Section 24 of the Siskiyou County Flood Control and Water Conservation District Act (Chapter 2121 of the Statutes of 1959), relating to flood control districts.

[Approved by Governor May 24, 1978 Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 24 of the Siskiyou County Flood Control and Water Conservation District Act (Chapter 2121 of the Statutes of 1959) is amended to read:

Sec. 24. Subject to the provisions of this act, the board shall prescribe by resolution the form of the bonds and of the interest coupons attached thereto and shall fix the rate of interest said bonds shall bear, not to exceed 8 percent per year to be fixed by the board. The bonds shall mature serially in amounts to be fixed by the board, payment of the bonds commencing not later than five years from the date thereof and being completed in not more than 50 years from

said date. The board shall fix the place or places (which may be within or without the State of California and which shall be designated in the bonds) where the bonds, together with the interest thereon, shall be payable. The principal amount of general obligation bonds issued shall not exceed in the aggregate that amount allowed by the State Treasurer but in no event to exceed 15 percent of the assessed value of all the real and personal property of the zone or zones involved.

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 Section 54400 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 maturity dates of the bonds not exceeding 50 years from their respective dates.

CHAPTER 154

An act to add Section 8897.5 to the Government Code, relating to earthquakes, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 1978. Filed with Secretary of State May 24, 1978]

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

SECTION 1. (a) The Legislature hereby finds and declares that because of the generally acknowledged fact that California will experience moderate to great earthquakes in the foreseeable future, increased efforts regarding reduction of earthquake hazards would reduce future losses of life and property when such events occur.

(b) The Legislature further finds that accurate earthquake prediction will enable official warnings of clear and imminent danger to be made so that state, regional, and local governmental agencies, private institutions, and the public can take actions necessary to preserve the public peace, health, and safety.

(c) The Legislature further finds that measures to reduce earthquake damage and losses are feasible if the time, location, magnitude, and intensity of an earthquake are known sufficiently in advance of the event.

SEC. 2. Section 8897.5 is added to the Government Code, to read:

8897.5. In addition to the responsibilities listed in Section 8897, the Seismic Safety Commission shall undertake a study to determine

the feasibility of (i) establishing a comprehensive program of earthquake hazard reduction having as its purposes the saving of lives and mitigating damage to property and (ii) developing and implementing a system for predicting damaging earthquakes in California.

The study shall accomplish the following tasks:

(a) Earthquake hazard reduction.

The study shall develop a comprehensive program for the reduction of earthquake hazards in California. It shall include, but not necessarily be limited to, the following:

(1) A review of and recommendations for improving the development and implementation of technically and economically feasible codes, standards, and procedures for the design and construction of new structures and the strengthening of existing structures so as to increase the earthquake resistance of structures located in areas of significant seismic hazard.

(2) A review of current methods and recommendations for new methods to improve the development, publication, and promotion, in conjunction with local officials, research organizations, and professional organizations, of model codes and other means to provide better information about seismic hazards to guide land-use policy decisions and building activity.

(3) A review of and recommendations for methods, practices, and procedures to educate the public, including local officials, about the nature and consequences of earthquakes, about procedures for identifying those locations and structures especially susceptible to earthquake damage, and about ways to reduce and mitigate the adverse effects of an earthquake.

(4) A review of and recommendations for programs and techniques to improve preparedness for and response to damaging earthquakes with special attention being given to hazard control measures, pre-earthquake emergency planning, readiness of emergency services, and planning for post-earthquake reconstruction and redevelopment.

(b) Earthquake prediction.

The study shall analyze the current methodologies, systems, and processes for predicting earthquakes and assess them for their effectiveness, reliability, and accuracy as they relate to California.

The study also shall examine the feasibility of implementing earthquake prediction systems in all areas of significantly high or moderate seismic risk and for identifying, evaluating, and accurately characterizing the associated hazards. In analyzing potential prediction systems, the study shall include requirements for necessary technical, scientific, and volunteer personnel; and technology, procedures, and other resources necessary to operate such a system. Special attention should be given to a critical review of existing and possible future technology, data collection and management systems, the availability of expert trained personnel, the dissemination of warnings, the scope and methods for organizing

and maintaining a volunteer program for the purpose of making prediction observations, and the social and economic consequences of earthquake predictions. Wherever appropriate and reasonable, the study shall also recommend how a state earthquake prediction system can be best integrated with those of federal agencies and other institutions and organizations.

(c) Implementation processes.

With respect to implementation of earthquake hazard reduction and earthquake prediction, the study shall include the following:

(1) Recommendations for new roles, responsibilities, and programs for state and local agencies, universities, private organizations, and volunteer organizations, including goals, priorities, and expenditures of future state funds specifically identified for the recommended earthquake prediction and hazards reduction program.

(2) Recommendations for methods and procedures to disseminate and implement basic and applied earthquake research in order to achieve higher levels of seismic safety.

(d) Coordination with other agencies.

To the extent it is practical to do so, the study required by this section shall be coordinated with the relevant local, regional, and federal government agencies, key elements of the private sector, and at least the following state agencies: Office of Emergency Services, Division of Mines and Geology, Office of the State Architect, Department of Housing and Community Development, Department of Water Resources, State Energy Resources Conservation and Development Commission, Department of Real Estate, Department of Industrial Relations, Public Utilities Commission, State Department of Health Services, Office of the State Fire Marshal, Department of Transportation, Department of Finance, Military Department, Department of Insurance, Franchise Tax Board, Department of Savings and Loan, Department of Education, Banking Department, and Office of Planning and Research.

(e) The study shall include recommendations for statutory changes and specific executive actions to be taken by state and local agencies necessary to establish and implement an earthquake hazards reduction program and an earthquake prediction system for the State of California.

The commission shall submit the study to the Legislature by June 30, 1980, or earlier at its discretion.

SEC. 3. The sum of twelve thousand dollars ($12,000) is hereby appropriated from the General Fund to the Seismic Safety Commission for expenditure during the 1977–78 fiscal year in performing the study required by Section 8897.5 of the Government Code. The Seismic Safety Commission shall include a request for funds to complete the study in its budget proposals for the 1978–79 and 1979–80 fiscal years.

SEC. 3. This act is an urgency statute necessary for the

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

In order that the results of the study of earthquake prediction and hazards reduction may be advanced at the earliest possible time and be fully coordinated with the implementation of the new National Earthquake Hazards Reduction Program, it is essential that this act take effect immediately.

CHAPTER 155

An act to add Sections 25566 and 25951.5 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor May 24, 1978 Filed with Secretary of State May 24, 1978]

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

SECTION 1. Section 25566 is added to the Revenue and Taxation Code, to read:

25566. (a) (1) A corporation or bank may, after the close of the income year and on or before the 15th day of the third month thereafter, and before the day on which it files a return for such taxable year, file an application for an adjustment of an overpayment by it of estimated tax for such taxable year. An application under this subdivision shall not constitute a claim for credit or refund.

(2) An application under this subdivision shall be verified in the manner prescribed by Section 25403 in the case of a return of the taxpayer, and shall be filed in the manner and form required by regulations prescribed by the Franchise Tax Board. The application shall set forth—

(A) The estimated tax paid by the corporation or bank during the income year,

(B) The amount which, at the time of filing the application, the corporation or bank estimates as its tax liability under this part for the taxable year,

(C) The amount of the adjustment, and

(D) Such other information for purposes of carrying out the provisions of this section as may be required by such regulations.

(b) (1) Within a period of 45 days from the date on which an application for an adjustment is filed under subdivision (a), the Franchise Tax Board shall make, to the extent it deems practicable in such period, a limited examination of the application to discover omissions and errors therein, and shall determine the amount of the adjustment upon the basis of the application and the examination; except that the Franchise Tax Board may disallow, without further action, any application which it finds contains material omissions or

errors which it deems cannot be corrected within such 45 days.

(2) The Franchise Tax Board, within the 45-day period referred to in paragraph (1), may credit the amount of the adjustment against any liability on the part of the taxpayer under this part and shall refund the remainder to the taxpayer.

(3) No application under this section shall be allowed unless the amount of the adjustment equals or exceeds (A) 10 percent of the amount estimated by the corporation or bank on its application as its liability for the taxable year under this part, and (B) five hundred dollars ($500).

(4) For purposes of this part (other than Section 25951, 25952, 25953, 25954, or 25956), any adjustment under this section shall be treated as a reduction, in the estimated tax paid, made on the day the credit is allowed or the refund is paid.

(c) For purposes of this section and Section 25951.5 (relating to excessive adjustment), the amount of the adjustment under this section is equal to the excess of (1) the estimated tax paid by the taxpayer during the income year, over (2) the amount which at the time of filing the application the taxpayer estimates as its liability for the taxable year.

(d) If the corporation or bank seeking an adjustment under this section paid its estimated tax on a combined basis or expects to make a combined report for the income year, this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Franchise Tax Board may by regulation prescribe.

SEC. 2. Section 25951.5 is added to the Revenue and Taxation Code, to read:

25951.5. (a) If the amount of an adjustment under Section 25566 made before the 15th day of the third month following the close of the income year is excessive, there shall be added to the tax for the taxable year an amount determined at the rate provided by Section 25901 upon the excessive amount from the date on which the credit is allowed or the refund is paid to such 15th day.

(b) For purposes of subdivision (a) the excessive amount is equal to the amount by which (1) the tax liability, for the taxable year as shown on the return for the income year, exceeds (2) the estimated tax paid during the income year reduced by the amount of the adjustment made under Section 25566.

SEC. 3. The provisions of this act shall apply to income years beginning on or after January 1, 1978.

CHAPTER 156

An act making an appropriation in augmentation of Item 124 of the Budget Act of 1977, relating to workers' compensation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 1978 Filed with Secretary of State May 24, 1978.]

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

SECTION 1. The sum of seven hundred thousand dollars ($700,000) is hereby appropriated from the General Fund to the Department of Industrial Relations in augmentation of, and upon the same terms and conditions as the appropriation made by, Item 124 of the Budget Act of 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:

This act makes an appropriation for support of subsequent injuries payments authorized under Article 5 (commencing with Section 4750) of Part 2 of Division 4 of the Labor Code, in continuation of the existing program of payments. It is imperative that such appropriation be available for expenditure at the earliest possible time and before the end of the 1977–78 fiscal year to ensure that valid claims will continue to be paid on a timely basis. It is therefore necessary that this act go into immediate effect.

CHAPTER 157

An act to amend Sections 19057 and 19057.1 of the Government Code, relating to state civil service.

[Approved by Governor May 24, 1978. Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 19057 of the Government Code is amended to read:

19057. Except as provided in Section 19056, there shall be certified to the appointing power the names and addresses of the three persons standing highest on the promotional employment list for the class in which the position belongs and who have indicated their willingness to accept appointment under the conditions of employment specified. If fewer than three names of persons willing to accept appointment are on the list from which certification is to be made, then additional eligibles shall be certified from the various lists next lower in order of preference until three names are certified. If there are fewer than three names on such lists, there shall be certified the number thereon. In such case the appointing power may demand certification of three names and examinations shall be conducted until three names may be certified. The appointing power shall fill the position by the appointment of one of the persons

certified.

SEC. 2. Section 19057.1 of the Government Code is amended to read:

19057.1. Notwithstanding the provisions of Section 19057, for positions in classes designated by the board as professional, scientific, administrative, management, or executive, or for any open employment list, there shall be certified to the appointing power the names and addresses of all those eligibles whose scores, at time of certification, represent the three highest ranks on the employment list for the class, and who have indicated their willingness to accept appointment under the conditions of employment specified.

For purposes of ranking, scores of eligibles on employment lists for such classes shall be rounded to the nearest whole percent. A rank shall consist of one or more eligibles with the same whole percentage score.

If the names on the list from which certification is being made represent fewer than three ranks, then additional eligibles shall be certified from the various lists next lower in order of preference until names from three ranks appear. If there are fewer than three names available for certification, and the appointing authority does not choose to appoint from among these, the appointing authority may demand certification of three names. In such case, examinations shall be conducted until at least three names may be certified by the procedure described in this section, and the appointing authority shall fill the position by appointment of one of the persons certified.

In accordance with board rule, fractional examination scores shall be provided to the appointing power upon his request.

The board may by rule provide for certifying less than three ranks where the size of the certified group is disproportionate to the number of vacancies.

SEC. 3. The amendments made by this act shall be applicable to names certified from employment lists after the date this act becomes operative even though the examination was given prior to such operative date.

CHAPTER 158

An act to add Article 4 (commencing with Section 68560) to Chapter 2 of Title 8 of the Government Code, relating to court interpreters, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 1978 Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Article 4 (commencing with Section 68560) is added to Chapter 2 of Title 8 of the Government Code, to read:

Article 4. Court Interpreter Services

68560. The Legislature finds and declares that:

(a) Resolution Chapter 179 of the Statutes of 1973 requested the Judicial Council of California to undertake a comprehensive survey of the language needs of California citizens and residents in relation to the judicial process.

(b) The Judicial Council performed this undertaking with the aid and assistance of a special advisory committee appointed by the Chief Justice of California and significant work was done by a private consultant under contract to the Judicial Council.

(c) The Judicial Council has submitted to the Legislature a series of detailed reports identifying specific language needs of California citizens and residents, describing language services currently provided by California's justice system, indicating special problem areas in need of solution, and setting forth specific objectives to be achieved by providing adequate interpreter services to non-English-speaking citizens and residents in California.

(d) The Legislature recognizes the need to provide equal justice under the law to all California citizens and residents and the special needs of non-English-speaking persons in their relations with the judicial system.

(e) Provision of competent interpreter services in courts and judicial agencies would be facilitated by a coordinated effort to provide testing programs and to assure adequate interpreter services to all California citizens and residents.

(f) Reliable and uniform data are required on the use of court interpreters. Such data is currently unavailable at either state or local level, and is needed to plan, monitor, and coordinate interpreter programs and services.

68561. The Judicial Council shall adopt rules to implement this article, as provided in Section 68564. Effective January 1, 1979, the State Personnel Board shall develop court interpreter testing programs, in accordance with Section 68562.

68562. Any appropriation that provides funding for court interpreter services shall identify the county and the court interpreter programs to which it applies. In each county thus designated, beginning one year after the effective date of the designation, the superior court shall establish, maintain, and publish a list of recommended court interpreters, and the trial courts of that county shall utilize only the services of those recommended interpreters unless good cause is found by the judge for the appointment of an interpreter not on the recommended list. In establishing a list of recommended court interpreters, the superior court shall select from a list of qualified candidates who have successfully completed both written and oral examinations

conducted by the State Personnel Board but may also impose additional testing requirements and consider additional standards, as necessary for equity or to recognize local conditions. The State Personnel Board shall establish minimum standards of proficiency of language skills both written and oral in both English and the language to be interpreted. In establishing these criteria, the State Personnel Board shall take into account standards adopted by the Judicial Council to ensure a court interpreter's understanding of the technical terminology and procedures used in the courts. The State Personnel Board shall administer an appropriate examination and certify to the superior courts a list of qualified interpreters once annually, commencing within one year of the effective date of this section.

68563. The Judicial Council shall collect, analyze, and publish pertinent interpreter utilization statistics, with commentary, as part of the Council's Annual Report of the Administrative Office of the California Courts and shall report such statistics to the Governor and to the Legislature not later than December 31, 1980. In collecting these statistics, the Judicial Council shall request the standards used to determine the qualifications of interpreters serving in all courts and in all languages. Such information shall serve as a basis for determination of the need to establish interpreter programs in additional courts and in additional languages and the establishment of such programs through the normal budgetary process.

68564. The Judicial Council shall adopt rules to implement this article and shall establish:

(a) Standards for determining the need for a court interpreter in particular cases.

(b) Standards for ensuring a court interpreter's understanding of the technical terminology and procedures used in the courts.

(c) Standards of professional conduct for court interpreters.

(d) A requirement for periodic review of each recommended court interpreter's skills and for removal from the recommended list of those court interpreters who fail to maintain their skills.

SEC. 2. The sum of one hundred sixty thousand dollars ($160,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement, as follows:

(a) The sum of sixty-five thousand dollars ($65,000) to be allocated, without regard to fiscal years, to the Judicial Council for the purpose of establishing appropriate rules for all trial courts and collecting, analyzing and reporting data to serve as a basis for legislative determination of the need to establish interpreter's programs in additional courts and in additional languages.

(b) The sum of thirty-five thousand dollars ($35,000) to be allocated for the fiscal year 1978–79 to the State Personnel Board for the purpose of improving court interpreter services in the Spanish language in the Counties of Alameda, Colusa, Contra Costa, Fresno, Glenn, Imperial, Kern, Kings, Los Angeles, Madera, Merced, Monterey, Orange, Riverside, Sacramento, San Benito, San

Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonora, Stanislaus, Sutter, Tulare, Ventura, Yolo, and Yuba.

(c) The sum of sixty thousand dollars ($60,000) to be allocated for the fiscal year 1978–79 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. 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 fully qualified court interpreters are made available to the courts, non-English-speaking persons will continue to be denied access to the courts equal to English-speaking persons and non-English-speaking persons will continue not to understand judicial proceedings to which they may be a party. However, before the testing and certification programs prescribed herein can be implemented, the Judicial Council must first establish the appropriate standards.

CHAPTER 159

An act to add Section 52324.5 to the Education Code, relating to public schools.

[Approved by Governor May 24, 1978 Filed with Secretary of State May 24, 1978]

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

SECTION 1. Section 52324.5 is added to the Education Code, to read:

52324.5. For the purpose of crediting attendance for apportionments from Section A of the State School Fund during the fiscal year, any person who is concurrently enrolled in a nonpublic high school and in a regional occupational center or program operated under subdivision (a) of Section 52305 shall be classified as a regular student enrolled in a regular high school program, notwithstanding Section 52610.

For the purposes of this section, a nonpublic high school is a school which satisfies the requirements of Section 48222 if such school is exempt from taxation under Section 214 of the Revenue and Taxation Code, and if instruction in such school is given through grade 12.

CHAPTER 160

An act to repeal Section 5328.4 of, and to add Section 5328.4 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor May 24, 1978. Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 5328.4 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 5328.4 is added to the Welfare and Institutions Code, to read:

5328.4. The physician in charge of the patient, or the professional person in charge of the facility or his designee, when he has probable cause to believe that a patient while hospitalized has committed, or has been the victim of, murder, manslaughter, mayhem, kidnapping, robbery, assault with intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, unlawful possession of a weapon as provided in Section 12020 of the Penal Code, or escape from a hospital by a mentally disordered sex offender as provided in Section 6330 of the Welfare and Institutions Code, shall release information about the patient to government law enforcement agencies.

The physician in charge of the patient, or the professional person in charge of the facility or his designee, when he has probable cause to believe that a patient, while hospitalized has committed, or has been the victim of assault or battery may release information about the patient to government law enforcement agencies.

This section shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating to the mental state of the patient or the circumstances of his voluntary or involuntary admission, commitment, or treatment.

This section shall not be construed as an exception to or in any other way affecting the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code.

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

CHAPTER 161

An act to amend Section 230 of the Labor Code, relating to jury duty.

[Approved by Governor May 24, 1978. Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 230 of the Labor Code is amended to read:

230. (a) No employer shall discharge or in any manner discriminate against an employee for taking time off to serve as required by law on an inquest jury or trial jury, if such employee, prior to taking such time off, gives reasonable notice to the employer that he is required to serve.

(b) No employer shall discharge or in any manner discriminate against an employee for taking time off to appear in court as a witness as required by law, if such employee, prior to taking such time off, gives reasonable notice to the employer that he is required to appear in court.

(c) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of such employment by his employer because such employee has taken time off to serve on an inquest or trial jury or to appear in court as a witness shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for such rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law, is guilty of a misdemeanor.

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

CHAPTER 162

An act to amend Sections 12651 and 12653 of the Vehicle Code, relating to driver education and training.

[Approved by Governor May 24, 1978 Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 12651 of the Vehicle Code is amended to read:

12651. The principal or staff member assigned such duty may issue or reissue a student license without cost whenever in his opinion the applicant is qualified to take the course of instruction and has filed a proper application therefor.

SEC. 2. Section 12653 of the Vehicle Code is amended to read:

12653. A student license may be canceled by the principal of the school or by the department whenever, in the opinion of either, the safety of the licensee or other persons requires the action and shall be canceled upon the written request of the parent or other person who signed the consent to issue the license.

CHAPTER 163

An act to amend Section 117 of the Code of Civil Procedure, relating to small claims court.

[Approved by Governor May 24, 1978. Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 117 of the Code of Civil Procedure is amended to read:

117. (a) 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.

(b) The prevailing party in any action in the small claims court is entitled to costs of the action and also the costs of execution upon a judgment rendered therein. Such costs shall include costs of service of the order for the appearance of the defendant.

CHAPTER 164

An act to add Section 4675.1 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor May 24, 1978. Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 4675.1 is added to the Revenue and Taxation Code, to read:

4675.1. The board of supervisors of any county may, by resolution, authorize any county officers to perform on its behalf any act required or authorized to be performed by the board of supervisors under Section 4675.

The resolution shall enumerate the section, or those portions of the section, to which the authorization is to apply, and shall specify administrative rules and procedures concerning any act performed under the authorization.

The resolution shall require that the county auditor record each act performed under the authorization.

The resolution may provide for review by the board of supervisors of any act performed under the authorization, or for periodic reports to the board of supervisors of any or all acts performed under the authorization, or both.

CHAPTER 165

An act to add Section 61601.5 to the Government Code, relating to the Dublin-San Ramon Services District.

[Approved by Governor May 24, 1978. Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 61601.5 is added to the Government Code, to read:

61601.5. Notwithstanding the provisions of Sections 61600 and 61601, whenever the Board of Directors of the Dublin-San Ramon Services District determines by resolution that it is feasible, economically sound, and in the public interest for the district to exercise its power for the purpose of conducting studies of the transportation needs of such district, the board shall adopt such additional purpose by resolution entered in the minutes, and the powers of such district may be exercised therefor. Such board may thereafter divest itself of the power to conduct transportation studies

in the same manner as it may require such power.

SEC. 2. The Legislature finds and declares that the Dublin-San Ramon Services District has a special need for the power to conduct a study of transportation requirements in such district, because the district is in the process of negotiating with certain transit providers and must demonstrate a need for an extension of transit services into such district. The Legislature further finds and declares that a general act cannot be made applicable to this special situation and it is therefore necessary to enact this special act relating to only the Dublin-San Ramon Services District.

CHAPTER 166

An act to amend Section 62709 of the Food and Agricultural Code, relating to milk, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 1978. Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 62709 of the Food and Agricultural Code is amended to read:

62709. Producers who do not, in the months of September, October, and November of any year, market the amount of fluid milk equal to their pool quota, shall lose the prodution base equal to the difference between the average amount of milk marketed and their pool quota.

The provisions of this section shall not apply to producers south and east of San Gorgonio Pass or to producers in Del Norte, Humboldt, and Siskiyou Counties. The director may waive the provisions of this section in any case in which he finds that production was restricted by causes beyond the control of the individual producer.

The director may also waive the provisions of this section for any year, if he determines, prior to June 1 of any such year, that there will be sufficient market milk during the months of September, October, and November to satisfy market milk needs.

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 prevent overproduction of market milk during the current year, it is necessary that the provisions of this act become effective immediately.

CHAPTER 167

An act to add Section 2811.6 to the Business and Professions Code, relating to nursing.

[Approved by Governor May 24, 1978 Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 2811.6 is added to the Business and Professions Code, to read:

2811.6. Providers of continuing education programs approved by the board pursuant to Section 2811.5 shall make available for board inspection records of continuing education courses given to registered nurses.

CHAPTER 168

An act to amend Section 65550 of, and to add Sections 65575.1 and 65575.2 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor May 24, 1978 Filed with Secretary of State May 24, 1978.]

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

SECTION 1. Section 65550 of the Food and Agricultural Code is amended to read:

65550. There is hereby created the California Table Grape Commission to be thus known and designated. The commission shall be composed of 21 fresh grape producers appointed by the director from the nominees selected as provided by this article and one public member appointed pursuant to Section 65575.1.

SEC. 2. Section 65575.1 is added to the Food and Agricultural Code, to read:

65575.1. Not later than April 1 of 1979, and each third year thereafter, the commission shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the commission. The director shall, not later than April 30 of 1979, and each third year thereafter, appoint one of the nominees as the public member of the commission to serve a three-year term on the commission. If all nominees are unsatisfactory to the director, the commission shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of public member of the

commission shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the commission not later than the first day of the second month following the month in which such vacancy occurs.

SEC. 3. Section 65575.2 is added to the Food and Agricultural Code, to read:

65575.2. The public member of the commission shall represent the interests of the general public in all matters coming before the commission and shall have the same voting and other rights and immunities as other members of the commission.

CHAPTER 169

An act to amend Sections 70059.7 and 74647 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature May 25, 1978. Filed with Secretary of State May 25, 1978.]

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 eight hundred thirty-six dollars and eighty-nine cents ($836.89) 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 eighty-four dollars ($84) 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, 1980, 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 74647 of the Government Code is amended to

read:

74647. (a) Full-time official reporters appointed by the majority of the judges of the municipal court pursuant to the provisions of Section 72194 and so designated, shall be attachés of the court and shall receive a biweekly salary in accordance with the provisions of Section 70059.7. Such salary shall be paid at the same times and according to the same procedures as salaries of employees of the County of Santa Barbara. During the hours when the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

(b) The judges of the court may appoint as many part-time additional reporters as the business of the court requires. The additional reporters shall be known as official reporters pro tempore, and they shall serve without salary but shall receive, for reporting, fees at the per diem rate fixed by Section 70059.7. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1980, unless ratified by statute by the Legislature prior to that date. In criminal cases such fees upon order of the court shall be a charge against the general fund of the county.

(c) An official reporter when not engaged in the performance of duties of the municipal court, may be appointed to serve as such reporter for the Santa Barbara County Grand Jury or in any other court in the County of Santa Barbara.

SEC. 3. 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 Santa Barbara County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties.

SEC. 4. If any provision of this act, or of Section 68517 of the Government Code or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of such

sections are inseverable.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section, nor shall there be any appropriation made by this act, because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in 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 effect immediately. The facts constituting such necessity are:

As authorized by this act, the salaries and fees of court reporters were increased by the joint action of the board of supervisors and the judges and such increases will terminate after January 1, 1978, and not be reinstated until enactment of this measure. A decrease in compensation may make it difficult to retain or recruit an adequate number of court reporters.

CHAPTER 170

An act to amend Section 76042 of, and to add Section 68534 to, the Government Code, relating to court reporters.

[Became law without Governor's signature May 30, 1978 Filed with Secretary of State May 30, 1978]

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

SECTION 1. Section 68534 is added to the Government Code, to read:

68534. (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 Tuolumne 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.

(5) Such other information as the Judicial Council may require.

SEC. 2. Section 76042 of the Government Code is amended to read:

76042. (a) In Tuolumne County, the official reporters of the superior court shall perform the following duties:

(1) Report all criminal proceedings.

(2) Report all civil proceedings.

(3) Report all domestic relations proceedings.

(4) Report all proceedings of the grand jury.

(5) Report all coroner's inquests.

(b) The official reporters of Tuolumne County shall receive a salary as established by the Board of Supervisors of Tuolumne County. Such salary is for compensation for reporting services in the superior court 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 Chapter 5 of this title. The court reporter shall also be allowed his or her actual traveling expenses when reporting outside of the county seat.

(c) Grand jurors and jurors in the superior court shall be paid seven dollars ($7) a day for each day's attendance, and twelve cents ($0.12) per mile each way per each day of service. The county clerk shall certify to the auditor the number of days' attendance and the number of miles traveled by each juror. The auditor shall draw his warrants for the fees and mileage due the juror, and the treasurer shall pay the warrant.

(d) Witnesses when legally required to attend upon the superior court in criminal cases and upon the juvenile court in juvenile court matters, shall be paid six dollars ($6) a day for each day's actual attendance, and twelve cents ($0.12) for each mile actually traveled. The county clerk shall certify to the auditor the number of days' attendance and the number of miles traveled by each witness. The auditor shall draw his warrant for the fees and mileage due the witness, and the treasurer shall pay the warrant.

SEC. 3. If any provision of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of this act are inseverable.

CHAPTER 171

An act to add Section 2310.2 to the Business and Professions Code, relating to podiatrists.

[Approved by Governor May 31, 1978. Filed with Secretary of State May 31, 1978.]

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

SECTION 1. Section 2310.2 is added to the Business and Professions Code, to read:

2310.2. Notwithstanding any other provision of law, the Division of Allied Health Professions shall issue a reciprocity certificate to an applicant to practice podiatric medicine in this state, provided such applicant meets the following requirements:

(a) The applicant is licensed as a podiatrist in any other state whose licensing examination is recognized by the division to be the equivalent in content to that administered in California.

(b) The applicant has practiced as a licensed podiatrist for at least four years.

(c) The division determines that no disciplinary action has been taken against the applicant by any public agency concerned with the practice of podiatric medicine and that the applicant has not been the subject of adverse judgments resulting from the practice of podiatric medicine which the division determines constitutes evidence of a pattern of incompetence or negligence.

(d) The applicant passes a practical oral examination to ascertain clinical competence.

(e) The applicant, after June 30, 1958, has been issued a certificate by the National Board of Podiatry Examiners of the United States or has passed a written licensing examination recognized by the division to be the equivalent in content to that administered in California.

CHAPTER 172

An act to add Section 5455.5 to the Education Code, and to add Sections 3564.1, 3785.1, 5014.1, and 5157.6 to the Elections Code, relating to elections.

[Approved by Governor May 31, 1978 Filed with Secretary of State May 31, 1978.]

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

SECTION 1. Section 5455.5 is added to the Education Code, to read:

5455.5. A ballot argument or a rebuttal argument which includes in its text the name of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of such person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization,

and any other organization or group of persons.

SEC. 1.5. Section 3564.1 is added to the Elections Code, to read:

3564.1. A ballot argument or a rebuttal argument which includes in its text the name of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of such person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization, and any other organization or group of persons.

SEC. 2. Section 3785.1 is added to the Elections Code, to read:

3785.1. A ballot argument or a rebuttal argument which includes in its text the name of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of such person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization, and any other organization or group of persons.

SEC. 3. Section 5014.1 is added to the Elections Code, to read:

5014.1. A ballot argument or, if applicable, a rebuttal argument which includes in its text the name of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of such person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization, and any other organization or group of persons.

SEC. 4. Section 5157.6 is added to the Elections Code, to read:

5157.6. A ballot argument or a rebuttal argument which includes in its text the name of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of such person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization, and any other organization or group of persons.

CHAPTER 173

An act to amend Section 25806 of the Water Code, relating to irrigation district tax liens.

[Approved by Governor May 31, 1978 Filed with Secretary of State May 31, 1978]

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

SECTION 1. Section 25806 of the Water Code is amended to read:

25806. (a) In case any charges for water and other services or either remain unpaid the amount of the unpaid charges may, in the discretion of the district:

(1) If unpaid at the time specified for delivery of the assessment book to the collector, be added to and become a part of the annual assessment levied upon the real property upon which the water for which the charges are unpaid was used and upon the real property subject to the charges for any other district services and shall constitute a lien on that real property. However, 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 real property taxes which evidence the charges appears on the roll, then the lien which would otherwise be imposed by this subdivision shall not be added to and become part of the annual assessment nor shall it attach to such real property.

(2) Be secured at any time by filing for record in the office of the county recorder of any county, a certificate specifying the amount of such charges and the name and address of the person liable therefor.

From the time of recordation of the certificate, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county owned by the person or afterwards, and before the lien expires, acquired by him. The lien has the force, priority, and effect of a judgment lien and shall continue for 10 years from the date of the filing of the certificate unless sooner released or otherwise discharged. The lien may, within 10 years from the filing of the certificate or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by filing for record a new certificate in the office of the county recorder of any county and from the time of such filing the lien shall be extended to the real property in such county for 10 years unless sooner released or otherwise discharged.

(b) Where the county assumes the responsibility of assessment and collection pursuant to Chapter 7 (commencing with Section 26500) of this part, the amount of the unpaid charges may be added to and become part of the annual assessment levied upon the real property

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upon which the water for which the charges are unpaid was used and upon the real property subject to the charges for any other district services and shall constitute a lien on that real property upon recordation of the order confirming the assessment in the office of the county recorder of the county in which the real property is situated. However, 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 real property taxes which evidence the delinquent charges appear on the roll, then the lien which would otherwise be imposed by this subdivision shall not attach to such real property and the costs of such water and services or either, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

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

CHAPTER 174

An act to add Article 12 (commencing with Section 810) to Chapter 1 of Division 2 of, and to add Section 6106.5 to, the Business and Professions Code, and to amend Section 556 of the Insurance Code, relating to insurance fraud, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 31, 1978. Filed with Secretary of State May 31, 1978.]

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

SECTION 1. Article 12 (commencing with Section 810) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 12. Insurance Fraud

810. (a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly 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.

(b) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

SEC. 2. Section 6106.5 is added to the Business and Professions Code, to read:

6106.5. It shall constitute cause for disbarment or suspension for an attorney to do any of the following:

(a) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(b) Knowingly 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.

SEC. 3. Section 556 of the Insurance Code, as amended by Chapter 1139 of the Statutes of 1976, is amended to read:

556. (a) It is unlawful to:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly 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.

(b) Every person who violates any provision of this section is punishable by imprisonment in the state prison, for two, three, or four years, or by fine not exceeding ten thousand dollars ($10,000), or by both.

(c) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of a violation of this section who has been previously convicted of violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivison 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.

Except where the existence of such fact was not admitted or found to be true 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.

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.

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:

Because of the rapidly increasing incidence of fraud against insurance companies, it is necessary that this act go into immediate effect.

CHAPTER 175

An act to amend Section 10201 of the Corporations Code, relating to corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 31, 1978 Filed with Secretary of State May 31, 1978.]

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

SECTION 1. Section 10201 of the Corporations Code is amended to read:

10201. The articles of incorporation of each such corporation shall set forth:

(a) Its name.

(b) That it is a nonprofit corporation organized solely for general charitable and eleemosynary purposes under Part 3 of Division 2 of Title 1 of the Corporations Code.

(c) The county in this state where the principal office for the transaction of the business of the corporation is located.

(d) The number of trustees, which shall be not less than 9 nor more than 40; their terms of office, which shall not exceed six years; and how they are to be chosen.

(e) The names and residences of the members of the first board of trustees.

(f) Any other matter required by law to be set out in the articles of incorporation.

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:

Certain nonprofit corporations organized solely for general charitable and eleemosynary purposes are presently having difficulty functioning and in some cases are paralyzed because they are unable to attain a quorum at meetings. This bill, by giving them the option of adding additional trustees to their boards, would enable them to continue providing important charitable services to their communities. It is therefore necessary that this act take effect immediately.

CHAPTER 176

An act to amend Section 30200 of the Government Code, relating to counties, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 31, 1978. Filed with Secretary of State May 31, 1978]

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

SECTION 1. Section 30200 of the Government Code is amended to read:

30200. The State Controller shall prescribe uniform accounting procedures for counties under this division. The procedures shall be adopted under the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code and published in the California Administrative Code. The State Controller shall prescribe such procedures only after consultation with and approval by the Committee on County Accounting Procedures. Approval of such procedures shall be by a majority vote of the members of the committee. The vote may be conducted by mail at the discretion of the chairman of the committee, provided however, that should one or more members of the committee request a meeting for the purpose of voting the chairman shall call a meeting of the committee as provided in Section 30201.

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 more timely changes in regulations and to save considerable time and expense as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 177

An act to repeal Sections 600 and 2382 of the Business and Professions Code, relating to medical advertising.

[Approved by Governor May 31, 1978. Filed with Secretary of State May 31, 1978]

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

SECTION 1. Section 600 of the Business and Professions Code is repealed.

SEC. 2. Section 2382 of the Business and Professions Code is repealed.

CHAPTER 178

An act to amend Section 28837 of, and to add Sections 28810.5 and 28811 to, the Health and Safety Code, relating to display of unpackaged processed food, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 31, 1978. Filed with Secretary of State May 31, 1978]

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

SECTION 1. Section 28810.5 is added to the Health and Safety Code, to read:

28810.5. "Processed food" means any food chemically or physically altered from a raw agricultural commodity by chemical, mechanical, thermal, or other processes.

SEC. 2. Section 28811 is added to the Health and Safety Code, to read:

28811. "Unpackaged processed food" means any processed food offered for sale from containers that permit a customer to dispense the food directly into packages, except produce offered for sale or food which is intended to be shelled or cooked prior to consumption.

SEC. 3. Section 28837 of the Health and Safety Code is amended to read:

28837. (a) Unpackaged processed food, except potentially hazardous food as defined in Section 28810, may be displayed and sold in bulk in self-service containers if all of the following conditions are satisfied:

(1) Each self-service container has a tight-fitting lid permanently attached in a manner that prevents the lid from touching the floor, which is kept in a closed position at all times except during customer service.

(2) Each self-service container has a utensil with a handle for dispensing the product.

(3) Self-service containers, lids, and utensils are constructed of nontoxic materials and provide for easy cleaning and proper repair.

(4) Self-service containers, lids, and utensils are maintained in a sanitary condition and in a manner that prevents spoilage and insect infestation.

(5) A sign is posted prominently and conspicuously within the immediate display area directing customers to utilize the utensils provided when serving themselves.

(6) A label is conspicuously displayed in plain view of the customer and securely attached to each self-service container, or in clear relationship thereto, which contains the following:

(A) Common name of product.

(B) Declaration of each ingredient used in the manufacture by their common or usual name in descending order of predominance

by weight. This declaration shall be provided in writing to the food establishment by the manufacturer, packer, or distributor.

(b) Unpackaged processed food may be displayed and sold in bulk in other than self-service containers if all of the following conditions are satisfied:

(1) The food is served by an employee of the food establishment directly to a consumer.

(2) The food is displayed in clean, sanitary, and covered or otherwise protected containers.

(c) If the director makes a specific finding that a disease is actually transmitted by the method of dispensing unpackaged processed foods, as prescribed by this section, the director may establish by regulation greater restrictions on the sale of such food than are required by this section. Such regulations shall bear directly on the specific relationship between the disease actually transmitted and the dispensing methods permitted by this section.

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 provisions of this act are necessary to establish, at the earliest possible time, uniform standards that do not impose undue burdens on food establishments that offer unpackaged processed foods for sale.

CHAPTER 179

An act to amend Sections 68525 and 69948 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature June 1, 1978. Filed with Secretary of State June 1, 1978.]

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

SECTION 1. Section 68525 of the Government Code is amended 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 or Sutter 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.

(d) In Kings County, the fee for reporting testimony and proceedings in contested cases is seventy dollars ($70) a day, or any fractional part thereof.

(e) In Mariposa County, the fee for reporting testimony and proceedings in contested cases is seventy dollars ($70) a day, or any fractional part thereof.

(f) In Siskiyou County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(g) In Yuba County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) a day, or any fractional part thereof.

(h) In Butte County, pro tempore reporters shall receive a fee of seventy-five dollars ($75) a day, or any fractional part thereof, for reporting testimony and proceedings in contested cases.

(i) In Sutter 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. 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 Sutter County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties.

SEC. 4. If any provision of Section 1 or 2 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of such sections are inseverable.

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 this act is in accordance with the request of a local government entity which desires legislative authority to carry out the program specified in 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:

There now exists in the County of Sutter an urgent need for court reporters and unless per diem adjustments are made to meet the cost of living increases which have occurred since 1970, there will be extreme difficulty in obtaining competent court reporters. The inability to obtain competent court reporters will adversely affect the administration of criminal and civil justice. In order to prevent undue delay in the trials of criminal and civil cases and to assure that defendants in criminal cases do not lose their constitutional right to a speedy trial, it is necessary that this act go into effect immediately.

CHAPTER 180

An act to add Section 1858.7 to the Insurance Code, relating to insurance.

[Approved by Governor June 2, 1978 Filed with Secretary of State June 2, 1978]

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

SECTION 1. Section 1858.7 is added to the Insurance Code, to read:

1858.7. Whenever the commissioner determines that a rate is excessive or not excessive, he shall, upon the written request of any complainant, disclose the basis upon which such rate was determined to be excessive or not excessive in writing to the complainant.

CHAPTER 181

An act to add Section 41853.5 to the Education Code, relating to public education.

[Approved by Governor June 2, 1978. Filed with Secretary of State June 2, 1978.]

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

SECTION 1. Section 41853.5 is added to the Education Code, to read:

41853.5. Where a cooperative pupil transportation program is operated jointly by one or more school districts and a county superintendent of schools for the purpose of transporting pupils, a schoolbus originally purchased for the transportation of exceptional children by the county superintendent of schools but used for the transportation of pupils within the cooperative may be reported by a participating school district within the cooperative for purposes of replacement allowances as allowed by subdivision (f) of Section 41853, provided that the replacement bus is used within the cooperative pupil transportation program.

CHAPTER 182

An act to amend Section 22656 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 2, 1978. Filed with Secretary of State June 2, 1978.]

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

SECTION 1. Section 22656 of the Vehicle Code is amended to read:

22656. Any member of the California Highway Patrol, or any regularly employed and salaried officer of a railroad, commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code, or any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located, or any regularly employed and salaried officer of a police department in a city in which a vehicle is located, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties on or in which a vehicle is located, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled or administered by the Regents of the University of California on or in which a vehicle is

located, or any regularly employed and salaried officer of a California state university or college police department on or about a campus or in or about other grounds or properties owned, operated, controlled or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located, or any regularly employed and salaried officer of a transit district security force on or about parking lots owned by the transit district or in or about other grounds or properties owned, operated, controlled or administered by the board of directors of the transit district on or in which a vehicle is located, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by such regional park district on or in which a vehicle is located, may remove a vehicle from a railroad right-of-way if the vehicle is parked upon any railroad track or within 7½ feet of the nearest rail.

CHAPTER 183

An act to amend Section 21100 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 2, 1978. Filed with Secretary of State June 2, 1978]

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

SECTION 1. 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 or permanent appointment for such duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at such locations as may require traffic direction for orderly traffic flow.

(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).

CHAPTER 184

An act to amend Sections 20222, 21051, and 21059 of, and to add Section 21084 to, the Food and Agricultural Code, relating to cattle protection.

[Approved by Governor June 2, 1978 Filed with Secretary of State June 2, 1978.]

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

SECTION 1. Section 20222 of the Food and Agricultural Code is amended to read:

20222. Any person that uses an unrecorded, forfeited or canceled brand shall pay a penalty of twenty-five dollars ($25) which is in addition to any other penalty which is provided by law.

SEC. 2. Section 21051 of the Food and Agricultural Code is amended to read:

21051. Except as otherwise provided in this chapter, cattle shall be inspected as follows:

(a) Prior to movement or rebranding, whichever occurs first, when cattle are sold or ownership is transferred.

(b) Prior to transportation out of an area which has modified point-of-origin inspection.

(c) Prior to transportation out of the state.

(d) Upon entry into a registered feedlot.

(e) Prior to slaughter.

(f) Prior to release or sale from a public stockyard, public saleyard, or public or private cattle sales market.

(g) Prior to release from a posted stockyard or posted saleyard.

(h) Prior to transportation out of a full point-of-origin area.

SEC. 3. Section 21059 of the Food and Agricultural Code is amended to read:

21059. Inspection is not required in the following cases when cattle are shipped for pasture or feeding purposes and there is no change of ownership:

(a) When the cattle are moved only between points in the same modified point-of-origin inspection area.

(b) When the cattle are only moved across a modified point-of-origin inspection area boundary which bisects the ranch or property of the owner and shipper of the cattle.

(c) When cattle are moved only between points within a point-of-origin area.

This section does not apply to cattle entering a registered feedlot.

SEC. 4. Section 21084 is added to the Food and Agricultural Code, to read:

21084. The director may cancel the registration of any feedlot in which the operator has not fed cattle for slaughter for a period of 90 days. When a feedlot has had its registration canceled for this reason, a new application shall be submitted to the Bureau of Livestock Identification for registration when cattle are again fed for slaughter.

CHAPTER 185

An act to amend Section 1391.1 of the Labor Code, relating to minors.

[Approved by Governor June 2, 1978. Filed with Secretary of State June 2, 1978.]

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

SECTION 1. Section 1391.1 of the Labor Code is amended to read:

1391.1. Minors 16 years of age or older and under the age of 18 years enrolled in work experience education programs approved by the State Department of Education or in work experience education programs conducted by private schools may work after 10 p.m. but not later than 12:30 a.m., providing such employment is not detrimental to the health, education, or welfare of the minor and the approval of the parent and the work experience coordinator has been obtained. However, if any such minor works any time during the hours from 10 p.m. to 12:30 a.m., he shall be paid for work during that time at a rate which is not less than the minimum wage paid to adults.

CHAPTER 186

An act to amend Section 790.03 of the Insurance Code, relating to insurance rates.

[Approved by Governor June 2, 1978 Filed with Secretary of State June 2, 1978]

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

SECTION 1. Section 790.03 of the Insurance Code is amended to read:

790.03. The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance.

(a) Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(b) Making or disseminating or causing 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 whatsoever, any statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, 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.

(c) 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 unreasonable restraint of, or monopoly in, the business of insurance.

(d) 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, delivered to any person, or placed before the public any false statement of financial condition of an insurer with intent to deceive.

(e) Making any false entry in any book, report or statement of any insurer 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 insurer 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 the business of such insurer in any book, report or statement of such insurer.

(f) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

This subdivision shall be interpreted, for any contract of ordinary life insurance or individual life annuity applied for and issued on or after January 1, 1981, to require differentials based upon the sex of the individual insured or annuitant in the rates or dividends or benefits, or any combination thereof. This requirement is satisfied if such differentials are substantially supported by valid pertinent data segregated by sex, including, but not necessarily limited to, mortality data segregated by sex.

However, for any contract of ordinary life insurance or individual life annuity applied for and issued on or after January 1, 1981, but before the compliance date, in lieu of such differentials based on data segregated by sex, rates or dividends or benefits, or any combination thereof, for ordinary life insurance or individual life annuity on a female life may be calculated as follows: (a) according to an age not less than three years nor more than six years younger than the actual age of the female insured or female annuitant, in the case of a contract of ordinary life insurance with a face value greater than five thousand dollars ($5,000) or a contract of individual life annuity; and (b) according to an age not more than six years younger than the actual age of the female insured, in the case of a contract of ordinary life insurance with a face value of five thousand dollars ($5,000) or less. "Compliance date" as used in this paragraph shall mean the date or dates established as the operative date or dates by future amendments to this code directing and authorizing life insurers to use a mortality table containing mortality data segregated by sex for the calculation of adjusted premiums and present values for nonforfeiture benefits and valuation reserves as specified in Sections 10163.5 and 10489.2 or successor sections.

(g) 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 a named insurer, or named insurers, are members of the California Insurance Guarantee Association, or insured against insolvency as defined in Section 119.5. This subdivision shall not be interpreted to prohibit

any activity of the California Insurance Guarantee Association or the commissioner authorized, directly or by implication, by Article 14.2 (commencing with Section 1063) of this chapter.

(h) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:

(1) Misrepresenting to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(3) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.

(4) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss requirements have been completed and submitted by the insured.

(5) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(6) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds, when such insureds have made claims for amounts reasonably similar to the amounts ultimately recovered.

(7) Attempting to settle a claim by an insured for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

(8) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured, his representative, agent, or broker.

(9) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made.

(10) Making known to insureds or claimants a practice of the insurer of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(11) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either, 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.

(12) Failing to settle claims promptly, where liability has become apparent, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(13) Failing to provide promptly a reasonable explanation of the

basis relied on in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or for the offer of a compromise settlement.

(14) Directly advising a claimant not to obtain the services of an attorney.

(15) Misleading a claimant as to the applicable statute of limitations.

CHAPTER 187

An act to amend Section 8103 of the Welfare and Institutions Code, relating to firearms.

[Approved by Governor June 2, 1978. Filed with Secretary of State June 2, 1978.]

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

SECTION 1. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. No person who has been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness, after October 1, 1955, shall have in his possession or under his custody or control any firearm unless there has been issued to such person a certificate as hereafter described in this section and such person has not, subsequent to the issuance of such certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

A certificate meeting the requirements of this section must be a written statement that is either part of a broader certificate of competency or a separate document and that is issued, on application of the person who was so adjudicated, either at the time of release from treatment under such adjudication or at a later date, by the medical director of any California state hospital, stating that in the opinion of the person issuing the certificate based either on his own knowledge or on the opinions of members of his staff or on records of the institution, the applicant is a person who may possess a firearm without endangering others. If a person applies to a medical director of a California state hospital for such a certificate and the applicant has not been treated in that hospital, or if the medical director believes that a current mental examination is necessary to enable him to determine whether or not such a certificate shall be issued, the medical director shall cause such person to be examined by a member of the staff of the hospital and may otherwise investigate the case. The medical director may charge a reasonable fee for such examination and investigation.

Refusal of a medical director to issue a certificate of competency or separate document as described in the preceding provisions of this

section is reviewable by mandamus in the superior court of the county of which the applicant is a resident or the county in which the hospital of which the medical director is head. Upon a showing to the satisfaction of the court of abuse of discretion by the medical director the court shall issue its writ directing the medical director to issue its certificate or document.

No person who has been found, pursuant to Section 1026 of the Penal Code, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, shall have in his possession or under his custody or control any firearm.

Every person who possesses or has under his custody or control any firearm in violation of 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 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 188

An act to amend Section 19627.7 of the Business and Professions Code, and to amend Sections 6039, 12041, 14971, 20462, 20463, 24007, 27571, 29322, 40571, 41001, 41201, 59722, 62305, and 62719 of the Food and Agricultural Code, relating to boards and committees.

[Approved by Governor June 2, 1978 Filed with Secretary of State June 2, 1978]

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

SECTION 1. Section 19627.7 of the Business and Professions Code is amended to read:

19627.7. There is in the Department of Food and Agriculture a Fair Budget Review Board to advise the Director of Food and

Agriculture on the following:

(a) Allocation of state support to county, district, combined county and district, or citrus fruit fairs, for operational purposes.

(b) The types and amount of capital outlay projects approved for eligible fairs.

(c) On all matters relating to the classification of fairs and the methods used to determine the compensation for fair managers.

As used in this section, "board" means the Fair Budget Review Board.

The board shall act as a review board making recommendations to the Director of Food and Agriculture relative to proposed legislation affecting fairs.

The board of directors of the fairs in each fair area designated in Section 4532 of the Food and Agricultural Code shall nominate three persons to serve on the board. The director shall appoint one person from among the nominees of each such area to serve on the board. In addition, the director may appoint one public member on the board. Each member of the board shall be subject to confirmation by the Senate.

Upon the director's request, the board shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state, for appointment by the director as a public member of the board. The director may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the director, the board shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the board. The public member of the board shall represent the interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

Any member of the board initially appointed from a fair area designated by Section 4532 of the Food and Agricultural Code as 1, 3, 5, or 7 shall serve a term of office of four years, and any member initially appointed from a fair area 2, 4, or 6 shall serve a term of office of six years. Each appointment made thereafter from any of such fair areas shall be for six-year terms.

Any appointment made to fill a vacancy on the board of any unexpired term, shall be made only for the remainder of the unexpired term.

The board shall, from time to time, elect a chairman and vice chairman from among its members. The board shall meet at the call of its chairman, at the request of the Director of Food and Agriculture, or upon request of a majority of its members.

The members of the board shall be reimbursed for any necessary expenses incurred in the performance of their duties, in accordance with the rates set by the Board of Control for boards and commissions.

SEC. 2. Section 6039 of the Food and Agricultural Code is amended to read:

6039. The director shall appoint a Curly Top Virus Control Board consisting of nine members. The membership shall consist of at least one representative of each of the primary crop commodities assessed and shall include representation from each of the districts assessed. The director may appoint one additional member on the board, who shall be a public member. Annually the director shall appoint one member of the board to serve as chairman.

Upon the director's request, the board shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the board. The director may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the director, the board shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the board. The public member of the board shall represent the interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

SEC. 3. Section 12041 of the Food and Agricultural Code is amended to read:

12041. (a) There is in the department an Agricultural Pest Control Advisory Committee consisting of 12 members. The committee shall be appointed by the director and shall be composed of two pest control research specialists, one of whom shall specialize in biological control, one agricultural extension service specialist nominated by the Regents of the University of California, and nine additional members, one each representing the following: the Trustees of the California State University and Colleges, the Board of Governors of the California Community Colleges, agricultural pest control advisers, licensed pest control operators, the State Department of Health Services, the Department of Fish and Game, producers as defined in Section 56110, the agricultural chemical industry, and the department. The director may appoint one additional member on the committee, who shall be a public member.

(b) Upon the director's request, the committee shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state, for appointment by the director as a public member of the committee. The director may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the director, the committee shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the committee shall be filled by appointment by the

director from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

(c) The first pest control research specialist who specializes in biological control shall be appointed to fill any vacancy on the committee which exists on January 1, 1977, or the first vacancy which occurs on or after that date, in the office of any pest control research specialist nominated by the Board of Regents of the University of California. If there are two such pest control research specialists serving on the committee on January 1, 1977, the change in the composition of the committee adding a pest control research specialist who specializes in biological control as a result of the amendments to this section by the Statutes of 1976 shall not occur until the first vacancy in the office of one of such pest control research specialists.

(d) The first representative of the Board of Governors of the California Community Colleges shall be appointed as soon as possible after January 1, 1977.

SEC. 4. Section 14971 of the Food and Agricultural Code is amended to read:

14971. There is in the department a Feed Inspection Advisory Board consisting of five persons appointed by the director, who are licensed under this chapter and who are subject to payment of the inspection tonnage tax in accordance with the provisions of this chapter. The director may appoint one additional member on the board, who shall be a public member. The members of the board shall receive no salary, but are entitled to payment of necessary traveling expenses in accordance with State Board of Control rules. Such expenses shall be paid out of appropriations made to the department.

Upon the director's request, the board shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the board. The director may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the director, the board shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the board. The public member of the board shall represent the interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

SEC. 5. Section 20462 of the Food and Agricultural Code is amended to read:

20462. There is in the department the Livestock Identification Advisory Board, which consists of seven members. The director may appoint one additional member on the board, as provided in Section 20463.

SEC. 6. Section 20463 of the Food and Agricultural Code is amended to read

20463. The director shall appoint the members to the board as follows:

(a) Two shall be beef cattle producers.

(b) Two shall be dairymen.

(c) One shall be engaged in the livestock marketing business.

(d) Two shall be operators of registered feedlots.

The director may appoint one additional member on the board, who shall be a public member. Upon the director's request, the board shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the board. The director may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the director, the board shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the board. The public member of the board shall represent the interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

SEC. 7. Section 24007 of the Food and Agricultural Code is amended to read:

24007. The director shall adopt such reasonable rules and regulations as are necessary to carry out the provisions of this chapter. In making and adopting such regulations the director shall first consult with an advisory committee, which he shall appoint, to serve without compensation. Members of the committee shall include, but not be limited to, representation from the California State Horsemen's Association, the Equestrian Trails Inc., the California Professional Horsemen's Association, the Pacific Coast Hunter Jumper and Stock Horse Association, the Northern California Professional Horsemen's Association, the Los Angeles County Horse Show Exhibitors Association, the California Dressage Society, the Pacific Coast Quarter Horse Association, the Central California Quarter Horse Association, the Division of Fairs and Expositions, the North American Trail Ride Conference, the American Horses Exhibitors Against Drugging, the American Horse Shows Association, the University of California School of Veterinary Medicine, the Appaloosa Horse Territory 2, the International Arabian Club, the Pinto Association of America, and such other organizations as the director shall from time to time deem

appropriate. In addition, the director may appoint one public member on the committee.

Upon the director's request, the committee shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state for appointment by the director as a public member of the committee. The director may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the director, the committee shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the committee shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

SEC. 8. Section 27571 of the Food and Agricultural Code is amended to read:

27571. The director shall appoint a Shell Egg Advisory Committee consisting of seven members, six of whom shall be selected by the director from egg dealers and be representative of the egg industry. The California Agricultural Commissioners Association shall annually designate one of its members who shall serve in a nonvoting capacity as the seventh member of the committee. The director may appoint one additional member on the committee, who shall be a public member. The members of the committee shall receive no salary.

Upon the director's request, the committee shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the committee. The director may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the director, the committee shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the committee shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

SEC. 9. Section 29322 of the Food and Agricultural Code is amended to read:

29322. There is in the department the Apiary Board, consisting of five members appointed by the director. The members of the board shall be beekeepers representing the major geographical divisions of the beekeeping industry. The director may appoint one additional

member on the board, who shall be a public member.

Upon the director's request, the board shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the board. The director may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the director, the board shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the board. The public member of the board shall represent the interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

SEC. 10. Section 40571 of the Food and Agricultural Code is amended to read:

40571. There is in the department a Shipping Point Advisory Committee consisting of nine members. The committee shall be appointed by the director and shall be composed of shippers of fruits and vegetables using inspection and certification services of the department. The director may appoint one additional member on the committee, who shall be a public member. Members of the committee shall receive no salary.

Upon the director's request, the committee shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the committee. The director may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the director, the committee shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the committee shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

SEC. 11. Section 41001 of the Food and Agricultural Code is amended to read:

41001. There is in the department the Canning Tomato Advisory Committee, which consists of 10 members. The director shall appoint five members who shall be producers of tomatoes for canning and five members who shall be representatives of handlers engaged in the canning of tomatoes. The director may appoint one additional member of the committee, who shall be a public member.

Upon the director's request, the committee shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the committee. The director may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the director, the committee shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the committee shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

SEC. 12. Section 41201 of the Food and Agricultural Code is amended to read:

41201. There is in the department a Grape Inspection Advisory Committee consisting of eight wine producers, appointed by the director. The director may appoint one additional member on the committee, who shall be a public member. The members of the committee shall receive no salary.

Upon the director's request, the committee shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the committee. The director may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the director, the committee shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the committee shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

SEC. 13. Section 59722 of the Food and Agricultural Code is amended to read:

59722. For terms subsequent to the term of the initial committee, members and their respective alternates shall be selected and appointed in accordance with the following procedure: The director shall divide the proration zone into as many districts as may be necessary for the proper administration of the program, and allot to each district the proper number of producers to be appointed to serve as members and alternate members upon a marketing program committee so as to give as nearly as possible adequate

representation to all producers in all such districts. Members and their respective alternate members shall be appointed by the director from lists of producers that are eligible to serve on the marketing program committee. In addition, the director may appoint one public member on each such marketing program committee.

Upon the director's request, the committee shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the committee. The director may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the director, the committee shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the committee shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

SEC. 14. Section 62305 of the Food and Agricultural Code is amended to read:

62305. A local advisory board established pursuant to this article shall consist of seven members who shall be producers that supply market milk to the particular marketing area. A regional advisory board may consist of any number of members who are producers that supply market milk to any of the marketing areas in the region, but shall consist of not less than one member from each such marketing area in the region. The director may appoint one additional member on each such board who shall be a public member.

Upon the director's request, each board shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the board. The director may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the director, the board shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the board. The public member of each board shall represent the interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

SEC. 15. Section 62719 of the Food and Agricultural Code is amended to read:

62719. The director shall, from nominations submitted by producers, appoint a review board composed of no less than 12 members to advise him in the administration of the pool plan. The director shall appoint three members of the first board for a one-year term, three members for two-year terms, three members for three-year terms, and three members for four-year terms. Thereafter all appointments shall be for a term of four years and no member may be appointed to more than two four-year terms. The board members shall be producers and not more than three may be producer-managers of associations and not more than two shall be producer-handlers. The board members shall give proportionate representation to all areas of the state, with due regard to the relative production and usage of fluid milk in the various areas of the state. The director may appoint one additional member on the board, who shall be a public member. Each member of the review board shall be paid not less than twenty-five dollars ($25) or more than thirty-five dollars ($35) per day plus travel expenses, including expenses for lodging and meals, which are incurred in the attendance at board meetings or in conducting the business of the board; all per diem and expenses being subject to approval by the director.

Upon the director's request, the board shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the board. The director may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the director, the board shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the board. The public member of the board shall represent the interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

CHAPTER 189

An act to add Section 20500 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor June 2, 1978 Filed with Secretary of State June 2, 1978]

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

SECTION 1. Section 20500 is added to the Government Code, to read:

20500. Notwithstanding any other provision of this part, a contracting agency and its employees may agree, in writing, to share the costs of any optional benefit which is inapplicable to a contracting agency unless and until the agency elects to be subject to such benefit. Such agreement shall specify the exact percentage of member compensation that shall be paid toward the current service cost of such benefits by members. Such member contributions shall be normal contributions over and above normal contributions otherwise required by this part and shall be treated as normal contributions for all purposes of this part. Such contributions shall be uniform with respect to all members within each of the following classifications: local miscellaneous members, local policemen, local firemen, county peace officers, and all local safety members other than local policemen, local firemen, and county peace officers. The balance of any costs shall be paid by the contracting agency and shall be credited to the employer's account.

The provisions of this section shall not be applicable to any optional benefit which is elected by a contracting agency prior to the effective date of this section.

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. Contributions provided by this section shall not be withheld from member compensation or otherwise collected until such contract amendment becomes effective.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the system.

The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

CHAPTER 190

An act to amend Section 27454 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 2, 1978 Filed with Secretary of State June 2, 1978]

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

SECTION 1. Section 27454 of the Vehicle Code is amended to read:

27454. No tire on any vehicle upon any state highway shall have on its periphery any block, stud, flange, cleat, ridge, bead, or any other protuberance of metal or wood which projects beyond the tread of the traction surface of the tire.

This section does not apply to the following:

(a) Tire chains of reasonable size used to prevent skidding when upon wet surfaces or when upon snow or ice.

(b) Pneumatic tires which have embedded therein wire not to exceed 0.075 of an inch in diameter and which are so constructed that under no conditions will the percentage of metal in contact with the roadway exceed 5 percent of the total tire area in contact with the roadway, except that during the first 1,000 miles of use or operation of any such tire, the metal in contact with the roadway may exceed 5 percent of the tire area in contact with the roadway, but shall in no event exceed 20 percent of such area.

(c) Vehicles operated upon unimproved roadways when necessary in the construction or repair of highways.

(d) Traction engines or tractors when operated under the conditions of a permit first obtained from the Department of Transportation.

(e) Pneumatic tires containing metal-type studs of tungsten carbide or other suitable material and which are so inserted or constructed that under no conditions will the number of studs or the percentage of metal in contact with the roadway exceed 3 percent of the total tire area in contact with the roadway, between the first day of October and the first day of May. This subdivision shall remain in effect until May 1, 1981, and shall have no force or effect after that 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:

Existing law, permitting the use of snow tires from the first day of October to the first day of May, will remain in effect only until May 1, 1978.

In order that such use may be continued without interruption, it is essential that this act take effect immediately.

CHAPTER 191

An act to amend Section 16476 of the Public Utilities Code, relating to public utility districts.

[Approved by Governor June 2, 1978. Filed with Secretary of State June 2, 1978]

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

SECTION 1. Section 16476 of the Public Utilities Code is amended to read:

16476. Notwithstanding subdivision (b) of Section 16475, the Board of Directors of the Tahoe City Public Utility District, the Board of Directors of the North Tahoe Public Utility District, and the Board of Directors of the South Tahoe Public Utility District shall all have the authority, until July 1, 1984, to fix, for each fiscal year, such water standby or immediate availability charges at not to exceed twenty dollars ($20) per acre or any parcel of less than one acre; provided, that any funds derived from a charge in excess of the maximum amount authorized by subdivision (b) of Section 16475 shall only be used to pay for the acquisition of nonpublic domestic water supply systems, and the maintenance and operation of domestic water supply systems owned by the respective districts on January 1, 1976, or acquired on or after such date.

This section, applicable only to the Tahoe City Public Utility District, the North Tahoe Public Utility District, and the South Tahoe Public Utility District, is necessary because of the unique and special water management problems of those areas of the Lake Tahoe Basin.

CHAPTER 192

An act to amend Section 16072 of the Public Utilities Code, relating to public utility districts.

[Approved by Governor June 2, 1978. Filed with Secretary of State June 2, 1978]

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

SECTION 1. Section 16072 of the Public Utilities Code is amended to read:

16072. The board shall act only by ordinance, resolution, or motion. The ayes and noes shall be taken upon the passage of all ordinances, resolutions, or motions and entered upon the journal of

the proceedings of the board. No ordinance, resolution, or motion shall be passed or become effective without the affirmative votes of at least a majority of the board.

CHAPTER 193

An act to add Sections 31662.7 and 73716.1 to, and to repeal Sections 31662.7 and 73716.1 of, the Government Code, relating to courts.

[Approved by Governor June 2, 1978. Filed with Secretary of State June 2, 1978.]

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

SECTION 1. Section 31662.7 is added to the Government Code, to read:

31662.7. Notwithstanding any other provision of law, a senior deputy marshal of a municipal court who has previously, upon election, served as a marshal of a division of a municipal court district and whose position as marshal was eliminated by action of the Legislature, shall have the right to continue in employment until the age of 65.

This section shall remain in effect only until April 1, 1983, and as of that date is repealed.

SEC. 2. Section 73716.1 is added to the Government Code, to read:

73716.1. Notwithstanding any other provision of law, a senior deputy marshal of the Manteca-Ripon-Escalon-Tracy Judicial District who has served as marshal of a division of such district and whose position as marshal was eliminated by action of the Legislature shall have the right to continue in employment until the first day of the calendar month next succeeding that in which he attains age 65.

This section shall remain in effect only until April 1, 1983, and as of that date is repealed.

CHAPTER 194

An act to amend Section 3544.5 of the Government Code, relating to public educational employment.

[Approved by Governor June 2, 1978 Filed with Secretary of State June 2, 1978]

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

SECTION 1. Section 3544.5 of the Government Code is amended to read:

3544.5. A petition may be filed with the board, in accordance with its rules and regulations, requesting it to investigate and decide the question of whether employees have selected or wish to select an exclusive representative or to determine the appropriateness of a unit, by:

(a) A public school employer alleging that it doubts the appropriateness of the claimed unit; or

(b) An employee organization alleging that it has filed a request for recognition as an exclusive representative with a public school employer and that the request has been denied or has not been acted upon within 30 days after the filing of the request; or

(c) An employee organization alleging that it has filed a competing claim of representation pursuant to subdivision (b) of Section 3544.1; or

(d) An employee organization alleging that the employees in an appropriate unit no longer desire a particular employee organization as their exclusive representative, provided that such petition is supported by evidence of support such as notarized membership lists, cards, or petitions from 30 percent of the employees in the negotiating unit indicating support for another organization or lack of support for the incumbent exclusive representative. Such evidence of support shall be submitted to the board, and shall remain confidential and not be disclosed by the board. The board shall obtain from the employer the information necessary for it to carry out its responsibilities pursuant to this section and shall report to the employee organizations seeking recognition and to the public school employer as to the adequacy of the evidence of support.

CHAPTER 195

An act to add Section 1774.1 to the Government Code, relating to Senate confirmations.

[Approved by Governor June 2, 1978 Filed with Secretary of State June 2, 1978]

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

SECTION 1. Section 1774.1 is added to the Government Code, to read:

1774.1. Notwithstanding any other provision of law, whenever the appointment by the Governor of a person to a public office is subject to confirmation by the Senate, and the Senate confirms the appointment within the applicable period described in Section 1774, and the term of office is at the pleasure of the Governor, such confirmation shall be deemed the last act necessary for appointment

and the Governor shall not be required to issue another commission to complete the act of appointment.

CHAPTER 196

An act to amend Section 26706 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 2, 1978 Filed with Secretary of State June 2, 1978.]

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

SECTION 1. Section 26706 of the Vehicle Code is amended to read:

26706. (a) Every motor vehicle, except motorcycles, equipped with a windshield shall also be equipped with a self-operating windshield wiper.

(b) Every new motor vehicle first registered after December 31, 1949, except motorcycles, shall be equipped with two such windshield wipers, one mounted on the right half and one on the left half of the windshield, except that any motor vehicle may be equipped with a single wiper so long as it meets the wiped area requirements in Federal Motor Vehicle Safety Standards Governing Windshield Wiping and Washing Systems.

(c) This section does not apply to snow removal equipment equipped with adequate manually operated windshield wipers.

CHAPTER 197

An act relating to state highways, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature June 5, 1978. Filed with Secretary of State June 5, 1978.]

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

SECTION 1. The Department of Transportation shall conduct a feasibility study extending the western approach of the Dumbarton Bridge on an alignment that is northeast of Route 101, between the northeasterly extensions of Marsh Road and Woodside Road. The department shall submit its report thereon to the Legislature on or before December 31, 1978.

No action taken pursuant to this section shall alter plans of the department for the new bridge and its approaches or be allowed to delay action of the department in proceeding to construct the bridge

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and its approaches.

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 the Department of Transportation may commence the study as soon as possible so that the results of the study may be incorporated into the Port of Redwood City Special Area Plan Study currently under way and planned for completion by December 31, 1978, it is necessary that this act take effect immediately.

CHAPTER 198

An act to amend Sections 139 and 5703.5 of the Labor Code, relating to workers' compensation.

[Approved by Governor June 5, 1978. Filed with Secretary of State June 6, 1978.]

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 and Chiropractic 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 and Chiropractic 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 physician and surgeon members shall be appointed after consultation with statewide and local associations of the medical profession for two-year staggered terms. The chiropractic member shall be appointed after consultation with statewide and local associations of the chiropractic profession for a term of two years. 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 and Chiropractic Advisory Committee. The Medical and Chiropractic Advisory Committee members shall counsel and assist the medical director and shall perform such other duties as the administrative director may direct.

The members of the Medical and Chiropractic Advisory Committee shall, within the scope of each member's professional training, do all the following:

(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 clinical 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 examiners in each of the respective specialties as may be required. The administrative director shall appoint for renewable terms of two years, independent expert chiropractic examiners.

Assignment of cases to independent examiners shall be made at the request of the administrative director, the secretary of the appeals board, or a referee by the medical director or his assistant in each office where a unit of the medical bureau is maintained or by the referee in charge in other offices of the division. Insofar as possible, a rotation method of assignment of independent medical or expert chiropractic examiners shall be followed.

Such 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 such 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, or in accordance with Section 5703.5.

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.

SEC. 2. Section 5703.5 of the Labor Code is amended to read:

5703.5. (a) The appeals board, at any time after an application is filed and prior to the expiration of its jurisdiction may, upon the agreement of a party to pay the cost, direct the injured employee to be examined by a physician and surgeon or chiropractor selected by the appeals board or agreed upon by the parties to report, within the scope of their professional training, upon any clinical question pertinent to any matter then at issue before the appeals board.

(b) The administrative director or his designees, upon the submission of a matter to an information and assistance officer, may, upon the agreement of a party to pay the cost, and with the consent of the injured employee and his representative, if any, direct the injured employee to be examined by a physician and surgeon or chiropractor selected by the Medical Director of the Division of

Industrial Accidents or agreed upon by the parties to report, within the scope of their professional training, upon any clinical question pertinent to any matter then pertinent to the investigation of the information and assistance officer.

CHAPTER 199

An act to amend Section 82001 of the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 5, 1978. Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 82001 of the Government Code is amended to read:

82001. "Adjusting an amount for cost-of-living changes" means adjusting the amount received the previous year by an amount determined at the beginning of each fiscal year by the Director of Finance corresponding to amounts authorized from the salary and price increase items as set forth in the Budget Act and other cost-of-living adjustments on the same basis as those applied routinely to other state agencies.

SEC. 2. 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.

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:

This bill must take immediate effect in order that its provisions affecting the budget of the Fair Political Practices Commission can be made operative before the enactment of the 1978–79 Budget Bill.

CHAPTER 200

An act to amend Sections 1242.5 and 1245 of the Business and Professions Code, relating to clinical laboratories, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 5, 1978. Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 1242.5 of the Business and Professions Code is amended to read:

1242.5. The department may by regulation authorize unlicensed laboratory personnel who are employed as technicians in respiratory services or cardiopulmonary laboratories in licensed clinics or hospitals, as defined respectively in Sections 1202 and 1250 of the Health and Safety Code, to perform venipuncture, arterial puncture, or skin puncture for the purposes of withdrawing blood or for test purposes as defined by regulations established by the department. The department shall establish the minimum training required for such persons.

This section shall be operative until December 31, 1979, and on such date is repealed.

SEC. 2. Section 1245 of the Business and Professions Code is amended to read:

1245. Notwithstanding any other provision of this chapter or of any other law, any individual may perform a blood gas analysis if all the following conditions exist:

(a) He performs the blood gas analysis in a clinic or a general acute care hospital as defined respectively in Sections 1202 and 1250 of the Health and Safety Code.

(b) He has been instructed by a physician and surgeon licensed in this state, who is in charge of a department of pulmonary physiology or clinical pathology in licensed clinics or hospitals, as defined respectively in Sections 1202 and 1250 of the Health and Safety Code, in the proper procedure to be employed when performing a blood gas analysis.

(c) He performs the blood gas analysis under the direction and supervision of such a physician and surgeon.

(d) He submits the analysis for interpretation to the physician and surgeon under whose direction and supervision he performed the analysis.

Nothing contained in this section shall be construed as authorizing any individual, not otherwise authorized, to withdraw blood.

This section shall be operative until December 31, 1979, and on such date is repealed.

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

Under present law authorization for specified unlicensed laboratory personnel to withdraw blood for test purposes, as specified, and to perform blood gas analysis, as specified, will expire in September 1978. Therefore in order to allow such individuals to continue to perform such functions after such date it is necessary this act go into immediate effect.

CHAPTER 201

An act to amend Section 31680.2 of the Government Code, relating to retirement.

[Approved by Governor June 5, 1978. Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 31680.2 of the Government Code is amended to read:

31680.2. This section shall apply in any county having a population of less than 5,000,000 as ascertained and determined in Section 28020. Any person who has retired may be employed in a position requiring special skills or knowledge, as determined by the county or district employing him, for not to exceed 90 working days in any one fiscal year and may be paid for such employment. Such employment shall not operate to reinstate the person as a member of this system or to terminate or suspend his retirement allowance, and no deductions shall be made from his salary as contributions to this system. This section shall apply to any person who retired before January 1, 1979, and to any person who retires on or after January 1, 1979.

CHAPTER 202

An act to amend Section 4228 of the Business and Professions Code, relating to labeling of prescription drugs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 5, 1978. Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 4228 of the Business and Professions Code is amended to read:

4228. (a) Except as provided in subdivisions (b) and (c) of this section, no person shall dispense any dangerous drug upon prescription except in a container correctly labeled with the information required by Sections 4047.5 and 4048.

(b) Physicians, dentists, podiatrists, and veterinarians, and pharmacists acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurses acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division

1 of the Health and Safety Code, or physician's assistants acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, may personally furnish any dangerous drug prescribed by them to the patient for whom prescribed, provided that such drug is properly labeled to show all information required in Sections 4047.5 and 4048 except the prescription number.

(c) Devices which bear the legend "Caution: federal law restricts this device to sale by or on the order of a _____," or words of similar meaning, are exempt from the requirements of Sections 4047.5 and 4048, and Section 26662 of the Health and Safety Code, when provided to patients in skilled nursing facilities or intermediate care facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

SEC. 2. This statute 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:

Both Chapter 843 and Chapter 479 of the Statutes of 1977 amended Section 4228 of the Business and Professions Code. As a result of the rule that the last chaptered form has effect, the provisions of Chapter 479 which allow skilled nursing homes and intermediate care facilities to purchase legend devices is in conflict with Section 4228 and will result in a disruption of care and extra costs to patients in such facilities. In order to eliminate the existing conflict and implement the remaining provisions of Chapter 479, it is necessary that this bill take effect immediately.

CHAPTER 203

An act to amend Sections 674 and 675 of the Code of Civil Procedure, relating to judgment liens.

[Approved by Governor June 5, 1978 Filed with Secretary of State June 6, 1978]

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

SECTION 1. Section 674 of the Code of Civil Procedure is amended to read:

674. (a) An abstract of the judgment or decree of any court of this state, including a judgment entered pursuant to Chapter 1 (commencing with Section 1710.10) of Title 11 of Part 3, or a judgment of any court sitting as a small claims court, or any court of record of the United States, the enforcement of which has not been stayed on appeal or pursuant to Section 1710.50, certified by the clerk, judge or justice of the court where such judgment or decree

was rendered, may be recorded with the recorder of any county and from such recording the judgment or decree becomes a lien upon all the real property of the judgment debtor, not exempt from execution, in such county, owned by him at the time, or which he may afterward and before the lien expires, acquire. Such lien continues for 10 years from the date of the entry of the judgment or decree unless the enforcement of the judgment or decree is stayed on appeal or pursuant to Section 1710.50 by the execution of a sufficient undertaking or the deposit in court of the requisite amount of money as provided in this code, or by the statutes of the United States, in which case the lien of the judgment or decree, and any lien or liability now existing or hereafter created by virtue of an attachment that has been issued and levied in the action, unless otherwise by statutes of the United States provided, ceases, or upon an undertaking on release of attachment, or unless the judgment or decree is previously satisfied, or the lien otherwise discharged. The abstract above mentioned shall contain the following: title of the court and cause and number of the action; date of entry of the judgment or decree; names of the judgment debtor and of the judgment creditor; amount of the judgment or decree, and where entered in judgment book or minutes. It shall also contain the social security number or driver's license number or both of the judgment debtor if they are known to the judgment creditor. If such numbers are not known to the judgment creditor, that fact shall be indicated on the abstract of judgment.

(b) An order made pursuant to subdivision (b) of Section 908 of the Welfare and Institutions Code shall be considered a judgment for the purposes of subdivision (a) of this section.

(c) With respect to real property containing a dwelling house judicially determined to be exempt from levy of execution pursuant to the provisions of Section 690.31, as distinguished from property subject to a declared homestead created pursuant to Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code, a judgment lien created pursuant to subdivision (a) of this section shall attach to such real property notwithstanding the exemption provided by Section 690.31.

SEC. 2. Section 675 of the Code of Civil Procedure is amended to read:

675. (a) Satisfaction of a judgment may be entered upon an execution returned satisfied, or upon an acknowledgment of satisfaction filed with the clerk or with the judge, if there be no clerk, which may recite payment of the judgment in full or the acceptance by the judgment creditor of any lesser sum in full satisfaction thereof, made in the manner of an acknowledgment of a conveyance of real property, by the judgment creditor or assignee of record, or by endorsement by judgment creditor or assignees of record on the face, or on the margin of the record of the judgment, or by the attorney, unless a revocation of his authority is filed. Whenever a judgment is satisfied in fact, otherwise than upon an execution, the

party or attorney must give such acknowledgment, or make such endorsement, and, upon motion, the court may compel it, or may order the entry of satisfaction to be made without it.

In the superior, municipal, and justice courts such entry shall be made in the register of actions.

(b) Except in cases where demand has been made pursuant to subdivision (c), when an abstract of the judgment has been recorded with the recorder of any county, acknowledgment of satisfaction thereof by execution or other means shall be filed in the manner provided in subdivision (a) and either personally delivered, or sent by first-class mail, postage prepaid to the judgment debtor or his attorney by the judgment creditor or assignee not later than 30 days after the judgment has been in fact paid in full. Such acknowledgment shall identify the county in which the abstract has been recorded and the book and page of the official records thereof, and contain a statement that such acknowledgment will have to be recorded in such county in order to release the judgment lien. Such acknowledgment shall also show the full name of the judgment debtor being released and shall identify the judgment debtor as such. The judgment debtor's name shall appear on the acknowledgment as it appears on the abstract of judgment. Any such judgment creditor or assignee of record who fails without just cause to file or deliver such acknowledgment of satisfaction shall be liable to the judgment debtor or to the owner of the real property, as the case may be, 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 one hundred dollars ($100).

(c) Any judgment creditor or assignee who, for a period of 15 days after actual receipt of a demand in writing for acknowledgment of satisfaction of judgment, which demand is made after the judgment has in fact been paid in full, refuses without just cause to execute, acknowledge and deliver such acknowledgment of satisfaction to the judgment debtor, or to the owner of the real property upon which the judgment has become a lien by reason of the recording of an abstract of a judgment in accordance with Section 674, is liable to the judgment debtor or to the owner of the real property, as the case may be, or his grantees or heirs, for all damages which he or they may sustain by reason of such refusal, and shall also forfeit to him or them the sum of one hundred dollars ($100).

(d) Any judgment creditor or assignee who intentionally conditions the delivery of an acknowledgment of satisfaction of judgment upon the performance of any act or the payment of any amount by a judgment debtor in excess of that to which the judgment creditor or assignee is entitled pursuant to the judgment, shall be liable to the judgment debtor or his grantees or heirs, for all damages sustained by reason of such action, but in no event shall this be less than two hundred fifty dollars ($250).

This subdivision shall not apply where a judgment creditor or assignee has agreed to deliver an acknowledgment of satisfaction of

judgment to the judgment debtor prior to full satisfaction of the judgment in consideration for the judgment debtor having agreed either to furnish security or to execute a promissory note, or both, the principal amount of which does not exceed that to which the judgment creditor or assignee is entitled pursuant to the judgment.

(e) Whenever a certificate has been recorded with the recorder of any county by a state agency under Article 4 (commencing with Section 18881), Chapter 19, Part 10, Division 2 of, or Article 2 (commencing with Section 26161), Chapter 23, Part 11, Division 2 of, the Revenue and Taxation Code, or under Article 1 (commencing with Section 1701), Chapter 7, Part 1, Division 1 of the Unemployment Insurance Code, acknowledgment of satisfaction thereof by execution or other means shall be recorded by the state agency no later than 30 days after the delinquency evidenced by such certificate is satisfied.

(f) Where an abstract of judgment has been recorded which appears to create a judgment lien against property of a person who is not the judgment debtor, because the name of the property owner is the same or similar to that of the true judgment debtor, the erroneously identified property owner has the following remedies:

(1) The judgment creditor or assignee, within 15 days after actual receipt of a demand in writing made by the erroneously identified property owner and upon presentation of proof to the satisfaction of the judgment creditor or assignee that such property owner is not the true judgment debtor, shall prepare and deliver a recordable document releasing the lien against that person's property. If the judgment creditor or assignee fails to make such release he shall be liable to that person for all damages sustained by reason of such refusal, and shall also forfeit to him one hundred dollars ($100).

(2) If after demand the judgment creditor or assignee fails to prepare and deliver a recordable document releasing the lien, the erroneously identified property owner may make a motion in court, and upon presentation of evidence to the satisfaction of the court that such property owner is not the true judgment debtor, the court shall compel the preparation and delivery of the document described in paragraph (1), or shall itself order the release of the judgment lien.

(g) In any action maintained pursuant to subdivisions (b), (c), (d), or (f) the court shall award reasonable attorney's fees to the prevailing party.

(h) The damages provided for in this section are not in derogation of any other damages or penalties to which an aggrieved person may be entitled by law.

CHAPTER 204

An act to amend Sections 1 and 2 of Chapter 8 of the Statutes of 1977, relating to the San Juan Ridge Union Elementary School, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 5, 1978 Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 1 of Chapter 8 of the Statutes of 1977 is amended to read:

Section 1. The San Juan Ridge Union Elementary School District recently built and occupied a new elementary school to replace other schools which did not meet Field Act standards. The new school served approximately 200 elementary school pupils of the district. In February of 1977 the new school was completely destroyed by fire, leaving pupils of the district with no school to attend for the remainder of the 1976–77 school year and for the 1977–78 school year.

The governing board of the district considered various alternative means of educating the pupils during this emergency, including transporting them to schools of other districts. However, due to the long distances involved and the mountainous terrain of the area, the only feasible alternative was to temporarily house pupils in other school buildings until replacement facilities may be built. Construction contracts on new school buildings have been let, but the structures will not be completed until late in 1978.

SEC. 2. Section 2 of Chapter 8 of the Statutes of 1977 is amended to read:

Sec. 2. The San Juan Ridge Union Elementary School District is hereby authorized to house pupils in the North San Juan Elementary School and the Birchville Elementary School, and during the period of temporary use those schools shall not be subject to any of the provisions of Article 4 (commencing with Section 15451) and Article 5 (commencing with Section 15501) of Chapter 2 of Division 11 of the Education Code, and Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210) of Part 23 of the Education Code as recodified by Chapters 1010 and 1011 of the Statutes of 1976. The exemption provided by this section shall remain in effect until June 30, 1979.

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 enable the San Juan Ridge Union Elementary School District to remain in the temporary school facilities until the new buildings are completed, it is essential that this act go into immediate effect.

CHAPTER 205

An act to amend Section 464 of the Health and Safety Code, relating to family planning.

[Approved by Governor June 5, 1978. Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 464 of the Health and Safety Code is amended to read:

464. The county health officer shall furnish to all hospitals within the county and to all physicians and surgeons upon request copies of the lists prepared pursuant to Section 463 in sufficient numbers as each hospital may need for voluntary distribution to patients at the hospital and as each physician and surgeon may need for voluntary distribution to his patients.

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

CHAPTER 206

An act relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 5, 1978. Filed with Secretary of State June 6, 1978.]

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

SECTION 1. The Chaffey Joint Union High School District is leasing a building in order to provide certain educational services while it locates a permanent structure which complies with the Field Act. It is necessary to extend the use of such leased building for an additional school year.

SEC. 2. The governing board of the Chaffey Joint Union High School District may continue to use the building referred to in Section 1 for the 1978–79 school year. During such period of continued use, the building shall not be subject to any of the provisions of Article 3 (commencing with Section 39140) or Article

6 (commencing with Section 39210) of Chapter 2 of Part 23 of Division 3 of the Education Code.

SEC. 3. The Potter Valley Community Unified School District was established July 1, 1977, and immediately began a building program to replace two of its buildings, a shop facility and an eighth-grade classroom building, which do not comply with the structural standards prescribed pursuant to the Field Act. It is necessary that the use of the two nonconforming buildings be extended until September 1979, when the building program is scheduled for completion and the new buildings are ready for occupancy.

SEC. 4. The governing board of the Potter Valley Community Unified School District may continue to use the buildings referred to in Section 3 for the 1978–79 school year. During such period of continued use, the buildings shall not be subject to any of the provisions of Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 3 of Division 3 of the Education Code.

SEC. 5. The Alameda Unified School District, after diligent efforts has been unable to raise the funds necessary to rehabilitate existing structures or to construct necessary building space at Alameda High School to comply with Field Act requirements. In order to secure such funding, it is necessary to extend the use of current nonconforming facilities until July 1, 1979.

SEC. 6. The governing board of the Alameda Unified School District may continue to use the gymnasium and locker rooms, the auditorium and adjacent lobby and restrooms at Alameda High School for the 1978–79 school year if authorization for funding the rehabilitation or replacement of such facilities is approved by the voters of the district by June 7, 1978. Any facilities not included in such voter authorization shall not be continued in use after June 7, 1978. During the period of continued use, as authorized by this section, the buildings shall not be subject to any of the provisions of Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of Division 3 of the Education Code.

SEC. 7. Due to the unique circumstances concerning the construction of new school facilities in the Chaffey Joint Union High School District and in the Potter Valley Community Unified School District and the Alameda Unified School District, and the limited nature of the exemptions provided for in Sections 2, 4, and 6 of this act, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

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 building which is presently serving the needs of

pupils of the Chaffey Joint Union High School District and the Potter Valley Community Unified School District may continue to be utilized without interruption while school facilities which meet Field Act standards are brought into use, and in order that the Alameda Unified School District may secure the needed funds to bring Alameda High School in compliance with the Field Act standards, it is necessary that this act take effect immediately.

CHAPTER 207

An act to amend Sections 41020, 41020.6, 41020.7, 84040, 84040.6, and 84040.7 of, and to add Sections 41020.3 and 84040.3 to, the Education Code, relating to audits.

[Approved by Governor June 5, 1978 Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 41020 of the Education Code is amended to read:

41020. It is the intent of the Legislature to encourage sound fiscal management practices among school districts for the most efficient and effective use of public funds for the education of children in California by strengthening fiscal accountability at the district, county, and state levels.

Not later than the first day of May of each fiscal year each county superintendent of schools shall provide for an audit of all funds under his jurisdiction and control and the governing board of each district shall either provide for an audit of the books and accounts of the district, including an audit of school district income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the district to provide for such auditing. In the event the governing board of a school district has not provided for an audit of the books and accounts of the district by April 1st, the county superintendent of schools having jurisdiction over the district shall provide for the audit.

Each audit shall include all funds of the district including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the district; funds of regional occupational centers and programs maintained by the county superintendent of schools, a school district, or pursuant to a joint powers agreement.

The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each district from district funds.

The cost of the audit provided for by a governing board shall be

paid from district funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

The audits shall be made by a certified public accountant or a public accountant, licensed by the State Board of Accountancy.

The auditor's report shall include (1) a statement that the audit was conducted pursuant to standards and procedures developed in accordance with Section 41020.5 and (2) a summary of audit exceptions and management improvement recommendations.

Not later than November 15th, a report of each audit for the preceding fiscal year shall be filed with the county clerk and the county superintendent of schools of the county in which the district is located, the Department of Education, and the Department of Finance. The submission date may be extended to, but not later than, December 31 for justifiable cause upon written request by the auditor and approval by the county superintendent of schools. The Superintendent of Public Instruction shall make any adjustments necessary in future apportionments of all state funds, to correct any audit exceptions revealed by such audit reports.

Each county superintendent of schools shall be responsible for the correction of any audit exceptions revealed by audit reports issued pursuant to this section which do not affect state funds and are not corrected by the Superintendent of Public Instruction when the audit exceptions affect any revenue and expenditures under his control or the control of any school district within his jurisdiction. The county superintendent of schools shall adjust the future local property tax requirements to correct audit exceptions relating to school district tax rates and tax revenues.

If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for audit pursuant to this section, the Department of Finance shall make arrangements for the audit and the cost of such audit shall be paid from school district funds or the county school service fund, as the case may be.

Audits of regional occupational centers and programs are subject to the provisions of this section.

Nothing in this section shall be considered as authorizing examination into or report on the curriculum used or provided for in any school district.

SEC. 2. Section 41020.3 is added to the Education Code, to read:

41020.3. Each school district governing board shall review the annual audit prescribed pursuant to Section 41020 at one of its regularly scheduled public meetings; and such review shall be placed on the agenda of such meeting pursuant to Section 35145.

SEC. 3. Section 41020.6 of the Education Code is amended to read:

41020.6. On June 30, 1979, and each year thereafter, the Department of Education shall report to the Joint Legislative Audit Committee on (1) the number and nature of audit exceptions and estimated amount of funds involved in such exceptions, (2) a list of

districts or county superintendents which failed to file their audits pursuant to Section 41020, and (3) the actions taken by the department to eliminate audit exceptions and comply with management improvement recommendations.

SEC. 4. Section 41020.7 of the Education Code is amended to read:

41020.7. On July 30, 1980, the Auditor General shall report to the Legislature on (1) action taken to update audit procedures pursuant to Section 41020.5, (2) a sample review of individual district audits to determine compliance with audit procedures, (3) a review of actions taken by the Department of Education pursuant to Section 41020.6, and (4) recommendations for future action to assure increased utility of the audits.

This section shall remain in effect only until July 30, 1980, and as of that date is repealed.

SEC. 5. Section 84040 of the Education Code is amended to read:

84040. It is the intent of the Legislature to encourage sound fiscal management practices among community college districts for the most efficient and effective use of public funds for the education of community college students in California by strengthening fiscal accountability at the district, county, and state levels.

Not later than the first day of May of each fiscal year each county superintendent of schools shall provide for an audit of all funds under his jurisdiction and control and the governing board of each community college district shall either provide for an audit of the books and accounts of the district, including an audit of community college district income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the district to provide for such auditing. In the event the governing board of a community college district has not provided for an audit of the books and accounts of the district by April 1st, the county superintendent of schools having jurisdiction over the district shall provide for the audit.

Each audit shall include all funds of the district including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the district.

The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each district from district funds.

The cost of the audit provided for by a governing board shall be paid from district funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

The audits shall be made by a certified public accountant or a public accountant, licensed by the State Board of Accountancy.

The auditor's report shall include (1) a statement that the audit was conducted pursuant to standards and procedures developed in accordance with Section 84040.5 and (2) a summary of audit

exceptions and management improvement recommendations.

Not later than November 15th, a report of each audit for the preceding fiscal year shall be filed with the county clerk and the county superintendent of schools of the county in which the district is located, the board of governors and the Department of Finance. The submission date may be extended to, but not later than, December 31 for justifiable cause upon written request by the auditor and approval by the county superintendent of schools. The board of governors shall make any adjustments necessary in future apportionments of all state funds, to correct any audit exceptions revealed by such audit reports.

Each county superintendent of schools shall be responsible for the correction of any audit exceptions revealed by audit reports issued pursuant to this section which do not affect state revenue and expenditures and are not corrected by the board of governors when the audit exceptions affect any funds under his control or the control of any district within his jurisdiction.

If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for audit pursuant to this section, the Department of Finance shall make arrangements for the audit and the cost of such audit shall be paid from district funds or the county school service fund, as the case may be.

Nothing in this section shall be considered as authorizing examination into or report on the curriculum used or provided for in any community college district.

SEC. 6. Section 84040.3 is added to the Education Code, to read:

84040.3. Each community college district governing board shall review the annual audit prescribed pursuant to Section 84040 at one of its regularly scheduled public meetings; and such review shall be placed on the agenda of such meeting pursuant to Section 72121.

SEC. 7. Section 84040.6 of the Education Code is amended to read:

84040.6. On June 30, 1979, and each year thereafter, the office of the chancellor shall report to the Joint Legislative Audit Committee on (1) the number and nature of audit exceptions and estimated amount of funds involved in such exceptions, (2) a list of districts or county superintendents which failed to file their audits pursuant to Section 84040, and (3) the actions taken by the department to eliminate audit exceptions and comply with management improvement recommendations.

SEC. 8. Section 84040.7 of the Education Code is amended to read:

84040.7. On July 30, 1980, the Auditor General shall report to the Legislature on (1) action taken to update audit procedures pursuant to Section 84040.5, (2) a sample review of individual district audits to determine compliance with audit procedures, (3) a review of actions taken by the office of the chancellor pursuant to Section 84040.6, and (4) recommendations for future action to assure increased utility of the audits.

This section shall remain in effect only until July 30, 1980, and as of that date is repealed.

CHAPTER 208

An act to amend Sections 1657.5, 1707.5, and 1717 of, to add Section 1751.5 to, and to repeal Sections 1720, 1721 and 1751.5 of, the Insurance Code, relating to insurance.

[Approved by Governor June 5, 1978. Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 1657.5 of the Insurance Code is amended to read:

1657.5. When an application for a license or certificate of convenience to act as an insurance solicitor or application for change of employer is filed, the commissioner shall notify, in writing, every other agent or broker who is employing or has agreed to employ such applicant.

SEC. 2. Section 1707.5 of the Insurance Code is amended to read:

1707.5. The commissioner in lieu of retaining in his files one copy of the notices of appointment or notices of termination described in Section 1707, if he has made entry of the facts pertaining to such appointments or terminations or such statements, including the cancellation, if any thereof, in some portion of his official records, may at any time thereafter destroy such documents. The commissioner's certification as to the content of such an entry shall be competent evidence of the facts therein stated for any purpose in any court or administrative action or proceeding and shall be accepted in lieu of the actual documents.

SEC. 3. Section 1717 of the Insurance Code is amended to read:

1717. All licenses issued under this chapter shall be for a license term of two years. Such licenses may be issued for all of such two-year term, or, upon application made during any such term, for the balance thereof. Such license term shall commence as follows:

(a) For persons licensed to act as life licensees, on the first day of July of each odd-numbered year;

(b) For persons licensed to act as fire and casualty licensees, on the first day of July of each even-numbered year.

SEC. 4. Section 1720 of the Insurance Code is repealed.

SEC. 5. Section 1721 of the Insurance Code is repealed.

SEC. 6. Section 1751.5 of the Insurance Code is repealed.

SEC. 7. Section 1751.5 is added to the Insurance Code, to read:

1751.5. The fees required by this chapter and by Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), and Chapter 8 (commencing with Section 1831) of this

part are filing fees, no portion of which shall be refunded whether or not the application is acted upon or the examination is taken.

CHAPTER 209

An act to amend Section 66427.2 of the Government Code, relating to subdivisions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 5, 1978 Filed with Secretary of State June 6, 1978]

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

SECTION 1. Section 66427.2 of the Government Code is amended to read:

66427.2. Unless applicable general or specific plans contain definite objectives and policies, specifically directed to the conversion of existing buildings into condominium projects, the provisions of Sections 66473.5, 66474, and 66474.61, and subdivision (c) of Section 66474.60 shall not apply to condominium projects which consist of the subdivision of airspace in an existing structure, unless new units are to be constructed or added.

This section shall not diminish, limit or expand, other than as provided herein, the authority of any city, county, or city and county to approve or disapprove condominium projects.

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 law relating to approval of condominium projects in conformance with general and specific plans added by Chapter 923 of the Statutes of 1977, are intended to apply uniformly statewide.

In order that the special provisions of law for cities with a population of more than 2,800,000 may be brought within the coverage of such law in the shortest possible time, it is necessary that this bill take immediate effect.

CHAPTER 210

An act to amend Section 45060 of the Education Code, relating to school certificated employees.

[Approved by Governor June 6, 1978 Filed with Secretary of State June 6, 1978]

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

SECTION 1. Section 45060 of the Education Code is amended to read:

45060. The governing board of each school district when drawing an order for the salary payment due to a certificated employee of the district, shall with or without charge reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the purpose of paying the dues of the employee for membership in any local professional organization or in any statewide professional organization, or in any other professional organization affiliated or otherwise connected with a statewide professional organization which authorizes such statewide organization to receive membership dues on its behalf and for the purpose of paying his pro rata share of the costs incurred by the district in making the deduction. No charge shall exceed the actual cost to the district of such dues deduction. Any revocation of a written authorization shall be in writing and shall be effective commencing with the next pay period. The governing board shall each month draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the dues deductions made with respect to such organization during the month. The district shall retain and deposit in the general fund of the district the total amounts deducted from the employee's salary payment for the purpose of paying the employee's pro rata share of the costs incurred by the district in making the dues deductions provided for in this section. If the employees of a district do not authorize the board to make a deduction to pay their pro rata share of the costs of making deductions for the payment of dues, the board shall deduct from the amount transmitted to the organization on whose account the dues payments were deducted the actual costs of making such deduction.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is a change in the amount required for such payment to the organization, the employee organization shall provide the employee with adequate and necessary data on such change at a time sufficiently prior to the effective date of the change to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the change at a time sufficiently prior to the effective date of the change to allow the employer an opportunity to make the necessary adjustments and with a copy of the notification of the change which has been sent to all concerned employees.

The governing board shall not require the completion of a new deduction authorization when a dues change has been effected or at any other time without the express approval of the concerned employee organization.

CHAPTER 211

An act to amend Section 987.62 of the Military and Veterans Code, relating to veteran's farm and home purchasing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 1978. Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 987.62 of the Military and Veterans Code is amended to read:

987.62. The department, after consummating a purchase under the provisions of this article and the veteran having occupied the property as required by Section 987.60 of this article, may waive the occupancy requirement for a period not to exceed four years on a showing of good cause. The department may also waive the occupancy requirement for any period of time if the property is a farm and if the veteran personally cultivates the property and harvests the crops or tends livestock. The department shall establish standards for the occupancy waiver and shall make those standards known. The department shall waive the occupancy requirement in any case where the State Department of Health determines that health hazards on adjacent property render the farm or home unsuitable for occupancy, and such waiver shall be effective as long as such conditions exist.

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 occupancy requirement of the Cal-Vet Program for property purchased thereunder is causing veterans who purchase farms thereunder and who are personally cultivating the property and harvesting crops or tending livestock, but who are unable to occupy such farms, to suffer undue hardships. This bill would relieve such undue hardship. In order that such undue hardship may be relieved at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 212

An act to amend Sections 2729, 2761, and 2811.5 of the Business and Professions Code, relating to nursing and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 1978 Filed with Secretary of State June 6, 1978.]

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

SECTION 1. Section 2729 of the Business and Professions Code is amended to read:

2729. Nursing services may be rendered by a student when these services are incidental to the course of study of one of the following:

(a) A student enrolled in a board-approved prelicensure program or school of nursing.

(b) A nurse licensed in another state or country taking a board-approved continuing education course or a postlicensure course.

SEC. 2. Section 2761 of the Business and Professions Code is amended to read:

2761. The board may take disciplinary action against a licensed nurse or an applicant for a license for:

(a) Unprofessional conduct, which includes but is not limited to the following:

(1) Incompetence, or gross negligence in carrying out usual nursing functions.

(2) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of the Business and Professions Code, in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500 of this code.

(b) Procuring his certificate by fraud, misrepresentation, or mistake.

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.

(d) 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 regulations adopted pursuant to it.

(e) Making or giving any false statement or information in connection with the application for issuance of a license.

(f) Conviction of a felony or of any offense involving moral turpitude, in which event the record of the conviction shall be conclusive evidence thereof.

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.

(h) Impersonating another licensed practitioner, or permitting or allowing another person to use his certificate for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of this code.

(j) Holding oneself out to the public or to any practitioner of the

healing arts as a "nurse practitioner" or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834) of this chapter.

SEC. 3. 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 or she has been informed of the developments in the registered nurse field or in any special area of practice engaged in by such licensee, occurring since the last renewal thereof, 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 or she so desires, may take and successfully complete an examination given by the board designed to test his or her knowledge of development occurring in the registered nurse field since the last renewal thereof.

(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 initial licensure in California or any other governmental jurisdiction.

(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. 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:

Existing law exempts licensed registered nurses from specified continuing education requirements, which are to be effective on July 1, 1978, for a period of two years following graduation. A large number of persons become licensed without graduation from nursing school, and in order to exempt all recent licensees from such continuing education requirements for the initial licensure period, it is necessary that this act go into immediate effect.

CHAPTER 213

An act to amend Section 30103 of, and to add Section 30103.5 to, the Public Resources Code, relating to coastal resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 7, 1978 Filed with Secretary of State June 8, 1978.]

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

SECTION 1. Section 30103 of the Public Resources Code is amended to read:

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, or the minimum distance seaward necessary, but in no event more than 200 yards, to avoid bisecting any single lot or parcel or to conform it to readily identifiable natural or manmade features.

SEC. 2. Section 30103.5 is added to the Public Resources Code, to read:

30103.5. (a) Notwithstanding map number 138 adopted pursuant to Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, the inland boundary of the coastal zone in Los Angeles County in the vicinity of Los Angeles International Airport shall be the Pershing Drive built

after January 1, 1970, rather than the Pershing Drive built prior to that date.

(b) Notwithstanding map number 149 adopted pursuant to Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, the inland boundary of the coastal zone in the area of the City of San Juan Capistrano in Orange County shall exclude all portions of the City of San Juan Capistrano and shall follow Camino Capistrano and Via Serra and generally an extension of Via Serra to the point where it joins the existing coastal zone boundary.

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 state and local governmental agencies are currently working to prepare land use plans and zoning ordinances in the coastal zone to carry out the provisions of the California Coastal Act of 1976 (commencing with Section 30000 of the Public Resources Code). Statutory deadlines must be met and, therefore, it is necessary that local governments, state agencies, property owners, and the public know precisely what land areas are included within the coastal zone and, therefore, subject to these planning and regulatory controls, as soon as possible, in order to ensure an orderly planning process.

CHAPTER 214

An act to amend Section 1603 of, and to add and repeal Section 1603.1 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature June 8, 1978. Filed with Secretary of State June 8, 1978]

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

SECTION 1. Section 1603 of the Revenue and Taxation Code is amended to read:

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for such application shall be prescribed by the State Board of Equalization.

(b) The application shall be filed within the time period beginning July 2 and continuing through and including September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed within the time period beginning July 2 and continuing through and

including September 15.

(c) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to such written findings is waived. The form shall provide appropriate space for the applicant to request written finding of facts as provided by Section 1611.5.

SEC. 2. Section 1603.1 is added to the Revenue and Taxation Code, to read:

1603.1. In any county for which the State Board of Equalization announced the final assessment ratio of 18.2 percent or less for the 1977–78 fiscal year, the county board may extend the period for filing applications for equalization to a date which is no later than September 15, 1977.

SEC. 3. Section 1 of this act shall become operative on July 1, 1979.

SEC. 4. Section 1603.1 of the Revenue and Taxation Code, as added by Section 2 of this act 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. 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 extend the period for filing applications for equalization prior to the commencement of the 1978–79 fiscal year, it must take effect immediately.

CHAPTER 215

An act to add Article 5n (commencing with Section 998.021) to Chapter 6 of Division 4 of the Military and Veterans Code, authorizing the creation of a debt or debts, liability or liabilities, through the issuance and sale of state bonds, to create a fund to provide farm and home aid for veterans in accordance with the provisions of the Veterans Farm and Home Purchase Act of 1974 and acts amendatory and supplemental thereto; defining the powers and duties of the Veterans' Finance Committee of 1943 and the Department of Veterans Affairs and other state officers in respect to the administration of the provisions hereof; providing ways and means, exclusive of loans, for the payment of the interest of such debt or debts, liability or liabilities, as such interest falls due, and also for the payment and discharge of the principal of such debt or debts, liability or liabilities, as such principal matures, appropriating money for the purpose of carrying out the provisions of the article; and providing for the submission of the measure to the people at a special

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election to be consolidated with the 1978 general election, to take effect immediately.

[Approved by Governor June 8, 1978. Filed with Secretary of State June 8, 1978.]

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

SECTION 1. Article 5n (commencing with Section 998.021) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

Article 5n. Veterans Bond Act of 1978

998.021. This article may be cited as the Veterans Bond Act of 1978.

998.022. The State General Obligation Bond Law, except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set out in full in this article. All references in this article to "herein" shall be deemed to refer both to this article and such law.

998.023. As used in this article and for the purposes of this article as used in the State General Obligation Bond Law, Chapter 4 (commencing with Section 16720), Part 3, Division 4, Title 2 of the Government Code, the following words shall have the following meanings:

(a) "Bond" means veterans bond, a state general obligation bond issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.

(b) "Committee" means the Veterans' Finance Committee of 1943, created by Section 991.

(c) "Board" means the Department of Veterans Affairs.

(d) "Fund" means the Veterans' Farm and Home Building Fund of 1943 created by Section 988.

(e) "Bond Act" means this article authorizing the issuance of state general obligation bonds and adopting Chapter 4 (commencing with Section 16720), Part 3, Division 4, Title 2 of the Government Code by reference.

998.024. For the purpose of creating a fund to provide farm and home aid for veterans in accordance with the provisions of the Veterans' Farm and Home Purchase Act of 1974 and of all acts amendatory thereof and supplemental thereto, the Veterans' Finance Committee of 1943, created by Section 991, shall be and hereby is authorized and empowered to create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of five hundred million dollars ($500,000,000), in the manner provided herein, but not otherwise, nor in excess thereof.

998.025. All bonds herein authorized, which shall have been duly sold and delivered as herein provided, shall constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state, as shall be required to pay the principal and interest on such bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collections of such revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

On the several dates on which funds are remitted pursuant to Section 16676 of the Government Code for the payment of the then maturing principal and interest of the bonds in each fiscal year, there shall be returned into the General Fund in the State Treasury, all of the money in the Veterans' Farm and Home Building Fund of 1943, not in excess of the principal of, and interest on, such bonds then due and payable, except as hereinafter provided for the prior redemption of such bonds, and, in the event such money so returned on said remittance dates is less than such principal and interest then due and payable, then the balance remaining unpaid shall be returned into the General Fund in the State Treasury out of the Veterans' Farm and Home Building Fund of 1943 as soon thereafter as it shall become available, together with interest thereon from such dates of maturity until so returned at the same rate as borne by such bonds, compounded semiannually.

998.026. There is hereby appropriated from the General Fund in the State Treasury for the purpose of this article, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal of, and the interest on, the bonds issued and sold pursuant to the provisions of this article, as such principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 998.027, which sum is appropriated without regard to fiscal years.

998.027. For the purposes of carrying out the provisions of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized to be sold for the purpose of carrying out this article. Any amounts withdrawn shall be deposited in the Veterans' Farm and Home Building Fund of 1943. Any moneys made available under this article to the board shall be returned by the board to the General Fund from moneys received from the sale of bonds sold for the purpose of carrying out this article, together with interest at the rate of interest fixed in the bonds so sold.

998.028. Upon request of the Department of Veterans Affairs, supported by a statement of the plans and projects of such

department with respect thereto, and approved by the Governor, the Veterans' Finance Committee of 1943 shall determine whether or not it is necessary or desirable to issue any bonds authorized under this article in order to carry such plans and projects into execution, and, if so, the amount of bonds then to be issued and sold. Successive issues of bonds may be authorized and sold to carry out said plans and projects progressively, and it shall not be necessary that all the bonds herein authorized to be issued shall be sold at any one time.

998.029. So long as any bonds authorized under this article may be outstanding, the Director of Veterans Affairs shall cause to be made at the close of each fiscal year, a survey of the financial condition of the Division of Farm and Home Purchases, together with a projection of the division's operations, such survey to be made by an independent public accountant of recognized standing. The results of such surveys and projections shall be set forth in written reports, and such independent public accountant shall forward copies of such reports to the Director of Veterans Affairs, the members of the California Veterans Board, and to the members of the Veterans' Finance Committee of 1943. The Division of Farm and Home Purchases shall reimburse such independent public accountant for his services out of any funds which such division may have available on deposit with the Treasurer of the State of California.

998.030. The committee may authorize the State Treasurer to sell all or any part of the bonds herein authorized at such time or times as may be fixed by the State Treasurer.

998.031. Whenever bonds are sold, out of the first money realized from their sale, there shall be redeposited in the General Obligation Bond Expense Revolving Fund established by Section 16724.5 of the Government Code such sums as have been expended for the purposes specified in Section 16724.5 of the Government Code, which may be used for the same purpose and repaid in the same manner whenever additional sales are made.

SEC. 2. Section 1 of this act shall take effect upon the adoption of the people of the Veterans Bond Act of 1978, as set forth in Section 1 of this act. This section and Sections 3 to 6, inclusive, of this act contain provisions relating to, and necessary for, the submission of the Veterans Bond Act of 1978 to the people, and for returning, canvassing, and proclaiming the votes thereon, and shall take effect immediately.

SEC. 3. A special election is hereby called to be held throughout the state on the seventh day of November 1978. The special election shall be consolidated with the general election to be held on that date. The consolidated election shall be held and conducted in all respects as if there were only one election and only one form of ballot shall be used.

SEC. 4. At the special election called by this act there shall be submitted to the electors Section 1 of this act.

SEC. 5. The special election provided for in this act shall be

proclaimed, held, and conducted, the ballots shall be prepared, marked, collected, counted and canvassed and the results shall be ascertained and the returns thereof made in all respects in accordance with the provisions of the Constitution applicable thereto and the law governing general elections insofar as provisions thereof are applicable to the election provided for in this act.

SEC. 6. All ballots at such election shall have printed thereon and in a square thereof, the words: "For the Veterans Bond Act of 1978," and the same square under such words the following in eight-point type: "This act provides for a bond issue of five hundred million dollars ($500,000,000) to provide farm and home aid for California veterans." In the square immediately below the square containing such words, there shall be printed on such ballot the words, "Against the Veterans Bond Act of 1978," and in the same square immediately below said words, in eight-point type shall be printed "This act provides for a bond issue of five hundred million dollars ($500,000,000) to provide farm and home aid for California veterans." Opposite the words "For the Veterans Bond Act of 1978," and "Against the Veterans Bond Act of 1978," there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against such act, and those voting for such act shall do so by placing a cross opposite the words "For the Veterans Bond Act of 1978," and those voting against the such act shall do so by placing a cross opposite the words "Against the Veterans Bond Act of 1978." Provided, that where the voting of such election is done by means of voting machines used pursuant to law in such manner as to carry out the intent of this section, the use of voting machines and the expression of the voters' choice by such means, shall be deemed to comply with the provisions of this section. The Governor of this state shall include the submission of this act to the people, as aforesaid, in his proclamation calling for such election

SEC. 7. (a) Within two days after the effective date of this act, the author and first coauthor of such act and one member of the opposite house who voted with the majority on such act shall be appointed by the presiding officers of the respective houses to draft the argument for the adoption of such measure. If such act was not adopted unanimously by the house in which it was introduced, one member of that house, who voted against it, shall be appointed by the presiding officer of that house to write an argument against the measure. If there was no negative vote on the measure in the house in which it was introduced, the presiding officer of that house shall appoint some qualified person to draft an argument against the measure. No argument shall exceed 500 words. All such arguments shall be filed with the Secretary of State within five days after the date of appointment. If the author or first coauthor dies prior to the filing of the arguments, the presiding officer of that house shall appoint another member who voted with the majority to draft the argument for adoption of the measure.

(b) Upon the effective date of this act, the Secretary of State shall

request the Attorney General to prepare a ballot title for such measure submitted pursuant to this section and shall also request the Legislative Analyst to prepare an analysis of such measure in accordance with Section 88003 of the Government Code. Such title and such analysis of such act shall be filed with the Secretary of State within 10 days after the effective date of this act. The measure submitted pursuant to this section shall be designated on the ballots at the election by its ballot title.

(c) The submission of the arguments, rebuttal arguments, and press releases requesting arguments and rebuttal arguments for such act shall be in accordance with the applicable provisions of Division 4 (commencing with Section 3500) of the Elections Code, except that the times for the submission of arguments, rebuttal arguments, and press releases shall be the times provided as follows:

(1) One day for the Secretary of State to return arguments for rebuttal; and

(2) Three days for rebuttal arguments.

SEC. 8. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 216

An act to add Section 23826.8 to, and to repeal Sections 23826.8 and 23826.9 of, the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor June 8, 1978 Filed with Secretary of State June 8, 1978]

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

SECTION 1. Section 23826.8 of the Business and Professions Code is repealed.

SEC. 2. Section 23826.8 is added to the Business and Professions Code, to read:

23826.8. Notwithstanding any other provision of law, the director may authorize the conversion of any on-sale general license for seasonal business issued before July 1, 1977, to an on-sale general license if an application for such conversion is submitted before January 1, 1980. Such application shall be accompanied by the fee required by Section 23954.5 for an on-sale general license.

An on-sale general license for seasonal business which is converted to an on-sale general license under this section may not be transferred for a period of two years from the date of issuance, except

as provided in Section 24071, and except when the department determines that the transfer is necessary to prevent undue hardship. The purchase price or consideration that may be paid by a transferee or received by a transferor of an on-sale general license created by conversion under this section shall not exceed six thousand dollars ($6,000), except that after a period of five years from the date of issuance of the license there shall be no restriction as to the purchase price or consideration that may be paid by a transferee or received by a transferor.

SEC. 3. Section 23826.9 of the Business and Professions Code is repealed.

CHAPTER 217

An act to amend Section 22348 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 8, 1978. Filed with Secretary of State June 8, 1978.]

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

SECTION 1. Section 22348 of the Vehicle Code is amended to read:

22348. (a) Notwithstanding Section 22349, 22356, or any other provision of this chapter to the contrary, no person shall drive a vehicle upon a highway at a speed greater than 55 miles per hour.

(b) Any vehicle subject to the provisions of Section 22406 shall be driven in a lane designated pursuant to Section 21655, or if no such lane has been designated, in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb. When overtaking and passing another vehicle proceeding in the same direction, such drivers shall use either the designated lane, the lane to the immediate left of the right-hand lane, or the right-hand lane for traffic as permitted under the provisions of this code. If, however, specific lane or lanes have not been designated on a divided highway having four or more clearly marked lanes for traffic in one direction, any such vehicle may also be driven in the lane to the immediate left of such right-hand lane, unless otherwise prohibited under the provisions of this code. This subdivision shall not apply to a driver who is preparing for a left- or right-hand turn or who is in the process of entering into or exiting from a highway or to a driver who must necessarily drive in a lane other than the right-hand lane to continue on his intended route.

(c) This section shall remain in effect 120 days from the date that the 55-mile-per-hour national maximum speed limit, as specified in Section 154 of Title 23 of the United States Code, is repealed.

SEC. 2. It is the intent of the Legislature, in enacting this act, to recognize that the 55-mile-per-hour national maximum speed limit, as specified in Section 154 of Title 23 of the United States Code, which, when originally enacted would have terminated on June 30, 1975, no longer contains an automatic termination date. In recognition of this, the Legislature finds it appropriate to amend Section 22348 of the Vehicle Code accordingly.

It is the further intent of the Legislature that if such 55-mile-per-hour maximum speed limit is ever revised by either increasing or decreasing such limit, the Legislature will review the provisions of Section 22348 of the Vehicle Code to ascertain whether it would be appropriate to amend such provisions.

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:

Existing provisions of state law, which make it unlawful for any person to drive a vehicle upon a highway at a speed greater than 55 miles per hour, will remain in effect only until June 30, 1978, and as of that date will be repealed, unless a statute which is chaptered before June 30, 1978, deletes or extends such date.

In order that this act, which will repeal such termination date, may take effect prior to such date, it is necessary that this act take effect immediately.

CHAPTER 218

An act to amend Sections 44918 and 44959.5 of the Education Code, relating to school employees.

[Approved by Governor June 8, 1978 Filed with Secretary of State June 8, 1978.]

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

SECTION 1. Section 44918 of the Education Code is amended to read:

44918. Any employee classified as a substitute or temporary employee, who serves during one school year for at least 75 percent of the number of days the regular schools of the district were maintained in such school year and has performed the duties normally required of a certificated employee of the school district, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year.

Any such employee shall be reemployed for the following school year to fill any vacant positions in the school district for which the employee is certified and qualified to serve.

For purposes of this section, "qualified to serve" shall be defined to mean the possession of an appropriate credential plus completion of appropriate academic preparation or experience in the subject matter in which the vacant position occurs.

For purposes of this section, "vacant position" means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a permanent or probationary employee except for the fact that such employee is on leave.

Any employee classified as a substitute or temporary employee who has rendered the service required to qualify under this section but who has not been reemployed due to a lack of a vacant position shall be reemployed as a substitute or temporary employee for the following school year.

In any district in which appointments are made from eligible lists established by examination, special eligible lists shall be established at the end of each school year which consist of the names of those employees who met the requirements of this section. Such lists shall be in rank order based on the final scores established by examination. Such lists shall be valid for at least two school years. Offers for appointments to probationary status during the ensuing school year shall be made from such special eligible lists established by examination; provided, however, permanent or probationary employees terminated during the preceding 39 months pursuant to Section 44955, shall be given priority in employment over persons on such special eligible lists.

Those employees classified as substitutes, and who are employed to serve in an on-call status to replace absent regular employees on a day-to-day basis shall not be entitled to the benefits of this section.

Permanent and probationary employees subjected to a reduction in force pursuant to Section 44955 shall, during the period of preferred right to reappointment, have prior rights to any vacant position in which they are qualified to serve superior to those rights hereunder afforded to temporary and substitute personnel who have become probationary employees pursuant to the provisions of this section.

This section shall not apply to any school district in which the average daily attendance is in excess of 400,000.

SEC. 2. Section 44959.5 of the Education Code is amended to read:

44959.5. (a) The layoff provisions of Sections 44955, 44956, 44957, 44958 and 44959 shall not be applicable to probationary certificated employees who are covered by a collective agreement which contains provisions for the layoff and reassignment of such employees.

(b) If layoff proceedings are commenced under procedures prescribed by any of the sections referred to in subdivision (a), such proceedings shall continue in accordance with the statutory procedures, notwithstanding the subsequent adoption of a collective

agreement or the inclusion in the coverage thereof of employees not so covered at the time such proceedings commenced.

(c) If layoff proceedings are commenced under a collective agreement which contains provisions for the layoff of probationary certificated employees, such proceedings shall continue in accordance with the agreement, notwithstanding the subsequent termination of the agreement.

(d) This section shall only apply to a school district in which the average daily attendance is 400,000 or more and shall not be interpreted to apply to the termination of any probationary certificated employee pursuant to Section 44948 or Section 44949.

CHAPTER 219

An act to amend Sections 5364 and 72023.5 of, to repeal Sections 5365, 5366, and 5400 of, to amend the heading of Article 7 (commencing with Section 5400) of Chapter 3 of Part 4 of Division 1 of Title 1 of, and to repeal and add Article 6 (commencing with Section 5390) of Chapter 3 of Part 4 of Division 1 of Title 1 to, the Education Code, to add Sections 10307.5 and 10324.5 to the Elections Code, and to amend Section 23353 of the Government Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 8, 1978. Filed with Secretary of State June 8, 1978.]

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

SECTION 1. Section 5364 of the Education Code is amended to read:

5364. In the case of any school district or community college district election called or conducted under the provisions of this code, except as hereafter provided in this section, the county clerk, or the registrar of voters if such office has been established, of the county in which the majority of the territory of the district is located, shall, within the same number of days provided in the Elections Code for the mailing of sample ballots for a statewide primary election, mail to each registered voter residing within the district, a sample ballot, a notice card designating the polling place and time of the election, an application for an absentee ballot in accordance with the provisions of Elections Code Section 1006, and a notice of the voter's right to an absentee ballot in accordance with the provisions of Elections Code Section 10017.

SEC. 2. Section 5365 of the Education Code is repealed.

SEC. 3. Section 5366 of the Education Code is repealed.

SEC. 4. Article 6 (commencing with Section 5390) of Chapter 3 of Part 4 of Division 1 of Title 1 of the Education Code is repealed.

SEC. 5. Article 6 (commencing with Section 5390) is added to Chapter 3 of Part 4 of Division 1 of Title 1 of the Education Code, to read:

Article 6. Voters and Election Procedure

5390. In any school district or community college district election, the qualifications of voters, the procedure to be followed by voters and precinct board members in the polling places on election day, and the equipment and supplies to be furnished each polling place shall be governed by those provisions of the Elections Code applicable to statewide elections.

SEC. 6. The heading of Article 7 (commencing with Section 5400) of Chapter 3 of Part 4 of Division 1 of Title 1 of the Education Code is amended to read:

Article 7. Ballots

SEC. 7. Section 5400 of the Education Code is repealed.

SEC. 8. Section 72023.5 of the Education Code is amended to read:

72023.5. The governing board of each community college district shall order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, one or more nonvoting students who are residents of the district. Such students shall have the right to attend each and all meetings of the governing board, except that student members shall not have the right, or be afforded the opportunity, to attend executive sessions of the governing board.

The students selected to serve on the governing board, in addition to being residents of the district, shall be enrolled in a community college of the district and shall be chosen, and shall be recalled, by the students enrolled in the community colleges of the district in accordance with procedures prescribed by the governing board. The term of the student members shall be one year commencing on July 1 of each year.

The nonvoting student members appointed pursuant to this section shall be entitled to the mileage allowance prescribed by Section 72123 to the same extent as regular members, but are not entitled to the compensation prescribed by Section 72425.

A nonvoting student member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

The nonvoting student member shall not be included in determining the vote required to carry any measure before the board.

The nonvoting student member shall not be liable for any acts of

the governing board.

SEC. 9. Section 10307.5 is added to the Elections Code, to read:

10307.5. Notwithstanding any other provision of law to the contrary, a county, city, or district using voting machines may use reasonable facsimiles of the sample ballots sent the voters of the local jurisdiction as absentee ballots.

SEC. 10. Section 10324.5 is added to the Elections Code, to read:

10324.5. Notwithstanding any other provision of law to the contrary, a county, city, or district using vote tabulating devices may use reasonable facsimiles of the sample ballots sent the voters of the local jurisdiction as absentee ballots.

SEC. 11. Section 23353 of the Government Code is amended to read:

23353. The notice of election shall:

(a) State distinctly the propositions to be submitted.

(b) State the names of the affected county or counties.

(c) State the date of the election.

(d) Designate the election precincts and places at which the polls will be open as established by the board of each affected county.

(e) Instruct the voters as to the methods and procedures of voting in the election.

(f) Request the submission of written arguments for and written arguments against the creation of the proposed county.

(g) Include a statement that the board of supervisors of an affected county or any member or members of such board authorized by the board, any city council or a city within an affected county or any member or members of such council authorized by the council, any qualified elector entitled to vote at the election, any bona fide association of citizens, or any combination of qualified electors and associations may submit and file written arguments with the clerk of the principal county for printing and distribution in the ballot pamphlet, in accordance with Section 3784 of the Elections Code.

(h) A statement that only one argument for and one argument against shall be selected and printed in the ballot.

(i) A statement that arguments shall not exceed 500 words in length and shall be accompanied by at least one and not more than three signatures.

(j) A description of the boundaries of the proposed county.

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 the provisions of this act may apply to elections conducted in 1978, it is necessary that this act take effect immediately.

CHAPTER 220

An act to amend Section 408.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor June 8, 1978. Filed with Secretary of State June 8, 1978.]

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

SECTION 1. Section 408.1 of the Revenue and Taxation Code is amended to read:

408.1. (a) The assessor shall maintain a list of transfers of any interest in property, other than undivided interests, within the county, which have occurred within the preceding two-year period.

(b) The list shall be divided into geographical areas and shall be revised on the 30th day of each calendar quarter to include all such transactions which are recorded as of the preceding quarter.

(c) The list shall contain the following information:

(1) Transferor and transferee, if available;

(2) Assessor's parcel number;

(3) Address of the sales property;

(4) Date of transfer;

(5) Date of recording and recording reference number;

(6) Where it is known by the assessor, the consideration paid for such property; and

(7) Additional information which the assessor in his discretion may wish to add to carry out the purpose and intent of this section. Other than sales information, the assessor shall not include information on the list which relates to the business or business affairs of the owner of the property, information concerning the business carried on upon the subject property, or the income or income stream generated by the property.

(d) The list shall be open to inspection by any person. The assessor may require the payment of a nonrefundable fee equal to an amount which would reimburse local agencies for their actual administrative costs incurred in such inspections or ten dollars ($10), whichever is the lesser amount.

(e) The provisions of this section shall not apply to any county with a population of under 50,000 people, as determined by the 1970 federal decennial census.

CHAPTER 221

An act to amend Section 12465 of the Government Code, relating to preservation of records.

[Approved by Governor June 8, 1978 Filed with Secretary of State June 8, 1978]

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

SECTION 1. Section 12465 of the Government Code is amended to read:

12465. (a) When they are in excess of five years old, reports from county and city officials and individuals, claims, canceled and paid warrants, payroll documents, and other records may be destroyed by the Controller, with the concurrence of the Director of General Services.

(b) Except as provided in subdivision (c), original reports, claims, canceled and paid warrants, payroll documents and other records may be destroyed after one year if they are reproduced in accordance with Section 14756 and the reproduction is preserved for the required period.

(c) Records relating to the annual Controller's report on the revenues and expenditures of state government shall not be destroyed pursuant to subdivision (b) for at least three years.

CHAPTER 222

An act to amend Section 26708 of the Vehicle Code, relating to vehicles.

[Approved by Governor June 8, 1978 Filed with Secretary of State June 8, 1978]

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

SECTION 1. Section 26708 of the Vehicle Code is amended to read:

26708. (a) No person shall drive any motor vehicle with any object or material placed, displayed, installed, affixed, or applied upon the windshield, or side or rear windows, or with any object or material so placed, displayed, installed, affixed, or applied in or upon the vehicle as to obstruct or reduce the driver's clear view through the windshield or side windows.

(b) This section shall not apply to:

(1) Rearview mirrors.

(2) Adjustable nontransparent sunvisors which are mounted forward of the side windows and are not attached to the glass.

(3) Signs, stickers, or other materials which are displayed in a seven-inch square in the lower corner of the windshield farthest removed from the driver or signs, stickers, or other materials which are displayed in a five-inch square in the lower corner of the windshield nearest the driver.

(4) Side windows which are to the rear of the driver.

(5) Direction, destination, or termini signs upon a passenger common carrier motor vehicle, providing such signs do not interfere with the driver's clear view of approaching traffic.

(6) Rear window wiper motor.

(7) Rear trunk lid handle or hinges.

(8) The rear window or windows, when the motor vehicle is equipped with outside mirrors on both the left- and right-hand sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least 200 feet to the rear of the vehicle.

SEC. 2. Section 26708 of the Vehicle Code is amended to read:

26708. (a) No person shall drive any motor vehicle with any object or material placed, displayed, installed, affixed or applied upon the windshield, or side or rear windows, or with any object or material so placed, displayed, installed, affixed, or applied in or upon the vehicle as to obstruct or reduce the driver's clear view through the windshield or side windows.

(b) This section shall not apply to:

(1) Rearview mirrors.

(2) Adjustable nontransparent sunvisors which are mounted forward of the side windows and are not attached to the glass.

(3) Signs, stickers, or other materials which are displayed in a seven-inch square in the lower corner of the windshield farthest removed from the driver or signs, stickers, or other materials which are displayed in a five-inch square in the lower corner of the windshield nearest the driver.

(4) Side windows which are to the rear of the driver.

(5) Direction, destination, or termini signs upon a passenger common carrier motor vehicle, providing such signs do not interfere with the driver's clear view of approaching traffic.

(6) Rear window wiper motor.

(7) Rear trunk lid handle or hinges.

(8) The rear window or windows, when the motor vehicle is equipped with outside mirrors on both the left- and right-hand sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least 200 feet to the rear of the vehicle.

(c) Notwithstanding subdivision (a), transparent material may be installed, affixed, or applied to the topmost portion of the windshield if:

(1) The bottom edge of the material is at least 29 inches above the undepressed driver's seat when measured from a point five inches in front of the bottom of the backrest with the driver's seat in its rearmost and lowermost position with the vehicle on a level surface.

(2) The material is not red or amber in color.

(3) There is no opaque lettering on the material and any other lettering does not affect primary colors or distort vision through the windshield.

(4) The material does not reflect sunlight or headlight glare into

the eyes of occupants of oncoming or following vehicles to any greater extent than the windshield without the material.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 2679 are both chaptered and become effective January 1, 1979, both bills amend Section 26708 of the Vehicle Code, and this bill is chaptered after Assembly Bill No. 2679, that the amendments to Section 26708 proposed by both bills be given effect and incorporated in Section 26708 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. 2679 are both chaptered and become effective January 1, 1979, both amend Section 26708, and this bill is chaptered after Assembly Bill No. 2679, in which case Section 1 of this act shall not become operative.

CHAPTER 223

An act to amend Sections 72600 and 84031 of the Education Code, and to amend Section 84362 of the Education Code, relating to community colleges.

[Approved by Governor June 10, 1978 Filed with Secretary of State June 12, 1978.]

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

SECTION 1. Section 72600 of the Education Code is amended to read:

72600. The governing board of every community college district shall:

(a) Certify or attest to actions taken by the governing board whenever such certification or attestation is required for any purpose.

(b) Keep an accurate account of the receipts and expenditures of district moneys in accordance with the provisions of Sections 84030 and 84031.

(c) Make an annual report, on or before the first day of July, to the county superintendent of schools in the manner and form and on the blanks prescribed by the board of governors.

(d) Make or maintain such other records or reports as are required by law.

SEC. 2. Section 84031 of the Education Code is amended to read:

84031. The accounting system used to record the financial affairs of any community college district shall be designed to provide, in a manner consistent with standards and procedures developed pursuant to Sections 84040 and 84040.5, a separate recording of, and a clear distinction between expenditures for salaries of classroom instructors employed by the district, salaries of administrators and supervisors employed by the district, administrative costs other than

salaries, and expenditures for other purposes of the district.

As used in this section "salaries of classroom instructors" means:

(a) The salary paid to each instructor employed by the district whose duties require that the full time for which the instructor is employed be devoted to the instruction of students of the district.

(b) The portion of the salary of each instructor whose duties require that a part, but not all, of the full time for which the instructor is employed be devoted to the instruction of students of the district, which is equal to the portion of such full time actually devoted by the instructor to teaching students of the district.

(c) The salary paid to each instructional aide employed by the district, any portion of whose duties are required to be performed under the supervision of an instructor.

As used in this section an "instructor" means an employee of the district employed in a position requiring certification qualifications and whose duties require him to teach students of the district for at least one full instructional period each schoolday for which the employee is employed. An instructional period is the number of minutes equal to the number of minutes of the regular academic period in the community college in which the instructor is employed.

As used in this section, "administrator" means any employee in a position having significant responsibilities for formulating district policies or administering district program; and "supervisor" means any employee having authority, on behalf of the district, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, adjust their grievances, or effectively recommend such action, if the exercise of such authority is not of a merely routine or clerical nature.

SEC. 3. Section 84362 of the Education Code is amended to read:

84362. For purposes of this section:

(a) "Salaries of classroom instructors" and "instructors" shall have the same meaning as prescribed by Section 84031 provided, however, that the cost of all health and welfare benefits provided to the instructors by the community college district shall be included within the meaning of salaries of classroom instructors.

(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 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 85023 for certificated salaries other than certificated salaries for student transportation, food services, and community services; classified salaries other than classified salaries for student transportation, food services, and community services; employee benefits other than employee benefits for student transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for student transportation and food services; and community

services, contracted services, and other operating expenses other than for student 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 Accounting Manual for California Community Colleges), 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 instructor 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 instructors by a community college district, fifty percent (50%) of the district's current expense of education.

If the board of governors determines that a district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom instructors during the preceding fiscal year, the board shall, in apportionments made to the 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 board of governors shall be deposited in the county treasury to the credit of the community college district, but shall be unavailable for expenditure by the district pending the determination to be made by the board of governors on any application for exemption which may be submitted to the board of governors. In the event it appears to the governing board of a community college 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 instructors in excess of the salaries of classroom instructors paid by other districts of comparable type and functioning under comparable conditions, the governing board may, with the written approval of the county superintendent of schools having jurisdiction over the district apply to the board of governors in writing not later than September 15th of the immediately succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section.

Immediately upon applying for such exemption, the governing board shall provide the exclusive representative of the district's certificated employees or, if none exists, the district or college

academic senate, and all certificated employee organizations eligible for payroll dues deduction, with a copy of such application. The exclusive representative, or the district or college academic senate, and all certificated employee organizations eligible for payroll dues deduction, within 30 days of its receipt of such application, may transmit to the board of governors a written statement opposing such application, setting forth reasons for its opposition.

Upon receipt of such application, duly approved, and of such statement of opposition, if any, the board of governors shall grant the district exemption for any amount that is less than one thousand dollars ($1,000). If the amount is one thousand dollars ($1,000) or more, the board of governors may grant the district exemption from such requirement for the fiscal year for which the application is made if a majority of all the members of the board of governors finds, in writing, that the district will in fact suffer serious hardship or will have to pay salaries of classroom instructors in excess of those paid by other districts of comparable type and functioning under comparable conditions unless the district is granted an exemption. If such exemption is granted, the designated moneys shall be immediately available for expenditure by the community college district governing board. If no application for exemption is made or exemption is denied, the board of governors shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom instructors during the next fiscal year.

The board of governors shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end. It may require the submission during the school year, by community college 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. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government.

CHAPTER 224

An act to amend Sections 7320, 7326, 7327, 7329, 7330, 7331, and 7333 of, and to add Section 7329.5 to, the Government Code, relating to displaced homemakers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 10, 1978. Filed with Secretary of State June 12, 1978.]

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

SECTION 1. Section 7320 of the Government Code is amended to read:

7320. The Legislature hereby finds and declares that there is an ever-increasing number of persons in this state who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse, or other loss of family income. As a consequence, displaced homemakers are very often without any source of income; they are ineligible for categorical welfare assistance; they are subject to the highest unemployment rate of any sector of the work force; they face continuing discrimination in employment because they are older and have no recent paid work experience; they are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are ineligible for social security because they are too young, and for many, they will never qualify for social security because they have been divorced from the family wage earner; they have often lost their rights as beneficiaries under employers' pension and health plans through divorce or death of spouse, despite many years of contribution to the family well-being; and they are most often ineligible for Medi-Cal, and are generally unacceptable to private health insurance plans because of their age.

The Legislature further finds and declares that homemakers are an unrecognized part of the work force who make an invaluable contribution to the welfare of the society as a whole.

It is the primary intention of the Legislature in enacting this chapter to provide job services for displaced homemakers, including job training and placement, so that they may enjoy the independence and economic security vital to a productive life. It is also the intention of the Legislature to provide the necessary counseling, services, and health care for displaced homemakers to attain this objective and to improve the health and welfare of this ever-growing group of citizens.

SEC. 1.3. Section 7326 of the Government Code is amended to read:

7326. The service center may include, but not be limited to, the following job-training programs:

(a) Lay advocates. This program shall be directed toward developing skills in counseling and advising on administrative procedures in government programs such as social security, supplemental security income, welfare, and unemployment, in order that such trainees will be trained for employment in social service agencies on a community level, such as senior citizen centers and legal aid offices.

(b) Home health technicians. This program shall be directed toward developing skills in nutrition, basic health care, and nursing for the disabled and elderly, in order that such trainees will be trained for employment by persons who are homebound through

illness or disability and unable to care for themselves and their own households.

(c) Health care counselors. This program shall be directed toward developing skills in counseling techniques and in basic health care, especially for middle-years individuals, in order that such trainees will be trained for employment in community and hospital outpatient health clinics.

SEC. 1.5. Section 7327 of the Government Code is amended to read:

7327. Each of the job-training programs enumerated in Section 7326 shall have as a goal for the first year, training and placing displaced homemakers, some of whom could be employed in the service programs specified in Section 7329. In addition, the service center staff shall develop with the Employment Development Department plans for including more displaced homemakers in existing job-training and placement programs.

SEC. 2. Section 7329 of the Government Code is amended to read:

7329. The multipurpose service center shall include, but not be limited to, the following service programs for displaced homemakers:

(a) Information and referral to physicians and clinics.

(b) Discussion and activity groups on menopause, aging, weight, and nutrition.

(c) Money management courses, including information and assistance in dealing with insurance programs (life, health, home, and car), taxes, mortgages, loans, and probate problems.

(d) Outreach and information for government programs, including concrete information and assistance with supplemental security income, social security, Veterans Administration benefits, welfare, food stamps, unemployment insurance, and Medi-Cal.

(e) Educational programs, including courses offering credit through community colleges or leading toward a high school equivalency degree. These courses shall be designed to supplement the usual academic course offerings with classes geared toward older persons to improve their self-image and abilities.

SEC. 3. Section 7329.5 is added to the Government Code, to read:

7329.5. Whenever services authorized to be provided by the service center are otherwise available in the community, the service center may refer displaced homemakers in lieu of providing the services itself.

SEC. 3.5. Section 7330 of the Government Code is amended to read:

7330. The secretary, in consultation with the director of the service center, shall establish regulations concerning the eligibility of persons for the job-training and other programs of the multipurpose service center, the level of stipends for the job-training programs described in Section 7325, a sliding fee scale for the service programs described in Section 7329, and such other matters as the secretary

deems necessary. Eligibility for services within the multipurpose service center shall be limited to those persons with severe social or economic circumstances.

SEC. 4. Section 7331 of the Government Code is amended to read:

7331. (a) The secretary or his designee shall evaluate the effectiveness of the job-training, placement and service components of the center. Such evaluation shall include the total number of persons making application for services provided by the center, the number of persons selected for services by each type of service provided, a description of the social and economic characteristics of persons receiving services by type of service provided, and an assessment of appropriate criteria for defining "persons with severe social or economic circumstances" for purposes of Section 7330 for each type of service provided. The evaluation shall assess the effectiveness of each type of service in removing or reducing barriers handicapping displaced homemakers from achieving independence and self-sufficiency, and shall describe the costs associated with each type of service.

(b) The evaluation shall identify and describe the range and type of services being provided by existing agencies within the area served by the service center which are comparable to services provided by the center. The evaluation shall identify and describe the extent to which comparable services provided by existing agencies can serve as resources to the service centers, and shall also identify which existing agency, if any, would be suitable for locating a displaced homemaker services center program if that program were to be continued.

(c) There shall be a first-year evaluation in accordance with the requirements of this section filed by the secretary with the Legislature no later than February 1 after the first year of operation; and there shall be a second-year evaluation filed by the secretary with the Legislature no later than January 1 of the year after the second year of operation.

SEC. 5. Section 7333 of the Government Code is amended to read:

7333. Two years after this act goes into effect the Legislative Analyst shall report to the Legislature on the effectiveness of this program.

SEC. 6. The transfer of the duty of conducting program evaluations pursuant to Section 7331 of the Welfare and Institutions Code from the director and staff of the multipurpose service center to the Secretary of the Health and Welfare Agency shall not result in any increased costs to carry out such duty. The total cost of such evaluations shall be limited to that amount originally budgeted for the evaluations under Chapter 754 of the Statutes of 1977.

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:

Planning and implementation of the displaced homemaker program for Los Angeles County is currently underway. In order to make changes made by this act applicable to such program before the program is fully implemented, it is necessary for this act to take effect immediately.

CHAPTER 225

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

[Became law without Governor's signature June 12, 1978 Filed with Secretary of State June 12, 1978.]

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

SECTION 1. Not more than one hundred thousand dollars ($100,000) is hereby appropriated, from the Street and Highway Account in the Natural Disaster Assistance Fund, to the County of Mono to reimburse the county for its expenditures for highway snow removal.

The appropriation shall be reduced or reimbursed by the amount received, if any, under any federal disaster relief act for highway snow removal as a result of the 1977–78 winter snowstorms.

No funds received by the county pursuant to this section shall be expended for the maintenance, repair, or replacement of facilities.

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:

Funds made available by the state to the County of Mono for highway snow removal during the 1977–78 fiscal year are insufficient in view of the recent snow falls. In order that additional funds be made available to the county as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 226

An act to provide for the sale of a specified parcel of real property by the Director of General Services, relating to state land.

[Became law without Governor's signature June 12, 1978 Filed with Secretary of State June 12, 1978]

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

SECTION 1. The Director of General Services, with the consent of the Department of Health and with the approval of the State Public Works Board, is authorized to sell to the City of Costa Mesa, for open-space purposes, as defined in Section 11011.1 et seq. of the Government Code, the real property described in that certain lease recorded on May 6, 1966, in Book 7924, page 340, document 4606, as amended June 12, 1967, and November 17, 1970, excepting therefrom approximately five acres for use by Fairview State Hospital, for 50 percent of current fair market value (fair market value as defined herein is to be exclusive of all liens and encumbrances) upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state.

SEC. 2. Any cost or expense incurred in the disposition of property pursuant to this act may be reimbursed from the proceeds of such disposition.

SEC. 3. Subject to Section 2 of this act, any moneys received from the disposition of the property shall be paid into the General Fund.

SEC. 4. With repect to the property sold pursuant to this act, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine and remove such deposits, and to occupy and use so much of the surface of the land as may be necessary therefor. The State Lands Commission shall have the sole responsibility for and jurisdiction over the administration, management, and disposal of this mineral reservation as provided by Section 6405 of the Public Resources Code. Such rights to prospect for, mine and remove may be limited to those areas of the property conveyed which the director determines to be reasonably necessary for the removal of such resources and deposits.

CHAPTER 227

An act to add Section 246 to the Public Utilities Code, relating to the Public Utilities Commission, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 12, 1978 Filed with Secretary of State June 13, 1978]

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

SECTION 1. Section 246 is added to the Public Utilities Code, to read:

246. A person or corporation shall not be a public utility subject to the jurisdiction, control and regulation of the commission and the provisions of this part solely because such person or corporation owns or controls any electric plant (a) which is leased or held for lease or

sale to any public utility, or (b) the operation and use of which is vested by lease or other contract in a public utility, or (c) for a period of not more than 90 days after termination of any lease or contract with a public utility or after repossession of such property following a breach of such lease or contract. The commission may upon application issue its order approving the terms of any such lease or contract for the purpose of qualifying such person or corporation for an exemption by the Securities and Exchange Commission of the United States from the federal Public Utility Holding Company Act of 1935, as amended (Chapter 2C (commencing with Section 79) of Title 15, United States Code). This section shall apply only to persons or corporations for which such lease or contract was approved by the commission prior to January 1, 1979. Nothing in this section shall alter or modify the authority of the commission to regulate the rates and service of a person or corporation which is a public utility subject to the provisions of this part.

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:

Leasing arrangements may permit California public utilities to lease major projects at advantageous costs to the benefit of the public utility and its ratepayers alike. However, potential lessors are unwilling to participate in such arrangements if as a result they become subject to regulation as a public utility. In order to permit the state's public utilities to take advantage of the benefits made available by leasing at the earliest possible time it is necessary that this act take effect immediately.

CHAPTER 228

An act to amend Section 10302 of the Government Code, relating to the California Law Revision Commission.

[Approved by Governor June 13, 1978 Filed with Secretary of State June 13, 1978]

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

SECTION 1. Section 10302 of the Government Code is amended to read:

10302. (a) The members of the commission shall serve without compensation, except that each member appointed by the Governor shall receive fifty dollars ($50) for each day's attendance at a meeting of the commission.

(b) In addition, each member shall be allowed actual expenses incurred in the discharge of his duties, including travel expenses.

CHAPTER 229

An act to amend Sections 6369 and 6369.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor June 13, 1978. Filed with Secretary of State June 13, 1978.]

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

SECTION 1. Section 6369 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 1245 of the Statutes of 1977, is amended to read:

6369. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law, or

(2) Furnished by a licensed physician and surgeon, dentist, or podiatrist to his own patient for treatment of the patient, or

(3) Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, or podiatrist, or

(4) Sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being.

(5) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

(b) "Medicines" as used in this section mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and which is commonly recognized as a substance or preparation intended for such use; provided that "medicines" do not include (1) any auditory, prosthetic, ophthalmic or ocular device or appliance, (2) articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, (3) any alcoholic beverage the manufacture, sale, purchase, possession or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9, commencing with Section 23000, of the Business and Professions Code).

(c) Notwithstanding subdivision (b), "medicines" as used in this

section shall mean and include: (1) sutures, whether or not permanently implanted; (2) bone screws, bone pins, pacemakers, and other articles, other than dentures, permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body; (3) orthotic devices, other than orthodontic devices, designed to be worn on the person of the user as a brace, support or correction for the body structure, and replacement parts for such devices; provided, that orthopedic shoes and supportive devices for the foot are not exempt unless they are an integral part of a leg brace or artificial leg; (4) prosthetic devices, and replacement parts for such devices, designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body, other than auditory, opthalmic and ocular devices or appliances, and other than dentures, removable or fixed bridges, crowns, caps, inlays, artificial teeth and other dental prosthetic materials and devices; and (5) artificial limbs and eyes, or their replacement parts, for human beings.

(d) "Health facility" as used in this section has the meaning ascribed to it in Section 1250 of the Health and Safety Code.

(e) Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this section.

(f) Orthotic and prosthetic devices, and replacement parts for such devices, furnished pursuant to the written order of a physician. shall be deemed to be dispensed on prescription within the meaning of paragraph (a) (1) of this section, whether or not the devices are furnished by a registered pharmacist.

(g) Mammary prostheses, and any appliances and related supplies necessary as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste, shall be deemed to be dispensed on prescription within the meaning of this section.

SEC. 2. Section 6369.2 of the Revenue and Taxation Code, is amended to read:

6369.2. 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 wheelchairs, crutches, canes, quad canes, and walkers, and replacement parts for such devices, when sold to an individual for the personal use of that individual as directed by a physician.

SEC. 3. Sections 1 and 2 of this act shall remain in effect until January 1, 1983, and as of such date are repealed unless a later enacted statute, which is chaptered before January 1, 1983, revises such date.

SEC. 4. It is the intent of the Legislature that the estimated revenue loss resulting from enactment of the exemptions contained in Sections 1 and 2 of this act be offset by the repealing of other existing sales and use tax exemptions which are viewed by the Legislature as less meritorious than the exemptions contained

herein. Thus, notwithstanding Section 2230 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.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect; however, it shall become operative on the first day of the first calendar month commencing more than 30 days after the effective date of this act.

CHAPTER 230

An act to amend Sections 67485, 67486, and 67488 of, and to add Sections 67481.5 and 67486.5 to, the Government Code, relating to regional planning, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 16, 1978. Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 67481.5 is added to the Government Code, to read:

67481.5. The commission may:

(a) Request studies by cities and counties, within the zone, of the measures which would be necessary to implement the recommendations contained in the commission's comprehensive plan contained in its preliminary report.

(b) Upon application by cities and counties, within the zone, make grants for such studies. In evaluating and acting upon these applications, the commission shall consider the costs entailed in performing such studies.

SEC. 2. Section 67485 of the Government Code is amended to read:

67485. The commission shall file a preliminary report with the Governor and the Legislature not later than July 1, 1978.

SEC. 3. Section 67486 of the Government Code is amended to read:

67486. The preliminary 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 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.

SEC. 4. Section 67486.5 is added to the Government Code, to read:

67486.5. The commission shall file a final report with the Governor and the Legislature not later than January 2, 1979. The final report shall contain all of the following:

(a) The results of the investigations conducted by local governments, pursuant to Section 67481.5, on the implementation of the comprehensive plan.

(b) The commission's recommendation of the appropriate agency or agencies to maintain and carry out the comprehensive plan.

(c) 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.

(d) Such other information and recommendations as the commission deems desirable, including any changes to the comprehensive plan as contained in the preliminary report that the commission deems appropriate. The commission may also make amendments to the plan subsequent to filing its final report.

SEC. 5. Section 67488 of the Government Code is amended to read:

67488. This title shall remain in effect only until August 31, 1979, and as of that date is repealed.

SEC. 6. In addition to the appropriation made by Section 3 of Chapter 1327 of the Statutes of 1976 and augmented by Item 231.5 of the Budget Act of 1977, the sum of one hundred fifty thousand dollars ($150,000) 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 purposes of the Santa Monica Mountains Comprehensive Planning Act.

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

It is necessary to provide time for cities' and counties' review of the measures which would be necessary for the implementation of the Santa Monica Mountains Comprehensive Plan prior to legislative consideration thereof, and to extend the time for submission of the final report of the Santa Monica Mountains Comprehensive Planning Commission to enable it to evaluate and consider in its final report the plans for a federal national park or recreation area in the Santa Monica Mountains, and to allow the commission to coordinate and make use of any new data which will be contained in the proposed specific Los Angeles County area plan for the Malibu-Santa Monica Mountain area.

CHAPTER 231

An act to amend Section 20200 of the Government Code, relating to Public Employees' Retirement System.

[Approved by Governor June 16, 1978. Filed with Secretary of State June 16, 1978.]

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

SECTION 1. Section 20200 of the Government Code is amended to read:

20200. The "State Employees' Retirement Fund" in the State Treasury is continued in existence. On and after October 1, 1967, said fund shall be known as the "Public Employees' Retirement Fund."

The Public Employees' Retirement Fund is a trust fund created, and administered in accordance with the provisions of this part, solely for the benefit of the members and retired members of the system and their survivors and beneficiaries.

CHAPTER 232

An act to amend and repeal Section 227 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 227 of the Revenue and Taxation Code, as added by Section 5 of Chapter 1467 of the Statutes of 1974, is amended to read:

227. A documented vessel, as defined in Section 130, shall be assessed at 1 percent of its full cash value only if the vessel is engaged or employed exclusively:

(a) In the taking and possession of fish or other living resource of the sea for commercial purposes;

(b) In instruction or research studies as an oceanographic research vessel; or

(c) In carrying or transporting seven or more people for hire for commercial passenger fishing purposes.

This section shall become operative on the lien date in 1975 and 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. The assessment provided for by this section shall apply to the 1979–1980 fiscal year.

SEC. 2. Section 227 of the Revenue and Taxation Code, as added by Section 6 of Chapter 1467 of the Statutes of 1974, is amended to read:

227. A documented vessel, as defined in Section 130, shall be assessed at 1 percent of its full cash value only if the vessel is engaged or employed exclusively:

(a) In the taking and possession of fish or other living resource of the sea for commercial purposes; or

(b) In instruction or research studies as an oceanographic research vessel.

This section shall become operative on January 2, 1980, unless a later enacted statute which is chaptered before January 1, 1980, deletes or extends such date.

CHAPTER 233

An act to add Chapter 13 (commencing with Section 9970) to Division 9 of the Public Resources Code, relating to resource conservation.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Chapter 13 (commencing with Section 9970) is added to Division 9 of the Public Resources Code, to read:

CHAPTER 13. VENTURA COUNTY RESOURCE CONSERVATION DISTRICT

9970. The provisions of this chapter apply only to the Ventura County Resource Conservation District. For the purposes of this chapter, "district" means the Ventura County Resource Conservation District.

9971. Except as otherwise provided in this chapter, the organization and functions of the district shall be governed by the provisions of this division.

9972. Whenever any territory in the district is included in a city by reason of incorporation or annexation, that territory may be excluded from the district upon the effective date of its inclusion in the city, subject only to compliance by the district with the requirements of Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code.

Upon the exclusion of such territory, all unencumbered funds standing to the credit of the area upon the date of its exclusion shall

be divided between the city and the district in proportion to the assessed value of real property of the territory excluded and the portion remaining. For the purpose of this section, "unencumbered funds" means a sum of money consisting of uncollected taxes, including taxes levied and collected for the territory on property withdrawn after the date of exclusion, and other uncollected amounts belonging to or due such territory, that is in excess of an amount sufficient to pay all claims and accounts against the territory.

In the event the district has indebtedness evidenced by bonds and the indebtedness is outstanding and owing on the date of exclusion, the property within any territory excluded from the district shall remain liable for assessment and payment of its pro rata share of the tax therefor.

9973. The district shall consist of three divisions, conforming generally to the major natural resource areas of the county, as follows:

(a) Division 1 (Northern): the Ojai Division, generally coextensive with the boundaries of the predecessor Ojai Resource Conservation District.

(b) Division 2 (Central): Santa Clara Valley Division, comprising the area generally embracing the Santa Clara River Watershed.

(c) Division 3 (Southern): South Ventura County Division, conforming generally with the boundaries of the predecessor South Ventura County Resource Conservation District.

9974. (a) Within 60 days after the initial organization meeting of the board of directors of the district, a description and map of the district showing recommended division boundaries thereof shall be adopted by the board of directors with a resolution petitioning the Board of Supervisors of the County of Ventura to review and approve such boundaries.

(b) Within 30 days after receipt of the petition, the board of supervisors shall refer the request to the local agency formation commission for recommendations and report.

(c) Within 30 days after receipt of the request from the board of supervisors, the local agency formation commission shall conduct a noticed public hearing at which any interested person may appear and present testimony relative to the proposed boundaries.

(d) Within 30 days after the hearing, the local agency formation commission shall submit its boundary recommendations to the board of supervisors.

(e) Within 30 days after receipt of the commission's boundary recommendations, the board of supervisors shall conduct a noticed public hearing to consider the recommendations. If the board of supervisors approves the boundaries as recommended, it shall certify the boundaries by resolution and file a copy with the board of directors of the district.

(f) Once certified by the board of supervisors, boundaries of a division may be modified pursuant to the procedures for their initial certification, as provided in this chapter.

9975. (a) Notwithstanding the provisions of subdivision (b) of Section 9183 or Sections 9241 and 9242, the board of directors of the district shall be composed of nine persons initially appointed by the Board of Supervisors of the County of Ventura, with three directors appointed to represent each division. Appointments shall be made by the board of supervisors within 30 days of the effective date of this chapter.

(b) Appointments of directors to represent Division 1 and Division 3 shall be made from the memberships, as they exist on the effective date of this chapter, of the respective boards of directors of the predecessor districts whose territory will correspond to Division 1 and Division 3 No person may be appointed as a director to represent Division 2 unless he or she has experience in and knowledge of agriculture and related interest in resource conservation needs of Division 2 and the county.

(c) To be eligible for appointment, a director shall be an owner of land, or a designated agent of an owner of land, within the territory expected to be included in the division of the district he or she will represent. To be eligible for appointment, an agent of a landowner shall reside within the territory expected to be included in the division of the district he or she will represent.

(d) After all directors have been appointed pursuant to this section, they shall meet in an organizational meeting and classify themselves by lot into two classes as nearly as equal as possible according to their division representation. The term of office of those in the class having the least number shall expire at noon on the last Friday in November of the next even-numbered year after the year in which the meeting was held. The term of office of those in the other class shall expire at noon on the last Friday in November of the second even-numbered year after the year in which the meeting is held.

9976. Upon the expiration of the terms of office of directors appointed pursuant to Section 9975, their successors shall be elected in the manner provided in Article 8 (commencing with Section 9351) of Chapter 3. Directors shall be nominated by divisions and elected at large.

9977. At least 110 days prior to the day fixed for the general district election, the secretary of the district shall deliver to the county clerk a map and description of the boundaries of the divisions from which directors shall be nominated. The number designated shall equal the number of directors to be elected at that election as determined in accordance with subdivision (d) of Section 9975.

9978. Five directors shall constitute a quorum for the conduct of the business of the board of directors of the district.

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 government entity which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 234

An act to amend Section 31 of, to add Sections 5.4, 5.5, and 23.1 to, and to repeal and add Section 23 of, the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), and to amend Sections 8.1 and 8.3 of, and to add Section 8.4 to, the Santa Barbara County Water Agency Act (Chapter 1501 of the Statutes of 1945), relating to special water districts.

[Approved by Governor June 16, 1978. Filed with Secretary of State June 16, 1978.]

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

SECTION 1. Section 5.4 is added to the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), to read:

Sec. 5.4. In addition to its other powers, the district shall have the power to install and maintain landscaping in connection with any flood control or storm drainage facility or work of improvement within the district or any zone of the district. Funds for installation or maintenance of such landscaping may be derived from ad valorem taxes or assessments levied pursuant to Section 12 or fees and charges collected pursuant to Section 5.5. It is hereby declared that for the purposes of any tax or assessment levied under subdivision 2 of Section 12 of this act for landscaping of special benefit to any zone of the district, the property so taxed or assessed is equally benefited. In regard to any flood control or storm drainage facility or work of improvement for which bonds are hereafter voted under the provisions of this act, the proceeds of such bonds may be used for installation of such landscaping. In no event shall the district expend funds, regardless of from what source or sources derived, for installation of landscaping in connection with any flood control or storm drainage facility or work of improvement in excess of three percent of the costs of construction of such facility or work of improvement.

SEC. 2. Section 5.5 is added to the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), to read:

Sec. 5.5. (a) In addition to the powers described elsewhere in this act, the district shall have the power by ordinance or resolution, subject to referendum pursuant to Article 2 (commencing with Section 5200) of Chapter 4 of Division 4 of the Elections Code, to prescribe, revise, and collect fees and charges in any zone, established pursuant to Section 3 or Section 11, as a condition of development of land. Land to be developed within a zone shall be

subject to the fees and charges of the zone in which it is located. Development of land for the purposes of this section shall include, but not be limited to, subdivision development as governed by the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code); construction of new buildings, structures, and improvements for residential, commercial, or industrial purposes; and any development of land requiring either zone variance or special use permit. The amount of fees and charges levied for each zone shall be determined separately and shall be based upon the need created by development of land for flood control facilities within the zone. The amount of fees and charges levied for any zone shall not exceed five hundred dollars ($500) for each acre or portion thereof of land to be developed. Fees and charges prescribed as a condition of development of land pursuant to this section shall be in addition to any other conditions imposed on such development by any other agency having power to prescribe such other conditions.

(b) Except as hereinafter provided, revenues derived from fees and charges prescribed for any zone may be used only for the acquisition, engineering, design, construction, reconstruction, maintenance, or operation of flood control or storm drainage facilities, or the installation or maintenance of landscaping as authorized by Section 5.4, within such zone, or used to pay the interest on or reduce the principal of any bonded indebtedness of such zone.

(c) Whenever the development of land within any zone is made subject to fees or charges by the board of directors pursuant to this section, said board of directors may allow a credit against such fees for the acquisition, engineering, design, construction, reconstruction, maintenance, or operation costs of any flood control or storm drain facility within such zone which has been constructed or paid for in connection with the development of land within such zone. The board of directors may also reduce fees or charges prescribed for any part of the land to be developed within such zone if they find that because of special circumstances the payment thereof would be inequitable or would cause undue hardship and the reduction of such fees would be in the public interest.

(d) The consent and approval of the legislative body of a city shall be necessary before any fees or charges may be levied on the development of land located within the corporate boundaries of a city which are higher than any fees or charges levied on the development of land located outside and contiguous to the corporate boundaries of such city.

SEC. 3. Section 23 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is repealed.

SEC. 3.5. Section 23 is added to the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), to read:

Sec. 23. All improvement and units of work to be performed by or for the district shall be performed in accordance with the following procedures and requirements:

(a) If the work consists of the protection or maintenance of channels, storm drains, dams, or other flood control works, or emergency work necessary in order to protect life or property from impending flood damage, the board of directors may, without advertising for bids therefor, have such work done by day labor, under the direction of the board, by contract, or by a combination of the two.

(b) If the work consists of the construction of new flood control channels, storm drains, dams, or other unit or units of work, and if the cost of such work, according to the estimate of the engineer, will exceed ten thousand dollars ($10,000), and if such work is not the type of work referred to in subdivision (a) or (c) of this section, such new construction shall be performed under a contract or contracts which shall be let to the lowest responsible bidder or bidders in the manner provided in subdivision (d) of this section.

(c) If the work consists of the maintenance or alteration of existing facilities, including electrical, painting, and roofing work in connection therewith, and if the cost of labor and materials for such work according to the engineer's estimate, will exceed three thousand five hundred dollars ($3,500), and if the work is not the type of work referred to in subdivision (a) or (b) of this section, such maintenance and alteration work shall be performed under a contract or contracts which shall be let to the lowest responsible bidder or bidders in the manner provided in subdivision (d) of this section.

(d) The board shall first determine whether such work shall be let as a single unit for the whole of the work, or shall be divided into severable, convenient parts, or both, according to the best interest of the district. The board shall call for bids and advertise such call pursuant to Section 6066 of the Government Code in the district inviting sealed proposals for the construction or performance of the work before any contract is made therefor. Such call for bids shall state whether such work is to be performed as a unit for the whole thereof or shall be divided into severable, convenient specific parts, or both, as stated in the call. The board may let such work by single contract for the whole thereof as a unit or it may divide such work into severable convenient parts by separate contracts, as stated in such call, according to the best interest of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bond to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith. The faithful performance bond shall contain such terms and conditions as the board may specify, and the payment bond shall contain the terms and conditions set forth in, and shall be subject to, the provisions of, Title 15 (commencing with Section 3082) of Part 4 of Division 3 of

the Civil Code, in sofar as they may be applicable. If the work to be performed on behalf of the district does not involve an expenditure of fifteen thousand dollars ($15,000) or more, or if the work consists of work referred to in subdivision (a) of this section, the district may, but need not, require a faithful performance bond or a payment bond. The board shall also have the right to reject any and all bids.

(e) If no proposals are received pursuant to advertisement therefor, or if the estimated cost of work of the type referred to in subdivision (b) of this section does not exceed the sum of ten thousand dollars ($10,000), or if the estimated cost of work of the type referred to in subdivision (c) of this section does not exceed the sum of three thousand five hundred dollars ($3,500), the board of directors may, without advertising for bids therefor, have such work done by day labor, under the direction of the board, by contract, or by combination of the two. If any change or alteration in a contract awarded under the provisions of this section for work of the type referred to in subdivision (b) or (c) is deemed necessary and the cost thereof does not exceed 10 percent of the original contract price, the board may authorize the contractor to proceed with the change or alteration without the formality of obtaining bids therefor.

(f) Notwithstanding the foregoing provisions, the district shall have the power to acquire in the open market, and may authorize the Purchasing Agent of the County of Santa Barbara to acquire in the open market, without advertising for bids therefor, materials, equipment and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (a) of this section, may not be purchased without advertising for bids and awarding the contract therefor to the lowest responsible bidder if the cost thereof exceeds two thousand five hundred dollars ($2,500), unless such purchase is made by the county purchasing agent at the request of the district, in which case the cost thereof shall not exceed six thousand five hundred dollars ($6,500).

SEC. 4. Section 23.1 is added to the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), to read:

Sec. 23.1. The board of directors of the district may, by resolution, authorize the district engineer or other district officer or employee to order changes or additions in the work being performed under a contract awarded pursuant to the provisions of Section 23 without the formality of obtaining bids therefor. When so authorized, any change or addition in the work shall be ordered in writing by the district engineer or other designated district officer or employee, and the extra cost to the district for all such changes or additions to the work so ordered shall not exceed 5 percent of the original contract price. In no event shall the aggregate cost of such changes or additions exceed ten thousand dollars ($10,000).

SEC. 5. Section 31 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes

of 1955) is amended to read:

Sec. 31. Claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of, and Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of, the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared and presented to the governing body, and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county. Unless otherwise indicated by the context of such provisions of the Government Code, for the purposes of this section, "county" or "counties," as used in such provisions, means the district and "board" or "board of supervisors," as used in such provisions, means the board of directors of the district.

SEC. 6. Section 8.1 of the Santa Barbara County Water Agency Act (Chapter 1501 of the Statutes of 1945) is amended to read:

Sec. 8.1. Claims for money or damages against the agency are governed by Part 3 (commencing with Section 900), and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of, and Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of, the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared and presented to the governing body, and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county.

Unless otherwise indicated by the context of such provisions of the Government Code, for the purposes of this section, "county" or "counties," as used in such provisions, means the agency and "board of supervisors," as used in such provisions, means the board of directors of the agency.

SEC. 7. Section 8.3 of the Santa Barbara County Water Agency Act (Chapter 1501 of the Statutes of 1945) is amended to read:

Sec. 8.3. All contracts for the construction of any unit of work, except as hereinafter provided, estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The board of directors of the agency shall advertise by three (3) insertions in a daily newspaper of general circulation or two (2) insertions in a weekly newspaper of general circulation published in the agency inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of said work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith. The faithful performance bond shall contain such terms

and conditions as the board may specify, and the payment bond shall be subject to the provisions of, and shall contain the terms and conditions set forth in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, insofar as they may be applicable. The board shall also have the right to reject any and all bids, in which case the board may advertise for new bids. In the event no proposals are received pursuant to advertisement therefor, or where the estimated cost of such work does not exceed the sum of ten thousand dollars ($10,000) or the work consists of emergency work necessary in order to protect life and property, the board of directors by unanimous vote of all members present may without advertising for bids therefor have said work done by force account. The agency shall have the power to purchase in the open market, and may authorize the Purchasing Agent of the County of Santa Barbara to purchase, without advertisement for bids therefor, materials and supplies for use in any work therewith either under contract or by force account.

If the work to be performed by or on behalf of the agency does not involve an expenditure of ten thousand dollars ($10,000) or more, or if the work consists of emergency work when necessary in order to protect life and property, the agency may, but need not, require a faithful performance bond. The agency may, but need not, require a payment bond on work performed on behalf of the agency which does not involve an expenditure of more than ten thousand dollars ($10,000).

The provisions of this section shall have no application to a contract entered into with the United States under the authority of Section 6, or to a contract authorized by a vote of the electorate of the agency.

SEC. 8. Section 8.4 is added to the Santa Barbara County Water Agency Act (Chapter 1501 of the Statutes of 1945), to read:

Sec. 8.4. The board of directors of the agency may, by resolution, authorize the agency engineer or other agency officer or employee to order changes or additions in the work being performed under a contract awarded pursuant to the provisions of Section 8.3 without the formality of obtaining bids therefor. When so authorized, any change or addition in the work shall be ordered in writing by the agency engineer or other designated agency officer or employee, and the extra cost to the agency for all such changes or additions to the work so ordered shall not exceed 5 percent of the original contract price. In no event shall the aggregate cost of such changes or additions exceed ten thousand dollars ($10,000).

CHAPTER 235

An act to amend Section 9002 of the Fish and Game Code, relating to commercial fishing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 9002 of the Fish and Game Code is amended to read:

9002. Lobster traps may be used to take spiny lobsters in Districts 18, 19, 20A, and those portions of District 20 lying on the southerly side of Santa Catalina Island between Southeast Rock and China Point.

Lobster traps shall be emptied not less than every 96 hours and no trap shall be abandoned in the ocean.

Wire traps shall be built of rectangular mesh with inside mesh measurement not less than 1⅞ inches by 3⅞ inches, the 3⅞-inch measurement to be parallel to the floor of the trap. Such traps shall be fitted with at least one rigid rectangular escape gap with inside measurements not less than 2⅜ inches by 11½ inches. The escape gap shall be located parallel to, and within two inches of, the floor on an outside wall of the rearmost chamber of the trap and shall be clearly accessible to the lobsters.

Traps built of lath or other material shall have along the full length of one side of the rearmost chamber an opening to allow a means of escape. Such opening shall be of a spacing of not less than 2⅜ inches, and such spacing shall be located parallel to, and within two inches of, the floor of the trap.

Lobster traps may be used to take spiny lobsters, rock crabs, and sheepshead only, and any other species taken in such traps shall be released. Such traps may be used only during the season prescribed for spiny lobsters. Spiny lobsters taken in the manner commonly known as skindiving or by use of self-contained underwater breathing apparatus may not be sold.

Lobster traps shall be marked with buoys, and such buoys may be distinctively marked or painted by the fisherman, and may include the use of the fisherman's lobster permit number. The marking or painting of a buoy under this section shall be reported to the department.

Any trap without such buoys is a public nuisance.

It is unlawful to willfully disturb, move, or injure a lobster trap belonging to another person.

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

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immediate effect. The facts constituting such necessity are:

In order for revised lobster trap standards to govern the 1978 lobster fishing season, it is essential that this act take effect immediately.

CHAPTER 236

An act to amend Section 2610.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 2610.5 of the Revenue and Taxation Code is amended to read:

2610.5. On or before November 1 each year, the tax collector of every county shall mail a county tax bill or copy thereof to each assessee or fee owner of property on the secured roll. This requirement need not be met where the computation of taxes results in a zero amount. The failure to receive a tax bill does not relieve the fee owner from the liability to pay taxes owed, nor does it relieve the imposition of penalties imposed by this code. However, the penalty imposed for delinquent taxes as provided in Section 2617, 2618, 2621, 2704, 2705, 2759, 2760, 2761, 2762, or 2922 shall be waived by the auditor or tax collector if the assessee or fee owner demonstrates that the delinquency is due to the failure of the tax collector to mail the tax bill to the address as provided on the tax assessor's roll.

CHAPTER 237

An act to add and repeal Section 5224.5 of the Education Code, relating to school district governing boards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 5224.5 is added to the Education Code, to read:

5224.5. (a) In any case where a high school district is governed by a city board of education which also serves as the governing board of an elementary school district, such board may, by resolution, place on the ballot of the November 7, 1978, regular election, the question

of whether a separate board of education for the elementary school district consisting of five members shall be established.

The election on the question shall be held in the elementary school district for which a separate governing board is proposed. If a majority of all the votes cast are cast in favor of the question, the question carries.

(b) In the event that the question provided for by subdivision (a) is approved by the voters, on March 6, 1979, an election shall be held in the elementary school district to elect members to the elementary school district governing board. The three candidates receiving the largest number of votes shall be deemed elected to the elementary school district governing board, each of whom shall serve for a four-year term. If one member or no members of the board elect to continue to serve as provided in subdivision (c), the one or two candidates receiving the next largest number of votes shall be deemed elected, each of whom shall serve for a two-year term. Each term of office shall commence on April 1, 1979, on which date the governing board shall become the governing board of the elementary school district for all purposes.

(c) Any member of the governing board of the high school district whose term of office does not expire in 1979 and who resides in the elementary school district may elect to continue to serve as a member of the governing board of both school districts until April 1, 1981, at which date the member's current term of office on both school district governing boards shall expire. Any such election shall be given in writing to the county superintendent of schools of the county in which the school districts are located no later than January 2, 1979.

(d) This section shall remain in effect only until July 1, 1981, 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 that the electors of any elementary school district which is governed by a school district governing board that also serves as the governing board of a high school district may vote on the issue of whether the elementary school district should have its own separate board at the November 7, 1978, regular election, thereby increasing the accountability of the district's governing board and the quality of education offered, it is necessary for this act to take effect immediately as an urgency statute.

CHAPTER 238

An act to amend Sections 6738 and 6738.1 of the Business and Professions Code, relating to professional engineers.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 6738 of the Business and Professions Code is amended to read:

6738. (a) This chapter does not prohibit one or more civil, electrical or mechanical engineers from practicing or offering to practice within the scope of their registration, civil, electrical or mechanical engineering through the medium of a partnership, firm or corporation; provided:

(1) A civil, electrical or mechanical engineer is the partner, member, or directing officer in charge of the engineering practice of the partnership, firm, or corporation.

(2) All engineering plans, specifications, and reports are prepared by or under the direct supervision of a registered engineer in the appropriate branch of professional engineering, who shall sign or stamp with his seal such plans, specifications, and reports.

(3) The partnership, firm or corporate name shall not contain the name of any person who is either not registered by the board in a branch of professional engineering, or as an architect, or of any person who is not registered as a geologist under the provisions of the Geologist Act (Chapter 12.5, commencing with Section 7800, of this division); provided, that any holding out by such partnership, firm, or corporation of any individual or individuals to the public as a member, or members, of such partnership, firm, or corporation, other than by the use of the name or names of such individual or individuals in the partnership, firm, or corporate name, shall clearly and specifically designate the license status of such individual or individuals.

(b) Except as provided in Section 6737.2, nothing herein shall authorize the offering to practice or the practice of civil, electrical or mechanical engineering by any persons, either as a member, officer or employee of any partnership, firm, or corporation, who is not registered in the appropriate branch of professional engineering.

(c) This chapter does not prevent or prohibit an individual, firm, company, association or corporation engaged in any line of business other than the practice of civil, electrical or mechanical engineering from employing a registered civil, electrical or mechanical engineer to perform the corresponding civil, electrical or mechanical engineering services incidental to the conduct of their business.

(d) The provisions of this section shall not apply to, or prevent the use of the name of, any partnership, firm, or corporation engaged in

rendering civil engineering services which lawfully is in existence, or was lawfully in existence on or after September 30, 1947; provided, all civil engineering plans, specifications, and reports are prepared by or under the direct supervision of a registered civil engineer, who may be a member of the firm, or a permanent employee of the partnership, firm, or corporation; provided further, that all civil engineering plans, specifications and reports shall be signed by or stamped with the seal of the registered civil engineer in charge of the preparation of the same.

Nor shall they apply to or prevent the use of the name of any partnership, firm, or corporation engaged in rendering electrical or mechanical engineering services which lawfully is in existence, or was lawfully in existence, on or after December 31, 1967; provided all electrical or mechanical engineering plans, specifications, and reports are prepared correspondingly by or under the direct supervision of a registered electrical or mechanical engineer, who may be a member of the firm, or a permanent employee of the partnership, firm, or corporation; provided further that all electrical or mechanical engineering plans, specifications and reports shall correspondingly be signed by or stamped with the seal of the registered electrical or mechanical engineer in charge of the preparation of the same.

(e) The provisions of this section shall not prevent the use of the name of a partnership, firm, or corporation engaged in rendering professional engineering services which lawfully is in existence or was lawfully in existence on or after September 30, 1947, by any lawful successor in interest or survivor if the board, upon written application informing it of the proposed method of carrying on the business and of the changes, if any, in personnel in charge of the engineering activities of the successor or survivor, determines, after investigation, that the actual operating organization of the partnership, firm, or corporation is substantially carried into and becomes an operating part of the successor or survivor and that the public safety, health, and welfare will not be impaired; provided that in the practice of professional engineering such successor in interest or survivor shall otherwise be subject to the provisions of paragraphs (1) and (2) of subdivision (a) of this section.

SEC. 2. Section 6738.1 of the Business and Professions Code is amended to read:

6738.1. The provisions of Section 6738 shall not prevent a partnership, firm, or corporation engaged in rendering professional engineering services from using in its name the name of a deceased or retired person where (a) the deceased or retired person's name had been used in the name of such partnership, firm, corporation, or a predecessor in interest of such partnership, firm, or corporation, for a period of five consecutive years prior to the death or retirement and continuously after the death or retirement, and where (b) the deceased or retired person shall have been a partner of such partnership, member of such firm, shareholder of such corporation,

or a partner, member, or shareholder of such predecessor in interest of the partnership, firm or corporation, and where (c) the deceased or retired person shall have been registered by the board in a branch of professional engineering, or as an architect continuously for a period of five years prior to his death or retirement, if the board, upon written application informing it of the proposed method of carrying on the business and of the changes, if any, in personnel in charge of the engineering activities of such partnership, firm, or corporation, determines, after investigation, that the actual operating organization thereof is otherwise substantially the same as prior to the death or retirement and that the public safety, health, and welfare will not be impaired; provided that a retired person has consented to the continued use of his name, does not engage in the practice of professional engineering in California with any other partnership, firm, or corporation during the period of such consent, and does not permit the use of his name in the practice of professional engineering in California during the period of such consent by anyone other than the partnership, firm, or corporation from which he retired; and provided further that in the practice of professional engineering through such partnership, firm, or corporation it shall continue to be so carried on and shall otherwise be subject to the provisions of paragraphs (1) and (2) of subdivision (a) of Section 6738. A partnership, firm, or corporation, which has complied with the provisions of subdivision (e) of Section 6738 shall be exempted from compliance with this section.

Any partnership, firm, or corporation using in its name the name of a deceased person as provided for in this section shall designate on its letterheads and other listings of firm personnel the years in which the deceased was born and died.

CHAPTER 239

An act to amend Sections 3352 and 3363.6 of the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978.]

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

SECTION 1. Section 3352 of the Labor Code is amended to read:

3352. "Employee" excludes:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk, deputy

sheriff, or deputy constable appointed for his own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his services as such deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him for injury occurring in the course of and arising out of such employment.

(d) Any 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.

(h) Any person defined in subdivision (d) of Section 3351 who was employed by such employer for less than 52 hours during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412, or who earned less than one hundred dollars ($100) in wages from such employer during the 90 calendar days immediately preceding the date of the injury for injuries as defined in Section 5411 or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of such disease or injury for injuries as defined in Section 5412.

(i) Any person performing voluntary service for a private, nonprofit organization and who receives no compensation for such services other than meals or transportation or an allowance or reimbursement for meals and transportation; provided, however, that the organization is exempt from federal income tax under subsection (c) of Section 501 of the Internal Revenue Code, is participating at the time of the volunteer's injury in a program funded and sponsored pursuant to Title II of the Domestic Volunteer Service Act of 1973 (Public Law 93-113; 42 U.S.C. 4951, et seq.—National Older American Volunteer Programs), and has outstanding adequate liability, medical treatment, and disability insurance for its volunteers as required by federal law or regulations.

SEC. 2. Section 3363.6 of the Labor Code is amended to read:

3363.6. (a) Notwithstanding Sections 3351 and 3352, a person who performs voluntary service without pay for a private, nonprofit organization which is exempt from federal income tax under subsection (c) of Section 501 of the Internal Revenue Code, as designated and authorized by the board of directors of the organization, shall, when the board of directors of the organization, in its sole discretion, so declares, be deemed an employee of the organization for purposes of this division while performing such service.

(b) For purposes of this section, "voluntary service without pay" shall include the performance of services by a parent, without remuneration in cash, when rendered to a cooperative parent participation nursery school if such service is required as a condition of participation in the organization.

(c) For purposes of this section, "voluntary service without pay" shall include the performance of services by a person who receives no compensation for such services other than meals and transportation or an allowance or reimbursement for meals and transportation.

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 for individuals who volunteer their services to nonprofit organizations to continue to be reimbursed for their expenses in connection with such service without the organization being required to obtain workers' compensation coverage for such volunteers, it is necessary that this act take effect immediately.

CHAPTER 240

An act to amend Sections 2101, 2105, 2106 and 2451.2 of, and to amend and renumber Section 2217.5 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 2101 of the Business and Professions Code is amended to read:

2101. Members of the board shall only be appointed from persons who have been citizens of this state for at least five years next preceding their appointment. Members of the board, except the public members, shall only be appointed from persons who hold licenses under this chapter or any preceding medical practice act of

this state. Four such licensee members shall be members of the faculty of a clinical department of an approved medical school in the state. The public members shall not be licentiates of the board. No person who in any manner owns any interest in any college, school, or institution engaged in medical instruction shall be appointed to the board. Not more than four members of the board may be full-time members of the faculties of medical schools.

SEC. 2. 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 members. The board may also elect a president and vice president.

SEC. 3. Section 2106 of the Business and Professions Code is amended to read:

2106. Each division of the board shall hold one regular meeting annually 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. The board and each division of the board may adjourn from time to time until its business is concluded. Special meetings of any division or the board may be held at such time and place as the division or the board may designate.

SEC. 4. Section 2217.5 of the Business and Professions Code is amended and renumbered to read:

2458.5. Every person holding a physician's and surgeon's certificate under this chapter is exempt from the payment of the renewal fee provided such physician and surgeon has practiced medicine for 20 years or more in the State of California, has reached the age of retirement under the Social Security Act, receives social security benefits, and customarily provides his or her services free of charge to any person, organization, or agency. In the event that charges are made, such charges shall be nominal and in no event shall the aggregate of such charges in any single year be in an amount which would result in his or her income discontinuing his or her eligibility for full social security benefits.

SEC. 5. 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, Division of Allied Health Professions, or examining committee, as the case may be, and payment of all accrued renewal fees and any other fees required by Section 2458.2. 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. Subject to the provisions of Section 2458.2, renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee or accrued renewal fees are paid, or on the date on which

the delinquency fee or the delinquency fee and penalty fee, if any, are paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in Sections 2450.5 and 2451 which next occurs after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

CHAPTER 241

An act to amend Section 2123.3 of, and to add Section 2102 to, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978.]

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

SECTION 1. Section 2102 is added to the Business and Professions Code, to read:

2102. (a) The terms of the eight members added to the board by the amendments to Section 2100 adopted at the Second Extraordinary Session of the 1975 Legislature, shall expire as follows: two on June 1, 1978; three on June 1, 1979; and three on June 1, 1980. The Governor shall designate the terms of such members within 30 days of the effective date of this section as follows: one member from each of two divisions whose terms shall expire on June 1, 1978; and one member from each of three divisions who terms shall expire on January 1, 1979; and one member from each of three divisions whose terms shall expire on June 1, 1980.

(b) Vacancies occuring on the board shall be filled by appointment of the Governor for the unexpired term.

SEC. 2. 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 40 members, 24 of whom shall hold valid physician's and surgeon's certificates, eight of whom shall be public members, and eight 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 nonphysician licentiate of a healing arts board 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. 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:

(a) Under existing law staggered initial terms are not established for the eight members added to the Board of Medical Quality Assurance by the Medical Injury Compensation Reform Act of 1975. As a result, 11 of 19 terms expire on June 1, 1979. In order to properly stagger these expirations at least two terms should expire on June 1, 1978.

(b) In addition, under existing law a nonphysician licentiate of the Board of Medical Quality Assurance or other healing arts board may be appointed to a medical quality review committee. However, a nonphysician licentiate of the Board of Medical Quality Assurance may not be appointed to a panel of the committee for the purpose of hearing cases, the primary function of these committees. As a result, licensees of the examining committees under the jurisdiction of the Board of Medical Quality Assurance realistically are not able to be considered for appointment to these committees.

Thus in order for two terms of members of the Board of Medical Quality Assurance to expire on June 1, 1978, and in order to appoint nonphysician licentiates of the Board of Medical Quality Assurance to medical quality review committees as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 242

An act to amend Section 5 of Chapter 320 and Section 5 of Chapter 407 of the Statutes of 1909, and Section 5 of Chapter 602 of the Statutes of 1913, relating to state general obligation bonds.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 5 of Chapter 320 of the Statutes of 1909 is amended to read:

Sec. 5. For the payment of the principal and interest of said bonds a sinking fund, to be known and designated as the "Second San Francisco seawall sinking fund" shall be, and the same is hereby created, as follows, to wit: The state treasurer, after the second day of July, nineteen hundred and twenty-nine, shall on the first day of each and every month thereafter, after the sale of said bonds, take from the San Francisco harbor improvement fund such sum as, multiplied by the time in months, the bonds then sold and outstanding have to run, will equal the principal of the bonds sold and outstanding at the time said treasurer shall so take said sum from said San Francisco harbor improvement fund, less the amount theretofore taken therefrom for said purpose; and he shall place the sum in the second San Francisco seawall sinking fund created by this act. Said state treasurer shall, on controller's warrants duly drawn for that purpose, employ the moneys in said sinking fund in the purchase of bonds of the United States, or of the State of California, or of the several counties or municipalities of the State of California, which said bonds shall be kept in a proper receptacle, appropriately labeled; but he must keep always on hand a sufficient amount of money in said sinking fund with which to pay the interest on such of the state bonds herein provided to be issued as may have theretofore been sold. And to provide means for the payment of interest on the bonds that may be sold and outstanding, said treasurer shall monthly take from the San Francisco harbor improvement fund, and pay into said seawall sinking fund, an amount equal to the monthly interest then due on all bonds then sold, delivered and outstanding. The board of state harbor commissioners are hereby authorized and directed by the collection of dockage, tolls, rents, wharfage and cranage to collect a sum of money sufficient for the purposes of this act, over and above the amount limited by section two thousand five hundred and twenty-six of the Political Code of the State of California. Between the first and tenth day of May, in the year nineteen hundred and fifty-one and between the first and tenth day of May of each year thereafter until the maturity of said bonds, the said treasurer shall proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be the amount in said sinking fund at that time, and shall thereupon and before the tenth day of June following, give notice by public advertisement to be inserted twice a week for two weeks in two newspapers published in the city and county of San Francisco, and also in one newspaper published in the city of Oakland, and also in one newspaper published in the city of Los

Angeles, and also in one newspaper published in the city of Sacramento, stating the number of bonds so drawn and that the principal of said bonds will be paid on presentation to the treasurer on or before the second day of July, following, and that from and after such last named date, all interest upon bonds thus drawn shall cease, and it shall be the duty of the treasurer as soon as said bonds so drawn by lot are surrendered to him and paid, to cancel the same, and the interest coupons thereon, and each year beginning with the year nineteen hundred and fifty-one, the said treasurer shall, in the manner aforesaid, proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be the amount in said sinking fund, and proceed in the manner hereinabove stated. After the payment of all said bonds, the surplus or balance remaining in said sinking fund, if any there be, shall forthwith be paid into the San Francisco harbor improvement fund. At the time of the respective drawings by lot, as aforesaid, and also at the maturity of said state bonds, said treasurer shall sell the United States or other bonds then in said sinking fund, at governing market rates, after advertising the sale thereof in the manner hereinbefore provided for the sale of bonds hereby authorized to be issued, and shall use the proceeds for the payment of such bonds as may be drawn by lot, and at the maturity of said bonds outstanding shall pay and redeem said matured outstanding bonds out of said moneys in said fund in extinguishment of said bonds on controller's warrants duly drawn for that purpose.

SEC. 2. Section 5 of Chapter 407 of the Statutes of 1909 is amended to read:

Sec. 5. For the payment of the principal and interest of said bonds a sinking fund to be known and designated as the "India basin sinking fund" shall be, and the same is hereby created as follows, to wit: The state treasurer shall, on the first day of each and every month, after the second day of December, A.D. 1928, take from the "San Francisco harbor improvement fund," such sum as, multiplied by the time the bonds then sold and outstanding have to run, will equal the principal of the bonds sold and outstanding at the time said treasurer shall so take said sum from said "San Francisco harbor improvement fund," less the amount theretofore taken therefrom for said purpose; and he shall place the sum in the "India basin sinking fund," created by this act. Said state treasurer shall, on controller's warrants, duly drawn for that purpose, employ the moneys in said sinking fund in the purchase of bonds of the United States, or of the State of California, or of the several counties or municipalities of the State of California, which said bonds shall be kept in a proper receptacle, appropriately labeled; but he must always keep on hand a sufficient amount of money in said sinking fund with which to pay the interest on such of the state bonds herein provided to be issued as may have theretofore been sold; and to provide means for the payment of interest on the bonds that may be sold and outstanding, said treasurer shall monthly take from the "San Francisco harbor

improvement fund," and pay into said "India basin sinking fund," an amount equal to the monthly interest then due on all bonds then sold, delivered and outstanding. The board of state harbor commissioners is hereby authorized and directed by the collection of dockage, tolls, rents, wharfage and cranage, to collect a sum of money sufficient for the purposes of this act, over and above the amount limited by section two thousand five hundred and twenty-six of the Political Code of the State of California. Between the first and tenth day of November, in the year nineteen hundred and forty, and between the first and tenth day of November of each year thereafter, until the maturity of said bonds, the said treasurer shall proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be, the amount in said sinking fund at that time, and shall thereupon and before the tenth day of December following, give notice by public advertisement to be inserted twice a week for two weeks in two newspapers published in the city and county of San Francisco, and also in one newspaper published in the city of Oakland, and also in one newspaper published in the city of Los Angeles, and also in one newspaper published in the city of Sacramento, stating the number of bonds so drawn, and that the principal of said bonds shall be paid on presentation to the treasurer on or before the second day of January, following, and that from and after such last named date, all interest upon bonds thus drawn shall cease, and it shall be the duty of the treasurer as soon as said bonds so drawn by lot are surrendered to him and paid, to cancel the same, and the interest coupons thereon, and each year beginning with the year nineteen hundred and forty, the said treasurer shall, in the manner aforesaid, proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be the amount in said sinking fund, and proceed in the manner hereinabove stated. After the payment of all said bonds, the surplus or balance remaining in said sinking fund, if any there be, shall forthwith be paid into the "San Francisco harbor improvement fund." At the time of the respective drawings by lot, as aforesaid, and also at the maturity of said state bonds, said treasurer shall sell the United States bonds, or other bonds, then in said sinking fund, at governing market rates, after advertising the sale thereof, in the manner hereinbefore provided for the sale of bonds hereby authorized to be issued, and shall use the proceeds for the payment of such bonds as may be drawn by lot, and at the maturity of said bonds outstanding shall pay and redeem said matured outstanding bonds, out of said money in said fund, in extinguishment of said bonds, on controller's warrants, duly drawn for that purpose.

SEC. 3. Section 5 of Chapter 602 of the Statutes of 1913 is amended to read:

Sec. 5. For the payment of the principal and interest of said bonds a sinking fund, to be known and designated as the "third San Francisco seawall sinking fund," shall be, and the same is hereby created, as follows, to wit: The state treasurer, after the second day

of July, nineteen hundred and thirty-three, shall on the first day of each and every month thereafter, after the sale of such bonds, take from the San Francisco harbor improvement fund such sum as, multiplied by the time in months, the bonds then sold and outstanding have to run, will equal the principal of the bonds sold and outstanding at the time said treasurer shall so take said sum from said San Francisco harbor improvement fund, less the amount theretofore taken therefrom for said purpose; and he shall place the sum in the third San Francisco seawall sinking fund created by this act. Said state treasurer shall, on controller's warrants duly drawn for that purpose, employ the moneys in said sinking fund in the purchase of the bonds of the United States, or of the State of California, including any bonds authorized, issued and theretofore sold under authority of this act or of the several counties or municipalities of the State of California, which said bonds shall be kept in a proper receptacle, appropriately labeled; but he must keep always on hand a sufficient amount of money in said sinking fund with which to pay the interest on such of the state bonds herein provided to be issued as may have theretofore been sold. The state treasurer may only purchase such bonds authorized and issued under authority of this act with moneys in said sinking fund as have been theretofore sold. And to provide means for the payment of interest on the bonds that may be sold and outstanding, said treasurer shall monthly take from the San Francisco harbor improvement fund, and pay into said seawall sinking fund, an amount equal to the monthly interest then due on all bonds then sold, delivered and outstanding. The board of state harbor commissioners are hereby authorized and directed by the collection of dockage, tolls, rents, wharfage and cranage to collect a sum of money sufficient for the purposes of this act, over and above the amount limited by section two thousand five hundred and twenty-six of the Political Code of the State of California. Between the first and tenth day of May, in the year nineteen hundred and fifty-five and between the first and tenth day of May of each year thereafter until the maturity of said bonds, the said treasurer shall proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be the amount in said sinking fund at that time, and shall thereupon and before the tenth day of June following, give notice by public advertisement to be inserted twice a week for two weeks in two newspapers published in the city and county of San Francisco, and also in one newspaper published in the city of Oakland, and also in one newspaper published in the city of Los Angeles, and also in one newspaper published in the city of Sacramento, stating the number of bonds so drawn and that the principal of said bonds will be paid on presentation to the treasurer on or before the second day of July, following, and that from and after such last named date, all interest upon bonds thus drawn shall cease, and it shall be the duty of the treasurer as soon as said bonds so drawn by lot are surrendered to him and paid, to cancel the same, and the interest coupons thereon, and each year beginning with the year

nineteen hundred and fifty-five, the said treasurer shall in the manner aforesaid, proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be the amount in said sinking fund, and proceed in the manner hereinabove stated. In the event that the state treasurer employs moneys in said sinking fund in the purchase of any bonds authorized, issued and theretofore sold under authority of this act, than at the time in this section provided for the drawing of bonds by lot, and immediately preceding such drawing the state treasurer shall retire and cancel any bonds in said sinking fund authorized, issued and sold under authority of this act, and the amount in said sinking fund remaining at the time shall constitute the amount for the purposes of such drawing. After the payment of all said bonds, the surplus or balance remaining in said sinking fund, if any there be, shall forthwith be paid into the San Francisco harbor improvement fund. At the time of the respective drawings by lot, as aforesaid, and also at the maturity of said state bonds, said treasurer shall sell the United States or other bonds then in said sinking fund, except bonds authorized, issued and sold under authority of this act, at governing market rates, after advertising the sale thereof in the manner hereinbefore provided for the sale of bonds hereby authorized to be issued, and shall use the proceeds for the payment of such bonds as may be drawn by lot, and at the maturity of said bonds outstanding shall pay and redeem said matured outstanding bonds out of said moneys in said fund in extinguishment of said bonds on controller's warrants duly drawn for that purpose.

CHAPTER 243

An act to amend Section 89060 of the Education Code, relating to the California State University and Colleges.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 89060 of the Education Code is amended to read:

89060. For each campus of the California State University and Colleges, except as otherwise provided in this article, there shall be an advisory board of not less than seven nor more than 13 members, who shall be appointed by the trustees. Each member of the advisory board of a campus of the California State University and Colleges shall reside in the area in which such campus is located. No person shall be appointed to serve as a member of an advisory board who at the time holds any salaried position with the California State University and Colleges. No more than three members of an advisory

board may also be members of a county board of education or a governing board of a school district or hold any salaried educational position.

CHAPTER 244

An act to amend Section 66498 of the Government Code, relating to subdivisions.

[Approved by Governor June 16, 1978. Filed with Secretary of State June 16, 1978.]

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

SECTION 1. Section 66498 of the Government Code is amended to read:

66498. In the event of the death, disability or retirement from practice of the engineer or surveyor charged with the responsibility for setting monuments, or in the event of his refusal to set such monuments, the legislative body may direct the county surveyor or city engineer, or such engineer or surveyor as it may select, to set such monuments. If the original engineer or surveyor is replaced by another, the former may, by letter to the county surveyor or city engineer, release his right to set the final monuments to the surveyor or engineer who replaced him. When the monuments are so set, the substitute engineer or surveyor shall amend any map filed pursuant to this division in accordance with the provisions of Sections 66469 to 66472, inclusive. All provisions of this article relating to payment shall apply to the services performed by the substituted engineer or surveyor.

CHAPTER 245

An act to amend Section 5536 of the Public Resources Code, relating to regional park districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 16, 1978. Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 5536 of the Public Resources Code is amended to read:

5536. The board shall establish rules for its proceedings and may provide by ordinance or resolution that each of its members shall receive fifty dollars ($50) per day for attendance on each day of

public meetings of the board, and twenty-five dollars ($25) per day for attendance at board committee meetings, board executive sessions, or board field trips, or for attendance at district public hearings. The maximum compensation allowable to a board member on any given day shall be fifty dollars ($50). Board members shall not receive any other compensation, and no board member shall receive more than two hundred dollars ($200) compensation under the provisions of this section in any one calendar month.

The board of directors shall fill all vacancies on the board, including those caused by the death or resignation of a member, or the establishment of new wards; but whenever a vacancy exists for 30 days the Governor shall fill the vacancy. The person appointed to fill any vacancy shall hold office for the remainder of the unexpired term of his predecessor; except that in the case of newly created wards, the directors shall, prior to making appointments, determine by lot for the purpose of fixing the terms of the first directors to be elected in such wards which ward shall have a four-year term and which ward shall have a two-year term, and the persons appointed to fill vacancies caused by the establishment of new wards shall hold office until the next general election following their appointment and until their successors are elected and qualified for the terms previously determined by lot.

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 board members be compensated for attendance at committee meetings, public hearings, and field trips, it is necessary that this act take effect immediately.

CHAPTER 246

An act to amend Section 10850 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 10850 of the Welfare and Institutions Code is amended to read:

10850. (a) Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open

to examination for any purpose not directly connected with the administration of such program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information which identifies by name or address any applicant for or recipient of such grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).

(b) Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services or the State Department of Health Services, and such lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services or the State Department of Health Services. Such lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for such purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

Any county welfare department, the State Department of Social Services, or the State Department of Health Services may provide the Joint Legislative Audit Committee with access to records of the disbursement of funds or payments, including lists of names of applicants and recipients, under Titles I, IV-A, X, XIV, or XVI of the Social Security Act, and such records shall be released when requested by the committee. The Joint Legislative Audit Committee may use information from such records only for the purpose of investigating the administration of public social services under such titles and reporting the results of any such investigation to the Legislature, and shall not use such information for commercial or political purposes. In any case where disclosure is authorized under this paragraph, the Joint Legislative Audit Committee shall not disclose the identity of any applicant or recipient, except in the case of a criminal or civil proceeding conducted in connection with the administration of public social services.

However, this section shall not prohibit the furnishing of such information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents of schools or superintendents of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind or services directly to individuals on the basis of need. Any person knowingly and intentionally violating the provisions of this subdivision is guilty of a misdemeanor.

(c) The State Department of Social Services shall inform the Department of Motor Vehicles of the names, birth dates, and addresses of all applicants or recipients of aid to the blind. The

Department of Motor Vehicles, upon receipt of such information, shall inform the State Department of Social Services of any such applicant or recipient of aid to the blind who holds a valid California driver's license.

(d) The State Department of Social Services and the State Department of Health Services may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of public social services.

(e) Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

(f) The provisions of this section shall be operative only to the extent permitted by federal law.

CHAPTER 247

An act to amend Section 4661.5 of the Labor Code, relating to workers' compensation benefits.

[Approved by Governor June 16, 1978. Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 4661.5 of the Labor Code is amended to read:

4661.5. Notwithstanding any other provision of this division, when any temporary total disability indemnity payment is made two years or more from the date of injury, the amount of such payment shall be computed in accordance with the temporary disability indemnity average weekly earnings amount specified in Section 4453 or 4460 in effect on the date each such temporary total disability

payment is made.

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 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 248

An act to amend Sections 25402.1, 25960, and 25964 of the Public Resources Code, relating to energy and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 25402.1 of the Public Resources Code is amended to read:

25402.1. In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by various classes of buildings with various types of occupancies. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Include a prescriptive method of complying with the standards including design aids such as a manual, sample calculations and model structural designs. The prescriptive program shall be based on the standards developed pursuant to Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as it existed prior to the effective date of this section.

(c) Produce, no later than 180 days after adoption of the standards, an energy conservation manual for use by designers, builders, and contractors of nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(d) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of such services.

(e) The provisions of subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to such building.

(2) Where there is no such local building department the commission shall enforce the provisions of subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto the commission may provide such enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may by ordinance or resolution prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by such enforcement.

(f) The provisions of subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations

adopted pursuant to those sections that are applicable to such buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section provided that the city or county files the basis of its determination that the standards are cost effective with the commission and the commission finds that such standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections.

(g) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of such regulations.

(h) Should a dispute arise between an applicant for a building permit and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(i) Nothing in Section 25130, 25131, or 25402, or in this section shall be construed to prevent enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to the effective date of this section.

SEC. 2. Section 25960 of the Public Resources Code is amended to read:

25960. No new residential-type gas appliance that is equipped with a pilot light shall be sold in the state after an alternate means has been certified by the commission. This prohibition shall become operative 24 months after an intermittent ignition device has been demonstrated and certified by the commission as an alternate means. The commission may determine, after demonstration, that there is no feasible alternative means to the use of pilot light or that the use of a pilot light is necessary for public health and safety.

SEC. 3. Section 25964 of the Public Resources Code is amended

to read:

25964. After 24 months after an intermittent ignition device has been certified by the commission, no person shall sell or offer for sale in this state any new gas appliances, as defined in Section 25950, without obtaining the proper seal of certification from the commission, unless the commission otherwise permits such action. Beginning 24 months after an intermittent ignition device has been certified by the commission, no city or county, city and county, or state agency shall issue a permit for any building to be equipped with any new gas appliance, as defined in Section 25950, unless such building permit shows that the gas appliance complies with the provisions of this chapter, except that any new gas appliance which does not comply with the provisions of this chapter may be installed if such applicance was purchased pursuant to a contract executed prior to June 17, 1978, and if the building permit was approved prior to July 8, 1978.

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 that residential-type gas appliances equipped with a pilot light may be installed after July 8, 1978, when authorized under a building permit issued prior to July 8, 1978, it is necessary that this act become effective immediately.

CHAPTER 249

An act to add Section 7153.10 to the Financial Code, relating to loans.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978.]

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

SECTION 1. Section 7153.10 is added to the Financial Code, to read:

7153.10. An association may make amortized loans upon the security of real property in an amount in excess of 80 percent of the appraised value of such real property, if:

(a) There is located thereon only a structure designed for residential use for one family or a structure designed for residential use for one family and structures ancillary to such residential use or if such real property is of the type described in subdivision (a), (b) or (c) of Section 7153.1;

(b) The loan includes amounts to finance the rehabilitation of a structure described in subdivision (a) hereof and the loan amount is not in excess of (1) forty-five thousand dollars ($45,000), or (2) 90

percent of the appraised value of the real property plus an additional 15 percent for amounts attributable to rehabilitation or (3) if the loan is made to finance the purchase of the real property, 90 percent of the purchase price plus an additional 15 percent of the purchase price for amounts attributable to rehabilitation, whichever is less. Rehabilitation includes improvements, repairs, alterations and the equipping of a structure which will enable such structure to meet applicable state and local building and housing standards;

(c) If the loan is sought or assumed for the purpose of enabling a purchaser to acquire the security property, the purchaser and the vendor or vendors have jointly executed a certification in writing stating the purchase price of the security property and the items comprising such price;

(d) The association has made or obtained, prior to approval of the loan, a written report on the credit standing of the borrower and the financial ability of such borrower to undertake and pay off the obligation involved in the loan;

(e) The borrower makes a certification in writing that he intends to occupy the property as his home and that no lien or charge upon the property other than the lien of the association or liens or charges which will be discharged from the proceeds of the loan, or, in the case of real property of the type described in subdivisions (a), (b), and (c) of Section 7153.1, liens or charges to secure unpaid assessments for management and common expenses, has been given or executed by him;

(f) The loan requires repayment in monthly installments and each such payment includes the monthly proration of annual taxes in advance until the unpaid balance of such loan shall have been reduced to 80 percent of the appraised value or the purchase price if any, whichever is less, of such property; and

(g) The loan is insured or guaranteed in whole or in part by the California Housing Finance Agency or by the State of California or any instrumentality of the United States.

No association shall have such investments under this section aggregating at any one time more than 30 percent of its total assets. Whenever the unpaid balance of any such loan made under this section shall have been reduced to 80 percent of the appraised value or the purchase price if any, whichever is less, of such property, such loan may be removed from the above imposed limitation of assets.

Notwithstanding Section 7150, a loan made pursuant to this section may be for a term of not more than 35 years.

CHAPTER 250

An act to amend Section 3501 of, to add Sections 3527 and 3529 to, and to repeal Sections 3527 and 3529 of, the Business and Professions Code, relating to physicians' assistants.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 3501 of the Business and Professions Code is amended to read:

3501. As used in this chapter:

(a) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

(b) "Approved program" means a program for the education of physician's assistants which has been formally approved by the committee.

(c) "Trainee" means a person who is currently enrolled in an approved program.

(d) "Physician's assistant" means a person who meets the requirements of this chapter and is certified by the committee.

(e) "Committee" means the Physician's Assistant Examining Committee.

(f) "Regulations" means the rules and regulations as contained in Chapter 13 (commencing with Section 1300) and Chapter 13.7 (commencing with Section 1399.500) of Title 16 of the California Administrative Code.

(g) "Routine visual screening" means uninvasive nonpharmacological simple testing for visual acuity; for visual field defects; for color blindness; and depth perception.

SEC. 2. Section 3527 of the Business and Professions Code is repealed.

SEC. 3. Section 3527 is added to the Business and Professions Code, to read:

3527. (a) The committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician's assistant certificate after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the State Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

(b) The committee may order the denial of an application for, or the suspension or revocation of, or the imposition or probationary conditions upon, an approved program after a hearing as required in Section 3528 for a violation of this chapter or the regulations adopted pursuant thereto.

(c) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension and revocation of, or the imposition of probationary conditions upon, an approval to supervise a physician's assistant after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the State Medical Practice Act, or a violation of the regulations adopted by the committee or the board.

SEC. 4. Section 3529 of the Business and Professions Code is repealed.

SEC. 5. Section 3529 is added to the Business and Professions Code, to read:

3529. The committee may hear any matters filed pursuant to subdivisions (a) and (b) of Section 3527, or may assign any such matter to a hearing officer. The board may hear any matters filed pursuant to subdivision (c) of Section 3527, or may assign any such matter to a hearing officer. If a matter is heard by the committee or the board, the hearing officer who presided at the hearing shall be present during the committee's or board's consideration of the case, and, if requested assist and advise the committee or the board.

CHAPTER 251

An act to amend Section 11580.2 of the Insurance Code, relating to insurance.

[Approved by Governor June 16, 1978. Filed with Secretary of State June 16, 1978]

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

SECTION 1. 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. As used in this section, 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, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(A) The bodily injury has arisen out of physical contact of such automobile with the insured or with an automobile which the insured is occupying.

(B) 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 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. As used in this section, 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.

As used in this section, 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 workers' 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 workers' 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 of 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 workers' 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 jurisdiction 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.

CHAPTER 252

An act to amend Sections 21201.5, 21806, 24603, 25106, 25259, 25650.5, 25803, and 25950 of, and to add Section 25251.1 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 21201.5 of the Vehicle Code is amended to read:

21201.5. (a) No person shall sell or offer for sale a reflex reflector or reflectorized tire required by this article to be installed on a bicycle unless it is of a type approved by the department.

(b) No person shall sell or offer for sale a new bicycle that is not equipped with a white or yellow reflector, of a type approved by the department, on each pedal visible from the front and rear of the bicycle during darkness from a distance of 200 feet, and with a white

or yellow reflector on each side forward of the center of the bicycle, and with a white or red reflector on each side to the rear of the center of the bicycle, except that bicycles which are equipped with reflectorized tires on the front and rear need not be equipped with these side reflectors.

(c) No person shall sell or offer for sale a bicycle unless it is equipped with a red reflector, of a type approved by the department, on the rear of the bicycle.

(d) Area reflectorizing material meeting the requirements of Section 25500 may be used on a bicycle.

SEC. 2. Section 21806 of the Vehicle Code is amended to read:

21806. Upon the immediate approach of an authorized emergency vehicle sounding a siren and having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 1,000 feet to the front of such vehicle, except as otherwise directed by a traffic officer:

(a) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the highway clear of any intersection and thereupon stop and remain in such position until the authorized emergency vehicle has passed.

(b) The motorman of every street car shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed.

(c) All pedestrians upon the highway shall remain in a place of safety or proceed to the nearest curb or place of safety until the authorized emergency vehicle has passed.

SEC. 3. Section 24603 of the Vehicle Code is amended to read:

24603. Every motor vehicle which is not in combination with any other vehicle and every vehicle at the end of a combination of vehicles shall at all times be equipped with stoplamps mounted on the rear as follows:

(a) Every such vehicle shall be equipped with one or more stoplamps.

(b) Every such vehicle, other than a motorcycle, manufactured and first registered on or after January 1, 1958, shall be equipped with two stoplamps, except that trailers and semitrailers manufactured after July 23, 1973, which are less than 30 inches wide, may be equipped with one stoplamp which shall be mounted at or near the vertical centerline of the trailer. If such vehicle is equipped with two stoplamps, they shall be mounted as specified in subdivision (d).

(c) Stoplamps on vehicles manufactured on or after January 1, 1969, shall be mounted not lower than 15 inches nor higher than 72 inches, except that a tow car, in addition to being equipped with the required stoplamps, may also be equipped with two stoplamps which may be mounted not lower than 15 inches nor higher than the maximum allowable vehicle height and as far forward as the rearmost portion of the driver's seat in the rearmost position.

(d) Where two stoplamps are required, at least one shall be

mounted at the left and one at the right side, respectively, at the same level.

(e) Stoplamps on vehicles manufactured on or after January 1, 1979, shall emit a red light. Stoplamps on vehicles manufactured before January 1, 1979, shall emit a red or yellow light. All stoplamps shall be plainly visible and understandable from a distance of 300 feet to the rear both during normal sunlight and at nighttime, except that stoplamps on a vehicle of a size required to be equipped with clearance lamps shall be visible from a distance of 500 feet during such times.

(f) Stoplamps shall be actuated upon application of the service (foot) brake and the hand control head for air, vacuum, or electric brakes. In addition, all stoplamps may be activated by a mechanical device designed to function only upon sudden release of the accelerator while the vehicle is in motion. Such mechanical device shall be approved by, and comply with specifications and regulations established by, the department.

(g) Any vehicle may be equipped with supplemental stoplamps mounted to the rear of the rearmost portion of the driver's seat in its rearmost position in addition to the lamps required to be mounted on the rear of the vehicle. The supplemental stoplamp on that side of a vehicle toward which a turn will be made may flash as part of the supplemental turn signal lamp.

SEC. 4. Section 25106 of the Vehicle Code is amended to read:

25106. (a) Any motor vehicle may be equipped with lighted white or amber cowl or fender lamps on the front. Any vehicle may be equipped with not more than one amber side lamp on each side near the front, nor more than one red side lamp on each side near the rear. The light source of each such lamp shall not exceed four standard candlepower.

(b) Lamps approved as side-marker or combination clearance and side-marker lamps may be installed on the sides of vehicles at any location, but any lamp installed within 24 inches of the rear of the vehicle shall be red, and any lamp installed at any other location shall be amber.

SEC. 5. Section 25251.1 is added to the Vehicle Code, to read:

25251.1. Any implement of husbandry displaying a slow moving vehicle emblem, as defined in Section 24615, and being operated at a speed of 25 miles per hour or less, may be equipped with double-faced amber turn signals which may be flashed simultaneously as warning lights.

SEC. 6. Section 25259 of the Vehicle Code is amended to read:

25259. Any authorized emergency vehicle may display flashing amber warning lights to the front, sides or rear. A vehicle operated by a police or traffic officer while in the actual performance of his duties as such officer may be equipped with top-mounted lamps emitting steady burning or flashing white light to either side and may also display to the rear of the vehicle a light of distinctive color, which color has been approved by the department.

SEC. 7. Section 25650.5 of the Vehicle Code is amended to read:

25650 5. Every motorcycle manufactured and first registered on and after January 1, 1978, shall be equipped with at least one and not more than two headlamps which automatically turn on when the engine of the motorcycle is started and which remain lighted as long as the engine is running.

SEC. 8. Section 25803 of the Vehicle Code is amended to read:

25803. (a) All vehicles not otherwise required to be equipped with headlamps, rear lights, or reflectors by this chapter shall, if operated on a highway during darkness, be equipped with a lamp exhibiting a red light visible from a distance of 500 feet to the rear of the vehicle. In addition, all such vehicles operated alone or as the first vehicle in a combination of vehicles, shall be equipped with at least one lighted lamp exhibiting a white light visible from a distance of 500 feet to the front of the vehicle.

(b) Such vehicle shall also be equipped with an amber reflector on the front near the left side and a red reflector on the rear near the left side. The reflectors shall be mounted on the vehicle not lower than 16 inches nor higher than 60 inches above the ground and so designed and maintained as to be visible during darkness from all distances within 500 feet from the vehicle when directly in front of a motor vehicle displaying lawful lighted headlamps undimmed.

(c) In addition, if such vehicle or the load thereon has a total outside width in excess of 100 inches there shall be displayed during darkness at the left outer extremity at least one amber light visible under normal atmospheric conditions from a distance of 500 feet to the front, sides and rear. At all other times there shall be displayed at the left outer extremity a red flag or cloth not less than 16 inches square.

SEC. 9. Section 25950 of the Vehicle Code is amended to read:

25950. Unless provided otherwise, the color of lamps and reflectors upon a vehicle shall be as follows:

(a) All lamps and reflectors visible from in front of a vehicle shall be white or yellow, except as follows:

(1) Rear side-marker lamps required by Section 25100 may show red to the front.

(2) The color of foglamps described in Section 24403 may be in the color spectrum from white to yellow.

(b) All lamps and reflectors visible from the rear of a vehicle shall be red, except that stoplamps on vehicles manufactured before January 1, 1979, and turn signal lamps and front side-marker lamps required by Section 25100, may show yellow to the rear.

This section applies to the color of a lamp whether lighted or unlighted, and to any reflector exhibiting or reflecting perceptible light of 0.05 candlepower or more per foot-candle of incident illumination, except that taillamps, stoplamps, and turn signal lamps that are visible to the rear may be white when unlighted on vehicles manufactured before January 1, 1974. Any taillamp, stoplamp, backup lamp, or turn signal lamp may have an unlighted lens color

that is darker than the lighted color, and any such lamps that are in addition to the minimum required number may be white or yellow when unlighted.

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 resolve ambiguities and inconsistencies in provisions relating to lighting requirements, and the dates by which compliance will be required, it is necessary for this act to take effect immediately.

CHAPTER 253

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

[Approved by Governor June 16, 1978. Filed with Secretary of State June 16, 1978.]

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

SECTION 1. The Legislature finds that Chumash Painted Cave State Historic Park, Indian Grinding Rock State Historic Park, and the State Indian Museum at Sacramento are the only units of the state park system that pertain exclusively to the Native American culture of this state. Further, the Ahwahnee Roundhouse to be acquired pursuant to this act is a well-preserved structure constructed by local Southern Miwok and Chukchansi Yokuts people at the turn of the century and is situated on a rich archaeological site. Therefore, the Legislature declares that acquisition of this property would be a valuable contribution to the perpetuation of artifacts of the Native American culture of this state.

SEC. 2. Notwithstanding the provisions of Section 5098.2 of the Public Resources Code, the sum of eighty thousand fifty dollars ($80,050) is hereby appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation for expenditure, during the 1977–78, 1978–79, and 1979–80 fiscal years, for the acquisition, as a unit of the state park system, approximately 10 acres, and improvements therein, of property situated in the County of Madera and known as the Ahwahnee Roundhouse and Cemetery. No funds appropriated for this purpose may be encumbered until the department enters into an agreement with the County of Madera or a California nonprofit corporation, or both, for the development, improvement, restoration, care, maintenance, and control of the property, in accordance with plans approved by, and under the supervision of, the department, by the county or the corporation, or both, and at their expense.

SEC. 3. The acquisition authorized by this act shall be subject to the Property Acquisition Law (commencing with Section 15850 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:

The Ahwahnee Roundhouse and Cemetery is zoned for subdivision for single-family residence and is offered for sale. In order that this property may be preserved for the benefit and enjoyment of the general public, it is necessary that this act take effect immediately.

CHAPTER 254

An act to add Section 31510 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor June 16, 1978 Filed with Secretary of State June 16, 1978]

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

SECTION 1. Section 31510 is added to the Government Code, to read:

31510. If a new county is created out of a portion of Santa Barbara County, and if the county formation review commission for the proposed new county provides for a joint retirement system, the existing retirement system of Santa Barbara County operating pursuant to this chapter shall be operated as a joint retirement system for both counties.

The joint retirement system shall operate in all respects as the retirement system had prior to the formation of the new county except as follows:

(a) Any changes in benefits provided under the system shall be made only upon the approval of the boards of supervisors of both counties except that any additional nonvested benefits to employees of Santa Barbara County who have retired as of April 1, 1979, funded from the earnings of the retirement fund which are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund, or from the general fund of Santa Barbara County, or both, shall not require the approval of the board of supervisors of the new county.

(b) The retirement board shall consist of nine members and one alternate member. The County Treasurer of Santa Barbara County shall be one member. The second member shall be a member of the association, other than a safety member, elected by such members employed in Santa Barbara County. The third member shall be a

member of the association, other than a safety member, elected by such members employed in the new county. The fourth member shall be a qualified elector of Santa Barbara County who is not connected with county government in any capacity, except that the member may be a county supervisor, and shall be appointed by the Board of Supervisors of Santa Barbara County. The fifth member shall be a qualified elector of the new county who is not connected with county government in any capacity, except that the member may be a county supervisor, and shall be appointed by the board of supervisors of the new county. The sixth member shall be a qualified elector of either county who is not connected with county government in any capacity and shall be jointly appointed by the two boards of supervisors. A supervisor appointed as a member of the retirement board shall not serve beyond his term of office as supervisor. The seventh member shall be a safety member elected by the safety members of the association. The eighth member shall be a retired member elected by the retired members of the association. The ninth member shall be the county treasurer of the new county.

The alternate member shall be that candidate, if any, for the seventh member from a group under Section 31470.2 or 31470.4 which is not represented by the seventh member, and who is not employed in the county in which the seventh member is employed. If there is no such candidate, the alternate member shall be the candidate from a nonrepresented group who receives the highest number of votes, regardless of where he or she is employed. If there is no alternate member elected as specified above, there shall be no alternate member. The alternate member provided for by this section shall vote as a member of the board only in the event the second, third, seventh or eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the second, third, seventh, or eighth member, the alternate member shall fill such vacancy until a successor qualifies. The alternate shall sit on the board in place of the seventh member when a member of the same service as the alternate member is before the board for determination of his retirement.

Elected members serving on the board at the time of creation of the new county shall continue to serve the balance of their respective terms. The terms of the members appointed by the Board of Supervisors of Santa Barbara County prior to creation of the new county shall terminate upon creation of the new county. The term of the first members appointed by the boards of supervisors shall be staggered and determined by lot so that one term expires each year on the anniversary date of the joint retirement system. Thereafter, the terms of office of the elected and appointed members and the alternate member shall be three years. Compensation for members shall be in accord with Section 31521 except that the ninth member shall not be compensated.

(c) The administration expenses of the system shall be shared by

the two counties in proportion to the number of active members from each county.

(d) Except for membership on the board, the duties imposed upon the county treasurer shall be performed by the County Treasurer of Santa Barbara County provided that the two boards of supervisors may mutually agree to transfer all or a portion of such duties to the county treasurer of the new county.

If the two boards of supervisors agree, the new county may withdraw from the joint retirement system at any time upon such terms and conditions as may be agreed upon by the two counties.

SEC. 2. The Legislature finds and declares that the formation of a new county from a portion of Santa Barbara County would create a unique situation with respect to operation of a retirement system for which a general law cannot be made applicable, and, therefore, that a special law is necessary.

CHAPTER 255

An act relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 19, 1978 Filed with Secretary of State June 19, 1978.]

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

SECTION 1. Notwithstanding Sections 39319 and 39320 of the Education Code, remaining payments due from the Clovis Unified School District on leases or agreements entered into pursuant to Section 1 of Chapter 301 of the Statutes of 1977 shall not be considered outstanding bonded indebtedness of the Clovis Unified School District for purposes of Section 15106 of the Education Code.

SEC. 2. On November 4, 1975, an election was held in the Clovis Unified School District pursuant to former Section 20803.2 of the Education Code to increase the revenue limit of the district for an unspecified number of school years commencing with the 1976-1977 school year for the construction, acquisition, operation, and maintenance of athletic, physical education, and cultural facilities. The voters of the district approved the revenue limit increase. However, due to escalating costs, the governing board of the Clovis Unified School District determined that in certain instances it would be more advantageous to lease or lease-purchase such facilities. Thus, Chapter 301 of the Statutes of 1977 authorized the use of the lease-purchase procedures provided in Article 2 (commencing with Section 39300) of Chapter 3 of Part 23 of the Education Code without the calling and holding of an election for voter approval in the Clovis Unified School District.

In November of 1977, the voters of the Clovis Unified School

District authorized a $19.4 million bond measure for the acquisition of sites and the construction of buildings over a five-year period. In light of the fact that the lease-purchase payments authorized by Section 1 of Chapter 301 of the Statutes of 1977 are considered outstanding bonded indebtedness under Section 39319 of the Education Code, the district would exceed its limitation on outstanding bonded indebtedness by selling all of the newly authorized bonds. The immediate effect of not selling the bonds as planned would be the delay of construction of a much needed junior high school authorized by the 1977 bond election and scheduled for construction beginning in 1978.

SEC. 3. Due to the unique circumstances concerning the school district subject to the provisions of this act, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

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 that additional school buildings and facilities in the Clovis Unified School District may be made available at the earliest possible time where the voters have approved school bonds and an increase in the maximum revenue limit of a school district for the construction, acquisition, operation, and maintenance of similar school buildings or facilities, it is essential that this act take immediate effect.

CHAPTER 256

An act to amend Section 8027 of the Education Code, relating to vocational education.

[Approved by Governor June 20, 1978. Filed with Secretary of State June 20, 1978.]

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

SECTION 1. Section 8027 of the Education Code is amended to read:

8027. Each regional adult and vocational education council shall meet and review:

(a) Adult continuing education plans and offerings delineated under Sections 8530, 8531, 8532, 8533, 8534, and 8535, excluding programs in classes for inmates confined to the county jail or road camp as described in Section 41841.5.

(b) Regional occupational programs and centers plans and offerings under Section 52300.

(c) Plans of a community college district or unified school district

to change a course offered pursuant to Section 51810 or 78300 to a course for which the district would receive state apportionments.

(d) Plans of a community college district to change a course offered as adult education to a regular graded course.

(e) All plans required to be submitted by Comprehensive Employment Training Act prime sponsors to either the State Board of Education or the California Manpower Services Council.

CHAPTER 257

An act to amend Sections 1440.1, 1440.3, and 1443 of the Probate Code, relating to guardianships.

[Approved by Governor June 20, 1978. Filed with Secretary of State June 20, 1978.]

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

SECTION 1. Section 1440.1 of the Probate Code is amended to read:

1440.1. If a petition states that an adoption petition has been filed, a report with respect to the suitability of the petitioner for guardianship shall be filed with the court by the agency investigating the adoption. In any other case the local agency designated by the board of supervisors to provide public social services shall file a report with the court with respect to the petitioner of the same character required to be made with regard to an applicant for foster family home licensure.

SEC. 2. Section 1440.3 of the Probate Code is amended to read:

1440.3. The provisions of Section 1440, requiring allegations in a petition, and Sections 1440.1 and 1440.2 shall not apply where the Director of Mental Health or the Director of Developmental Services is appointed guardian or conservator pursuant to Article 7.5 (commencing with Section 416) of Division 1 of the Health and Safety Code or when the director of the department designated by the board of supervisors to provide social services or the public guardian is appointed guardian or conservator.

SEC. 3. Section 1443 of the Probate Code is amended to read:

1443. Except when an agency is obligated to file a report pursuant to Section 1440.1, the probation officer in the county in which the petition for appointment of guardian of a minor or incompetent person is pending, shall make an investigation of each case whenever he is requested so to do by a judge of the superior court.

CHAPTER 258

An act to amend Section 618 of the Code of Civil Procedure, relating to trial by jury.

[Approved by Governor June 20, 1978. Filed with Secretary of State June 20, 1978.]

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

SECTION 1. Section 618 of the Code of Civil Procedure is amended to read:

618. When the jury, or three-fourths of them, have agreed upon a verdict, they must be conducted into court and the verdict rendered by their foreman. The verdict must be in writing, signed by the foreman, and must be read to the jury by the clerk, or by the court, if there be no clerk, and the inquiry made whether it is their verdict. Either party may require the jury to be polled, which is done by the court or clerk, asking each juror if it is his verdict. If upon such inquiry or polling, more than one-fourth of the jurors disagree thereto, the jury must be sent out again, but if no such disagreement be expressed, the verdict is complete and the jury discharged from the case.

CHAPTER 259

An act to add Section 954.5 to the Streets and Highways Code, relating to county highways.

[Approved by Governor June 20, 1978. Filed with Secretary of State June 20, 1978.]

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

SECTION 1. Section 954.5 is added to the Streets and Highways Code, to read:

954.5. (a) The board of supervisors may, by resolution, terminate the maintenance of any county highway if it finds that the highway is unnecessary for the public convenience.

(b) Evidence that a county highway is unnecessary for the public convenience shall be taken at a public hearing set in accordance with the procedures for the abandonment of a county highway in Sections 955 and 956. Notice of such hearing shall be mailed to the owner of any property fronting on that portion of a county highway subject to the termination of maintenance. A county highway may be deemed unnecessary for the public convenience on the basis of any of the following:

(1) The county highway does not provide the primary access to

occupied properties.

(2) Traffic on the county highway is intermittent and of low volume.

(3) The county highway is impassable for more than six months and there is no demand that it be reopened.

(c) A certified copy of the order terminating maintenance shall be recorded as provided in Section 956.

(d) If the board of supervisors resumes maintenance of a county highway on which maintenance was terminated under this section, a notice of maintenance shall be recorded in the office of the county recorder.

(e) The provisions of this section shall only apply to the Counties of Riverside and San Bernardino.

SEC. 2. The Legislature hereby finds and declares that a unique situation exists in Riverside and San Bernardino Counties with respect to a large number of county highways located in desert areas which are intermittently used, and that a special law is necessary with respect to termination of maintenance on such county highways because a general law cannot be made applicable.

CHAPTER 260

An act to amend Sections 1281.2, 1286, and 1292.2 of, and to add Section 1281.3 to, the Code of Civil Procedure, relating to arbitration.

[Approved by Governor June 20, 1978 Filed with Secretary of State June 20, 1978]

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

SECTION 1. Section 1281.2 of the Code of Civil Procedure is amended to read:

1281.2. On petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party thereto refuses to arbitrate such controversy, the court shall order the petitioner and the respondent to arbitrate the controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that:

(a) The right to compel arbitration has been waived by the petitioner; or

(b) Grounds exist for the revocation of the agreement.

(c) A party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of the same transaction or series of related transactions and there is a possibility of conflicting rulings on a common issue of law or fact. For purposes of this section, a pending court action or special proceeding includes an action or proceeding initiated by the party refusing to arbitrate after the petition to compel arbitration has been filed, but

on or before the date of the hearing on the petition. This subdivision shall not be applicable to an agreement to arbitrate disputes as to the professional negligence of a health care provider made pursuant to Section 1295.

If the court determines that a written agreement to arbitrate a controversy exists, an order to arbitrate such controversy may not be refused on the ground that the petitioner's contentions lack substantive merit.

If the court determines that there are other issues between the petitioner and the respondent which are not subject to arbitration and which are the subject of a pending action or special proceeding between the petitioner and the respondent and that a determination of such issues may make the arbitration unnecessary, the court may delay its order to arbitrate until the determination of such other issues or until such earlier time as the court specifies.

If the court determines that a party to the arbitration is also a party to litigation in a pending court action or special proceeding with a third party as set forth under subdivision (c) herein, the court (1) may refuse to enforce the arbitration agreement and may order intervention or joinder of all parties in a single action or special proceeding; (2) may order intervention or joinder as to all or only certain issues; (3) may order arbitration among the parties who have agreed to arbitration and stay the pending court action or special proceeding pending the outcome of the arbitration proceeding; or (4) may stay arbitration pending the outcome of the court action or special proceeding.

SEC. 2. Section 1281.3 is added to the Code of Civil Procedure, to read:

1281.3. A party to an arbitration agreement may petition the court to consolidate separate arbitration proceedings, and the court may order consolidation of separate arbitration proceedings when:

(1) Separate arbitration agreements or proceedings exist between the same parties; or one party is a party to a separate arbitration agreement or proceeding with a third party; and

(2) The disputes arise from the same transactions or series of related transactions; and

(3) There is common issue or issues of law or fact creating the possibility of conflicting rulings by more than one arbitrator or panel of arbitrators.

If all of the applicable arbitration agreements name the same arbitrator, arbitration panel, or arbitration tribunal, the court, if it orders consolidation, shall order all matters to be heard before the arbitrator, panel, or tribunal agreed to by the parties. If the applicable arbitration agreements name separate arbitrators, panels, or tribunals, the court, if it orders consolidation, shall, in the absence of an agreed method of selection by all parties to the consolidated arbitration, appoint an arbitrator in accord with the procedures set forth in Section 1281.6.

In the event that the arbitration agreements in consolidated

proceedings contain inconsistent provisions, the court shall resolve such conflicts and determine the rights and duties of the various parties to achieve substantial justice under all the circumstances.

The court may exercise its discretion under this section to deny consolidation of separate arbitration proceedings or to consolidate separate arbitration proceedings only as to certain issues, leaving other issues to be resolved in separate proceedings.

This section shall not be applicable to an agreement to arbitrate disputes as to the professional negligence of a health care provider made pursuant to Section 1295.

SEC. 3. Section 1286 of the Code of Civil Procedure is amended to read:

1286. If a petition or response under this chapter is duly served and filed, the court shall confirm the award as made, whether rendered in this state or another state, unless in accordance with this chapter it corrects the award and confirms it as corrected, vacates the award or dismisses the proceeding.

SEC. 4. Section 1292.2 of the Code of Civil Procedure is amended to read:

1292.2. Except as otherwise provided in this article, any petition made after the commencement or completion of arbitration shall be filed in the superior court in the county where the arbitration is being or has been held, or, if not held exclusively in any one county of this state, or if held outside of this state, then such petition shall be filed as provided in Section 1292.

CHAPTER 261

An act to repeal Section 6939.2 of the Harbors and Navigation Code, relating to port districts.

[Approved by Governor June 20, 1978 Filed with Secretary of State June 20, 1978.]

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

SECTION 1. Section 6939.2 of the Harbors and Navigation Code is repealed.

CHAPTER 262

An act to amend Section 5784.8a of the Public Resources Code, relating to recreation and park districts.

[Approved by Governor June 20, 1978 Filed with Secretary of State June 20, 1978]

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

SECTION 1. Section 5784.8a of the Public Resources Code is amended to read:

5784.8a. On or before the 1st day of July in any year the governing body of a city, the area of which is located entirely or partially within a recreation and park district, may, with the concurrence of the park district involved, elect to pay out of municipal funds the whole or a stated percentage of the amount of taxes which will be levied for district purposes for the fiscal year commencing upon the 1st day of July upon property located within the city.

The election shall be made by the adoption of an order reciting that the city, pursuant to this section, elects to pay the whole or a stated percentage of the amount of taxes which will be levied by the district upon property located within the incorporated limits of the city and stating the time and manner in which payment shall be made.

Upon the adoption of the order a certified copy of it shall be presented to the board of directors of the district for its approval. If the board of directors of the district is satisfied that the financial condition of the city reasonably will assure such payment, if the time and manner of payment is acceptable, and if the board of directors of the district concurs in having the district's operations funded in this manner, the board shall by order approve the city's election to pay the taxes. Immediately upon the adoption of the order approving the city's election to pay the taxes, certified copies of both orders shall be filed with the auditor, assessor and tax collector of the supervising authority.

Thereafter, if the whole of the taxes which are levied on property within the city is to be paid by the city, the auditor of the supervising authority shall not extend the district tax on such property, or if only a percentage of the tax which is levied on such property is to be paid by the city the auditor shall only extend the balance of the district tax on such property.

If the payment made by a city exceeds the total amount of district taxes which have been levied against property within the city, the amount of the excess without interest shall be refunded to the city prior to the close of the fiscal year for which the payment was made.

An election to pay taxes pursuant to this section is effective only for the fiscal year for which made.

CHAPTER 263

An act to amend, add and repeal Section 5705 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor June 21, 1978 Filed with Secretary of State June 21, 1978]

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

SECTION 1. Section 5705 of the Welfare and Institutions Code is amended to read:

5705. (a) To continue the approximate 1968–1969 ratio of state-county mental health expenditures, the net cost of all services specified in the approved county Short-Doyle Plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle Plan. The cost of the services shall be the actual cost as determined in accordance with standard accounting practices or a negotiated net amount or rate approved by the Director of Mental Health.

(b) Negotiated net amounts or rates may be used as the cost of services only in accordance with the following paragraphs:

(1) Negotiated net amounts may be used as the cost of services in a contract which provides for the delivery of 75 percent or more of the total county Short-Doyle annual plan for each fiscal year. The negotiated net amount shall be approved by the Department of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the Department of Mental Health and the local mental health program cost accounting and any other information required by the Department of Mental Health in accordance with procedures established by the Director of Mental Health emphasizing success in program outcome versus providers' expenditures. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle Plan. For the purposes of this paragraph, the cost-sharing formula of such contracts shall be 85 percent state funds, 5 percent county funds, and 10 percent funding from the contracting organization which shall not include state or federal funds directly allocated to contracting organizations.

(2) Negotiated rates may be used as the cost of services in contracts with providers whose gross Short-Doyle contract with a county is not more than $150,000 per annum. The negotiated rate shall be approved by the Department of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the Department of Mental Health and the local mental health program cost accounting and any other information required by the Department of Mental Health in accordance with procedures established by the Director of Mental Health.

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

SEC. 2. Section 5705 is added to the Welfare and Institutions Code, to read:

5705. To continue the approximate 1968-1969 ratio of state-county

mental health expenditures, the net cost of all services specified in the approved county Short-Doyle Plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle Plan. This section becomes operative July 1, 1981.

SEC. 3. It is the intent of the Legislature that the amendments to Section 5705 of the Welfare and Institutions Code which are made by Section 1 of this act shall remain in effect only until July 1, 1981, and on that date, Section 2 of this act shall become operative to restore Section 5705 to the form in which it read immediately prior to the effective date of this act.

CHAPTER 264

An act to amend Section 28008 of the Government Code, relating to county salary disbursements.

[Approved by Governor June 21, 1978 Filed with Secretary of State June 21, 1978]

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

SECTION 1. Section 28008 of the Government Code is amended to read:

28008. The board of supervisors may designate one or more state or national banks, or one or more state or federal credit unions, doing business in the county as disbursing agent for the auditor to pay the salaries of such persons whose salaries are paid from the county treasury as may from time to time elect by a written instrument delivered to the auditor, to receive their salaries from such disbursing agent. In lieu of drawing separate salary warrants for such persons as shall have elected to be paid their salaries by such disbursing agent, the auditor may deliver to such disbursing agent a single warrant for the total combined salaries of such persons on or before the designated payday, together with the information necessary to disburse such salaries. The board of supervisors may enter into written contracts with such state and national banks, or state and federal credit unions, for their services as such disbursing agents on such terms as the board deems appropriate.

CHAPTER 265

An act to amend Sections 2033 and 2034 of the Code of Civil Procedure, relating to discovery.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 2033 of the Code of Civil Procedure is amended to read:

2033. (a) After service of summons or the appearance of a party, any other party who has appeared in the action may serve upon such party who has been served or who has appeared a written request for the admission by the latter of the genuineness of any relevant documents described in the request or of the truth of any relevant matters of fact set forth in the request. If a plaintiff desires to serve a request within 10 days after such service of summons or appearance, leave of court, granted with or without notice, must be obtained. Copies of the documents shall be served with the request unless copies have already been furnished, and upon request the originals shall be made available for inspection. Each of the matters of which an admission is requested shall be deemed admitted, provided that the original request contained substantially the following words at the end thereof: "If you fail to comply with the provisions of Section 2033 of the Code of Civil Procedure with respect to this request for admissions, each of the matters of which an admission is requested will be deemed admitted", unless, within the period designated in the request, not less than 30 days after service thereof or within such shorter time as the court may allow for good cause on motion and notice to the party to whom the request is directed or within such longer time as the court may allow for good cause and with or without notice, but in no event later than 60 days prior to the date of trial, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part.If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part of a matter of which an admission is requested, or that he qualify his response thereto, he shall specify so much of it as is true and deny or qualify only the remainder. If the party who has submitted the requests for admissions deems that

further response is required, he may move the court for an order requiring further response. Such motion must be upon notice given within 30 days from date of service of the responses unless the court, on motion and notice, and for good cause shown, enlarges the time. Otherwise, the party submitting the requests for admissions shall be deemed to have waived the right to compel further responses pursuant to this section. Copies of all requests for admissions and of all responses thereto shall be served upon all other parties to the action who have appeared; but the court on motion with or without notice may waive this requirement if the court determines that enforcement thereof would be unduly expensive, oppressive or burdensome. At any time prior to final judgment and upon written request, the party originating requests for admissions or responses thereto shall provide within 30 days of such written request a copy thereof to any other party for any reason not previously served.

Upon failure of a party served with requests for admissions pursuant to this section either to answer or to file objections within the period as designated in the request or as extended by the court, the party making the request may then serve upon the other party a notice in writing by certified or registered mail, return receipt requested, notifying the party so served that the genuineness of such documents or the truth of such facts has been deemed admitted. Once such notice is served, the party upon whom such notice is served shall not have the right to apply for relief under the provisions of Section 473 unless a motion requesting such relief is served and filed within 30 days after service of such notice.

(b) Each party propounding or responding to requests for admissions and any responses thereto shall not file such request or response unless the court, on motion and notice and for good cause shown, so orders. Any party may lodge with the court the original or a copy of any requests for admissions or responses thereto, but these shall not be filed unless the court determines that their contents have become relevant to an issue in a trial or other proceeding.

(c) The number of requests for admissions or of sets of requests for admissions to be served is not limited except as justice requires to protect the party from annoyance, expense, embarrassment or oppression. The provisions of subdivision (b) of Section 2019 are applicable for the protection of the party from whom the admissions are requested under this section.

(d) Any admission made by a party pursuant to such request is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may be used against him in any other action.

(e) Service upon a party of any request for admission or response under this section may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

SEC 2. Section 2034 of the Code of Civil Procedure is amended to read:

2034. (a) If a party or other deponent refuses or fails to answer any question propounded upon examination during the taking of a deposition, or refuses or fails to produce at a deposition any books, documents or other things under his control pursuant to a subpoena duces tecum, the examination shall be completed on other matters or adjourned, as the proponent of the question may prefer. Such proponent, on notice to all persons affected thereby, may move the court in which the action is pending (if the deponent is a party or otherwise subject to the jurisdiction of such court), or if such court does not have jurisdiction over the deponent, to the superior court of the county in which the deposition is taken for an order compelling an answer or if good cause is shown, the production of such book, document, or other thing. Such motion may also be made, without further notice, if the proponent notifies the refusing party or other deponent at the time of such refusal or failure that the proponent will apply to the court for an order pursuant to this subdivision of this section, at a specified time not less than 10 nor more than 30 days from the date of such refusal or failure, in which event the officer before whom the deposition is taken shall direct the refusing or failing party or other deponent to attend a session of said court at said time. Not less than five days prior to the hearing on any such motion, the proponent must lodge with the court the original transcript of such deposition. Upon the refusal or failure of a party to answer any interrogatory submitted under Section 2030 of this code, the proponent of the question may on like notice make like application for such an order. Upon the filing and service of either written objections to a request under Section 2033, or an answer deemed by the requesting party not to be in compliance with the requirements of Section 2033, the party serving such request may on like notice make like application for an order requiring answers or further answers to such request. If the motion is granted the court shall order that an answer or further answer be served within an appropriate time. Upon the refusal or failure of a party to permit inspection or entry after having been served with a request under Section 2031 of this code, the party serving such request may on like notice and upon a showing of good cause make application for an order to compel compliance with the request. If the court finds that the refusal or failure or objection was without substantial justification or that the answer does not comply with the requirements of Section 2033, the court may require the refusing or failing or objecting party or deponent and the party or attorney advising the refusal or failure or objection or any of them to pay to the examining party the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees. If the motion is denied and if the court finds that the motion was made without substantial justification, the court may require the examining party or the attorney advising the motion or both of them to pay to the refusing or failing or objecting party or witness the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees.

If the court orders that an answer or further answer to requests for admissions be made, and such answer or further answer is not filed and served within the period ordered by the court, each of the matters involved in such order shall be deemed admitted, subject only to relief pursuant to Section 473, as restricted by the provisions of Section 2033.

(b) (1) The court may punish as a contempt (i) the refusal of any person to obey a subpoena issued by that court to attend a deposition or to be sworn as a witness, or (ii) the refusal of any person to attend a session of court (either personally or by his attorney) after having been directed to attend in the manner provided in subdivision (a) of this section, or (iii) the refusal of any person to obey any order made by the court under subdivision (a) of this section.

(2) If 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 any such party or person refuses to obey on order made under subdivision (a) of this section, or if any party or an officer or managing agent of a party refuses to obey an order made under Section 2019, 2031 or 2032 of this code, the court may make such orders in regard to the refusal as are just, and among ōthers the following:

(i) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the physical or mental or blood condition of the person sought to be examined, or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(ii) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of the physical or mental or blood condition of the person sought to be examined;

(iii) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(iv) An order requiring the disobedient party or the attorney advising such disobedience to pay to the party obtaining an order under this section the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees;

(v) In lieu of any of the foregoing orders or in addition thereto, an order directing the arrest of any party or agent of a party for disobeying any of such orders except an order to submit to a physical or mental or blood examination;

(vi) Where a party has failed to comply with an order under subdivision (a) of Section 2032 of this code requiring him to produce another for examination, such orders as are listed in (i), (ii), and (iii) of this subdivision of this section, unless the party failing to comply

shows that he is unable to produce such person for examination.

(c) If a party, after being served with a request under Section 2033 of this code to admit the genuineness of any documents or the truth of any matters of fact, serves a sworn denial thereof and if the party requesting the admissions thereafter proves the genuineness of any such document or the truth of any such matter of fact, he may apply to the court in the same action for an order requiring the other party to pay him the reasonable expenses incurred in making such proof, including reasonable attorney's fees. If the court finds that there were no good reasons for the denial and that the admissions sought were of substantial importance, the order shall be made.

(d) If a party or a person for whose immediate benefit the action or proceeding is prosecuted or defended or anyone who at the time the deposition is set is an officer, director, or managing agent of any such party or person willfully fails to appear before the officer who is to take his deposition, after said party or his attorney has been served with a proper notice in accordance with the provisions of subdivision (a) (4) of Section 2019 of this code, or if a party or an officer or managing agent of a party willfully fails to serve answers to interrogatories submitted under Section 2030 of this code, after proper service of such interrogatories, the court on motion and notice may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, or impose such other penalties of a lesser nature as the court may deem just, and may order that party or his attorney to pay to the moving party the reasonable expenses in making such motion, including reasonable attorney's fees.

CHAPTER 266

An act to amend Sections 1384.1 and 1388.1 of the Civil Code, relating to powers of appointment.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 1384.1 of the Civil Code is amended to read:

1384.1. (a) A power of appointment can be exercised only by a donee having the capacity to transfer the interest in property to which the power relates.

(b) Unless the creating instrument otherwise provides, a donee who is a minor may not exercise a power of appointment during minority.

SEC. 2. Section 1388.1 of the Civil Code is amended to read:

1388.1. (a) The donee of a power of appointment that is presently

exercisable, whether general or special, can contract to make an appointment to the same extent that the donee could make an effective appointment.

(b) The donee of a power of appointment cannot contract to make an appointment while the power of appointment is not presently exercisable. If a promise to make an appointment under such a power is not performed, the promisee cannot obtain either specific performance or damages, but the promisee is not prevented from obtaining restitution of the value given by the promisee for the promise.

(c) Unless the creating instrument expressly provides that the donee may not contract to make an appointment while the power of appointment is not presently exercisable, subdivision (b) does not apply to the case where the donor and the donee are the same person. In such case, the donee can contract to make an appointment to the same extent that the donee could make an effective appointment if the power of appointment were presently exercisable.

CHAPTER 267

An act to add Sections 35178 and 72203.5 to the Education Code, relating to school and community college district governing boards.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 35178 is added to the Education Code, to read:

35178. A member of the governing board of a school district who has tendered a resignation with a deferred effective date pursuant to Section 5090 shall, until the effective date of the resignation, continue to have the right to exercise all powers of a member of the governing board, except that such member shall not have the right to vote for his or her successor in an action taken by the board to make a provisional appointment pursuant to Section 5091.

SEC. 2. Section 72203.5 is added to the Education Code, to read:

72203.5. A member of the governing board of a community college district who has tendered a resignation with a deferred effective date pursuant to Section 5090 shall, until the effective date of the resignation, continue to have the right to exercise all powers of a member of the governing board, except that such member shall not have the right to vote for his or her successor in an action taken by the board to make a provisional appointment pursuant to Section 5091.

CHAPTER 268

An act to amend Section 43.7 of the Civil Code, relating to medical review immunity.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 22, 1978.]

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

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

43.7. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical or dental services rendered by physicians and surgeons, or dentists, which committee is composed chiefly of physicians and surgeons, or dentists, for any act or proceeding undertaken or performed in reviewing the quality of medical or dental services rendered by physicians and surgeons, or dentists, or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff in the hospital, if such committee or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he acts, and acts in reasonable belief that the action taken by him is warranted by the facts known to him after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, accounting, optometric, podiatric, pharmaceutic, chiropractic, and engineering organizations having as members at least a majority of the eligible licentiates in the area served by the particular society. The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

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

obtain such facts.

This section shall not be construed to confer immunity from liability on any professional society or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a hospital or professional society, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

CHAPTER 269

An act to amend Section 16759 of the Business and Professions Code, relating to district attorneys.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 16759 of the Business and Professions Code is amended to read:

16759. All those powers granted to the Attorney General as a head of a department under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code shall be granted to the district attorney of any county where such district attorney reasonably believes that there may have been a violation of Article 2 (commencing with Section 16720) or Article 3 (commencing with Section 16750) of this chapter, or a violation of Chapter 4 (commencing with Section 17000) of this part, or a violation of Chapter 5 (commencing with Section 17200) of this part, and shall be subject to the provisions of Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code. Any investigations pursuant to such powers shall be conducted in accordance with the procedures set forth in Article 2 of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code. Court orders sought pursuant to this section shall be sought in the superior court of the county where the district attorney seeking the order holds office.

CHAPTER 270

An act to amend Section 23038.2 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 22, 1978]

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

SECTION 1. Section 23038.2 of the Business and Professions Code is amended to read:

23038.2. Notwithstanding the provisions of Section 23038, for purposes of issuing an on-sale beer and wine license only, "bona fide public eating place" also means a ball park, stadium, or coliseum featuring professional sporting events which maintains suitable kitchen facilities for the preparation of food which is offered for sale to persons attending such professional sporting events.

The Department of Alcoholic Beverage Control may prescribe specific types and sizes of beer and wine containers which may be sold pursuant to the provisions of this section.

CHAPTER 271

An act to amend Section 31454 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 31454 of the Government Code is amended to read:

31454. The board of supervisors shall not later than 90 days after the beginning of the immediately succeeding fiscal year adjust the rates of interest, the rates of contributions of members, and county and district appropriations in accordance with the recommendations of the board, but shall not fix them in such amounts as to reduce the individual benefits provided in this chapter.

CHAPTER 272

An act to amend Sections 2416, 2417, and 40000.7 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 2416 of the Vehicle Code is amended to read:

2416. (a) The Commissioner of the California Highway Patrol may issue authorized emergency vehicle permits only for the following vehicles, and then only upon a finding in each case that the

vehicle is used in responding to emergency calls for fire or law enforcement or for the immediate preservation of life or property or for the apprehension of law violators:

(1) Any vehicle maintained in whole or in part by the state, a county or a city and privately owned and operated by a constable, deputy constable, or person who is a member of, and who receives salary from, and is regularly employed by, a police department or sheriff's department, provided the state, county or city does not furnish to such person a publicly owned authorized emergency vehicle.

(2) An emergency repair vehicle of a utility or public utility.

(3) Firefighting equipment designed and operated exclusively as such.

(4) Any vehicle operated by the chief, assistant chief, or one other uniformed person designated by the chief of a fire department organized as provided in the Health and Safety Code or the Government Code or pursuant to special act of the Legislature.

(5) Any vehicle of an air pollution control district used to enforce provisions of law relating to air pollution from motor vehicles.

(6) Any vehicle operated by the chief of any fire department established on any base of the armed forces of the United States.

(7) Publicly owned vehicles used for law enforcement work by deputized county fish and game wardens or uniformed employees who are designated park rangers by local agencies and who are peace officers under the provisions of Section 830.3 or 830.12 of the Penal Code.

(b) Privately owned ambulances may be operated as emergency vehicles only under a license issued in accordance with the provisions of Chapter 2.5 (commencing with Section 2500) of this division.

(c) The commissioner may adopt and enforce regulations to implement this section.

(d) Violation of any regulation adopted by the commissioner pursuant to this section is a misdemeanor.

SEC. 2. Section 2417 of the Vehicle Code is amended to read:

2417. (a) The commissioner may suspend or revoke any permit issued for an authorized emergency vehicle under the following conditions:

(1) The vehicle is operated in violation of any of the provisions of this code.

(2) The vehicle is operated in violation of the rules and regulations relating to authorized emergency vehicles as promulgated by the commissioner.

(3) The vehicle is not equipped as required by this code.

(b) The permittee of any authorized emergency vehicle whose permit has been suspended or revoked shall be entitled, upon request, to a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) When any authorized emergency vehicle permit has been suspended or revoked under provisions of this section, any additional authorized emergency vehicle permit issued in the name of the permittee may be likewise suspended or revoked.

SEC. 3. 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 2416, relating to regulations for emergency vehicles.

Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

Section 2800.1, relating to fleeing from a peace officer.

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. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the 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. 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:

Local deputized county fish and game wardens and local designated park rangers and security officers urgently need emergency vehicle authorization when performing law enforcement functions. In order for such authorization to be provided as soon as possible before the high-use season begins, it is essential that this act take effect immediately.

CHAPTER 273

An act to amend Sections 481.050 and 489.240 of, and to add Section 483.020 to, the Code of Civil Procedure, relating to attachment.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 481.050 of the Code of Civil Procedure is amended to read:

481.050. "Chose in action" means any right to payment which arises out of the conduct of any trade, business, or profession and which (a) is not conditioned upon further performance by the defendant or upon any event other than the passage of time, (b) is not an account receivable, (c) is not a deposit account, and (d) is not evidenced by a negotiable instrument, security, chattel paper, or judgment. The term includes a right to payment on a nonnegotiable instrument which is otherwise negotiable within Division 3 (commencing with Section 3101) of the Commercial Code but which is not payable to order or to bearer.

SEC. 2. Section 483.020 is added to the Code of Civil Procedure, to read:

483.020. (a) Subject to subdivision (d), the amount to be secured by the attachment in an unlawful detainer proceeding is the sum of the following:

(1) The amount of the rent due and unpaid as of the date of filing the complaint in the unlawful detainer proceeding.

(2) Any additional amount included by the court under subdivision (c).

(3) Any additional amount included by the court under Section 482.110.

(b) In an unlawful detainer proceeding, the plaintiff's application for a right to attach order and a writ of attachment pursuant to this title may include (in addition to the rent due and unpaid as of the date of the filing of the complaint and any additional estimated amount authorized by Section 482.110) an amount equal to the rent for the period from the date the complaint is filed until the estimated date of judgment or such earlier estimated date as possession has been or is likely to be delivered to the plaintiff, such amount to be computed at the rate provided in the lease.

(c) The amount to be secured by the attachment in the unlawful detainer proceeding may, in the discretion of the court, include an additional amount equal to the amount of rent for the period from the date the complaint is filed until the estimated date of judgment or such earlier estimated date as possession has been or is likely to be delivered to the plaintiff, such amount to be computed at the rate provided in the lease.

(d) Notwithstanding subdivision (b) of Section 483.010, an attachment may be issued in an unlawful detainer proceeding where the plaintiff has received a payment or holds a deposit to secure the payment of rent or the performance of other obligations under the lease. If the payment or deposit secures only the payment of rent, the amount of the payment or deposit shall be subtracted in determining the amount to be secured by the attachment. If the payment or deposit secures the payment of rent and the performance of other obligations under the lease or secures only the performance of other obligations under the lease, the amount of the payment or deposit shall not be subtracted in determining the amount to be secured by the attachment.

SEC. 3. Section 489.240 of the Code of Civil Procedure is amended to read:

489.240. (a) In addition to any other provision of law, the provisions of this section shall be complied with where any of the following personal property is sought to be attached:

(1) A deposit account, or interest therein, not standing in the name of the defendant alone.

(2) Property in a safe-deposit vault or box maintained by a bank, trust company, savings and loan association, or other corporation authorized and empowered to conduct a safe-deposit business and rented by it to a person other than a defendant.

(b) The amount of an undertaking filed to obtain a writ of attachment of property described in subdivision (a) shall be an amount not less than twice the amount sought to be recovered by the plaintiff in the action in which the writ is sought or, if a lesser amount is sought to be levied upon, not less than twice the lesser amount. The undertaking shall secure the payment of any recovery for wrongful attachment by any person, other than the defendant whose interest is sought to be attached, rightfully entitled to such property (which person need not be named specifically in the undertaking but may be referred to generally in the same manner as in this sentence).

(c) Objections to the undertaking may be made by any person claiming to be the rightful owner of the property sought to be levied upon.

CHAPTER 274

An act to amend Section 1748 of the Code of Civil Procedure, relating to conciliation court law.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 1748 of the Code of Civil Procedure is amended to read:

1748. Upon order of the judge of the conciliation court, the counselor of conciliation may destroy any record, paper or document filed or kept in the office of the counselor of conciliation which is more than two years old. In his discretion the judge of the conciliation court may order the microfilming of any of such record, paper, or document.

CHAPTER 275

An act to add Chapter 2.1 (commencing with Section 1320) to Division 2 of the Health and Safety Code, relating to care facilities.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Chapter 2.1 (commencing with Section 1320) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 2.1. ESTABLISHMENT OF COUNTY DEPARTMENTS PERTAINING TO OUT-OF-HOME CARE FACILITIES

1320. Notwithstanding any other provision of law, a county may by ordinance establish a department of the county which may combine in such department any or all of the functions specified in this section or related functions. The duties of such department shall be specified in the county ordinance establishing the department. Such duties may include the following:

(a) The performance of any function which is authorized by Section 1257 to be delegated to local health departments, to the extent delegated by the state department to the department established pursuant to this section. For purposes of this section and Section 1257, a department established pursuant to this section shall be deemed to be a local health department.

(b) The performance of any function which is authorized by Section 1511 to be delegated by the state department to a county, to the extent delegated by the state department to the department authorized by this section.

(c) The performance of any function in connection with, or related to, the certification of health facilities or community care facilities for participation in programs conducted pursuant to Title XVIII, Title XIX, or other provisions of the federal Social Security Act.

(d) The performance of any information and referral activities which are authorized by law to be performed by a county or any of

its departments or officers in connection with health facilities or community care facilities.

(e) The performance of any function authorized by law to be performed by a county or any of its officers or departments in connection with the sanitation, maintenance, occupancy, or other aspects of the physical plant or environmental management of or concerning any health facility or community care facility. For purposes of this section, the department authorized by this section shall be deemed to be a county health department under the control of a county health officer with respect to any provision of law authorizing the performance of any function concerning any health facility or community care facility by a local health department or health officer.

(f) The determination of the suitability for county use, placements, or referrals of particular health facilities or community care facilities.

This section shall not be construed as authorizing the performance of any activity by any county which the county would not otherwise be authorized to perform. This section shall not operate as an independent grant of authority for the performance of any function by a county, but shall permit the consolidation in an existing or new county department of any or all functions which counties are authorized to perform in connection with the matters specified in this section.

For purposes of this section, "health facility" means a health facility as defined in Section 1250, and "community care facility" means a community care facility as defined in Section 1502.

CHAPTER 276

An act to amend Section 1 of Chapter 68 of the Statutes of 1977, relating to school buildings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 22, 1978]

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

SECTION 1. Section 1 of Chapter 68 of the Statutes of 1977 is amended to read:

Section 1. The governing board of a school district which has leased facilities for a continuation high school for at least three years prior to July 1, 1977, may continue to use such facilities until the completion of replacement facilities or until September 1, 1979, whichever occurs first, and such leased facilities shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of Division

3 of Title 2 of the Education Code.

This section shall apply only to a unified school district which had an average daily attendance of less than 11,000 in the 1975–76 fiscal year and the governing board of which, during the 1978 calendar year and prior to the effective date of this act, has purchased a site and has approved building plans for the construction of a permanent facility for a continuation high school.

This section shall remain in effect until September 1, 1979, 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 highly functional facilities to continue for a continuation high school until the construction of new facilities for which a site has been purchased and plans approved, thus avoiding harm to presently functioning successful programs and their student participants, it is necessary that this act take effect immediately.

CHAPTER 277

An act to amend Section 24200 of, and to repeal Sections 23706, 24202, and 24503 of, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 23706 of the Education Code is repealed.

SEC. 2. Section 24200 of the Education Code is amended to read:

24200. Any member prior to the effective date of the member's retirement 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 effective date of the member's retirement.

SEC. 3. Section 24202 of the Education Code is repealed.
SEC. 4. Section 24503 of the Education Code is repealed.

CHAPTER 278

An act to amend Section 584 of the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 584 of the Public Utilities Code is amended to read:

584. Every public utility shall furnish such reports to the commission at such time and in such form as the commission may require in which the utility shall specifically answer all questions propounded by the commission. The commission may require any public utility to file monthly reports of earnings and expenses, and to file periodical or special reports, or both, concerning any matter about which the commission is authorized by any law to inquire or to keep itself informed, or which it is required to enforce. All reports shall be under oath when required by the commission.

CHAPTER 279

An act to amend Section 704 of the Elections Code, and to amend Section 10063 of the Health and Safety Code, relating to elections.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 704 of the Elections Code is amended to read:

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 or of whose deaths he was notified by the state registrar of vital statistics during the preceding month. This notification shall include at least the name, sex, age, birthplace, birthdate, place of residence, date and place of death of each decedent.

The county clerk shall cancel the affidavit of registration of each deceased voter.

SEC. 2. Section 10063 of the Health and Safety Code is amended

to read:

10063. The local registrar of births and deaths shall furnish to the registrar of voters or county clerk not later than the fifteenth day of each month a notification of all deceased persons 18 years of age and over whose deaths were registered with him or of whose deaths he was notified by the state registrar of vital statistics during the preceding month. This notification shall include at least the name, sex, age, birthplace, birthdate, place of residence, and date and place of death for each such decedent.

SEC. 3. 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 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 280

An act to amend Sections 1759.6 and 4040 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 1759.6 of the Insurance Code is amended to read:

1759.6. All insurance charges or premiums collected by an administrator on behalf of or for an insurer or insurers, and return premiums received from such insurer or insurers, shall be held by the administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled thereto, or shall be deposited promptly in a fiduciary bank account established and maintained by the administrator. If charges or premiums so deposited have been collected on behalf of or for more than one insurer, the administrator shall keep records clearly recording the deposits in and withdrawals from such account on behalf of or for each insurer. The administrator shall keep copies of all such records and, upon request of an insurer, shall furnish such insurer with copies of such records pertaining to deposits and withdrawals on behalf of or for such insurer. The administrator shall not pay any claim on behalf of or for such insurer by withdrawals from such fiduciary account. Withdrawals from such account shall be made, as provided in the written agreement between the administrator and the insurer, for (1) remittance to an insurer entitled thereto; (2) deposit in an account maintained in the name of such insurer; (3) transfer to and

deposit in a claims paying account, with claims on behalf of or for such insurer to be paid as provided in Section 1759.7; (4) payment to a group policyholder for remittance to the insurer entitled thereto; (5) payment to the administrator of its commission, fees or charges; or (6) remittance of return premiums to the person or persons entitled thereto.

SEC. 2. Section 4040 of the Insurance Code is amended to read:

4040. A mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest not exceeding either 6 percent per annum, or the maximum interest rate permitted by the Federal Reserve Bank, whichever is the higher rate, on single maturity time deposits in the amount of one hundred thousand dollars ($100,000) and over, running one year or more, which interest shall or shall not constitute a liability of the insurer as to its funds other than as such excess as stipulated in the agreement. Unless otherwise approved by the commissioner, written agreements evidencing such borrowed money shall not be issued in units of less than ten thousand dollars ($10,000). No commission or promotion expense shall be paid in connection with any such loan.

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 alleviate an unintended and impossible burden of compliance imposed upon banks by Chapter 998 of the Statutes of 1977 and in order to alleviate the currently restricted insurance market and encourage the formation of mutual insurers with small contributions to surplus by allowing the Insurance Commissioner to approve written agreements evidencing borrowed money in units of less than ten thousand dollars ($10,000), it is necessary that this act take immediate effect.

CHAPTER 281

An act to amend Section 10176 of the Insurance Code, relating to insurance.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 22, 1978.]

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

SECTION 1. Section 10176 of the Insurance Code is amended to read:

10176. In disability insurance the policy may provide for payment

of medical, surgical, chiropractic, physical therapy, professional mental health, dental, hospital, or optometric expenses upon a reimbursement basis, or for the exclusion of any such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the insured first pay such expenses. No such policy shall prohibit the insured from selecting any psychologist or other person who is the holder of a certificate or license under Sections 1000, 1634, 2135, 2553, 2630, 2948, or 3055 of the Business and Professions Code to perform the particular services covered under the terms of the policy, such certificate holder or licensee being expressly authorized by law to perform such services.

Nor shall any such policy prohibit the insured, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, from selecting any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code, or any occupational therapist as specified in Section 2570 of the Business and Professions Code, to perform the particular services covered under the terms of the policy, such certificate holder, licensee, or otherwise regulated, being expressly authorized by law to perform such services.

CHAPTER 282

An act to add Section 245.5 to the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 23, 1978.]

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

SECTION 1. Section 245.5 is added to the Welfare and Institutions Code, to read:

245.5. In addition to all other powers granted by law, the juvenile court may direct all such orders to the parent, parents, or guardian of a minor who is subject to any proceedings under this chapter as the court deems necessary and proper for the best interests of or the rehabilitation of the minor.

CHAPTER 283

An act to add Section 2732.15 to the Business and Professions Code, relating to nursing.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 23, 1978]

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

SECTION 1. Section 2732.15 is added to the Business and Professions Code, to read:

2732.15. (a) It is the intent of the Legislature in enacting this section to encourage registered nurses to practice in rural areas which have insufficient numbers of registered nurses to provide comprehensive medical care, as determined by the State Department of Health Services.

(b) Notwithstanding any other provision of law, any district hospital of 100 beds or less and which lies within an area described in subdivision (a) may employ a person who has completed a course of nursing instruction meeting the requirements of Section 2736 in another state, district or territory of the United States, or Canada, to perform the duties of a registered nurse, provided such person has committed no act, which, if committed by a licensee would be a ground for disciplinary action. A person employed pursuant to this subdivision may engage in the practice of nursing upon the issuance of a permit issued pursuant to subdivision (c).

(c) A person, to be employed under subdivision (b), shall apply for the interim permit at the time of application for licensure by examination. The board shall issue such an applicant an interim permit authorizing the applicant to practice nursing pending the results of the first licensing examination following the applicant's employment. If the applicant passes the examination, the interim permit shall remain in effect until a regular renewable license is issued by the board. If the applicant fails the examination, the interim permit shall terminate upon notice thereof by certified mail return receipt requested, or if the applicant fails to receive the notice, upon the date specified in the interim permit.

CHAPTER 284

An act to amend Section 41201 of the Education Code, relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 23, 1978]

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

SECTION 1. Section 41201 of the Education Code is amended to read:

41201. Any state department, board, or agency which allocates funds to any school district on the basis of the assessed valuation of property within the district, or which makes any computation on this basis for school building fund repayment purposes, shall average the

factor certified for the current year under Section 41200 for the local roll of the county in which the district is located with the factors so certified for the two immediately preceding years. If the factor for the current year is not provided to the county superintendent of schools by the fifth working day in August, the preliminary factor may be used in its place for determining the average factor to be used to modify the locally assessed valuation of a school district for allocating equalization aid, and for computing loan repayments to the state.

Whenever the factor certified pursuant to Section 41200 is redetermined by the State Board of Equalization for any school district after July 1 of any fiscal year, the redetermined factor shall be used to adjust the district's state equalization aid entitlement in the next succceeding fiscal year.

SEC. 2. This act shall become operative on July 1, 1978.

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 this act to be operative for the entire 1978–79 fiscal year, and so preclude the undesirable fiscal consequences which this act will prevent, it is necessary that this act take effect immediately.

CHAPTER 285

An act to amend Sections 1345, 1351, and 1370 of, to amend, repeal, and add Section 1367 of, and to repeal Section 1375 of, the Health and Safety Code, relating to health care service plans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 23, 1978]

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

SECTION 1. Section 1345 of the Health and Safety Code is amended to read:

1345. As used in this chapter:

(a) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or by radio, television, or similar communications media, published in connection with the offer or sale of plan contracts.

(b) "Basic health care services" means all of the following:

(1) Physician services, including consultation and referral.

(2) Hospital inpatient services and ambulatory care services.

(3) Diagnostic laboratory and diagnostic and therapeutic

radiologic services.

(4) Home health services.

(5) Preventive health services.

(6) Emergency health care services, including ambulance services and out-of-area coverage.

(c) "Enrollee" means a person who is enrolled in a plan and who is a recipient of services from the plan.

(d) "Evidence of coverage" means any certificate, agreement, contract, brochure, or letter of entitlement issued to a subscriber or enrollee setting forth the coverage to which the subscriber or enrollee is entitled.

(e) "Group contract" means a contract which by its terms limits the eligibility of subscribers and enrollees to a specified group.

(f) "Health care service plan" means any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees, and who does not substantially indemnify subscribers or enrollees for the cost of provided services.

(g) "License" means, and "licensed" refers to, a license as a plan pursuant to Section 1353 and, until September 30, 1978, unless extended by the commissioner, a transitional license as a plan pursuant to Section 1350, unless the term refers to a solicitor or solicitor firm license issued pursuant to Section 1358, or unless the context otherwise provides.

(h) "Provider" means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

(i) "Person" means any person, individual, firm, association, organization, partnership, business trust, foundation, labor organization, or corporation, public agency, or political subdivision of the state.

(j) "Service area" means a geographical area designated by the plan within which a plan shall provide health care services.

(k) "Solicitation" means any presentation or advertising conducted by, or on behalf of, a plan, where information regarding the plan, or services offered and charges therefor, is disseminated for the purpose of inducing persons to subscribe to, or enroll in, the plan.

(*l*) "Solicitor" means any person who, for compensation paid directly or indirectly by a plan, engages in the acts defined in subdivision (k) of this section. "Solicitor" does not include a person who is an officer, director, or partner of a solicitor firm licensed under the provisions of Section 1357, and who does not receive compensation specifically related to the sale of subscriptions or enrollments to a plan, and also does not include a sole proprietor licensed as a solicitor firm.

(m) "Solicitor firm" means any person, other than a plan, who through one or more solicitors engages in the acts defined in

subdivision (k) of this section.

(n) "Specialized health care service plan contract" means a contract for health care services in a single specialized area of health care, including dental care, for subscribers or enrollees, or which pays for or which reimburses any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees, and which does not substantially indemnify subcribers or enrollees for the cost of provided services.

(o) "Subscriber" means the person who is responsible for payment to a plan or whose employment or other status, except for family dependency, is the basis for eligiblity for membership in the plan.

(p) Unless the context indicates otherwise, "plan" refers to health care service plans and specialized health care service plans.

(q) "Plan contract" means a contract between a plan and its subscribers or enrollees or a person contracting on their behalf pursuant to which health care services, including basic health care services, are furnished; and unless the context otherwise indicates it includes specialized health care service plan contracts; and unless the context otherwise indicates it includes group contracts.

(r) "Transitional license" means a license required by Section 1350 and issued by the commissioner on October 1, 1977, to a plan which was registered on June 30, 1976, under the Knox-Mills Health Plan Act and which timely filed an application for licensing as a plan under this chapter. No findings are made by the commissioner as a condition precedent to the issuance of a transitional license. Such license expires on September 30, 1978, unless such expiration date is extended by the commissioner.

(s) All references in this chapter to financial statements, assets, liabilities, and other accounting items mean such financial statements and accounting items prepared or determined in accordance with generally accepted accounting principles, and fairly presenting the matters which they purport to present, subject to any specific requirement imposed by this chapter or by the commissioner.

SEC. 2. Section 1351 of the Health and Safety Code is amended to read:

1351. Each application for licensure as a health care service plan or specialized health care service plan under this chapter shall be verified by an authorized representative of the applicant, and shall be in a form prescribed by the department. Such application shall be accompanied by the fee prescribed by subdivision (a) of Section 1356 and shall set forth or be accompanied by each and all of the following:

(a) The basic organizational documents of the applicant; such as, the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents and all amendments thereto.

(b) A copy of the bylaws, rules and regulations, or similar documents regulating the conduct of the internal affairs of the applicant.

(c) A list of the names, addresses, and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, which shall include among others, all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers, each shareholder with over 5-percent interest in the case of a corporation, and all partners or members in the case of a partnership or association, and each person who has loaned funds to the applicant for the operation of its business.

(d) A copy of any contract made, or to be made, between the applicant and any provider of health care services, or persons listed in subdivision (c), or any other person or organization agreeing to perform an administrative function or service for the plan. The commissioner by rule may identify contracts excluded from this requirement and make provision for the submission of form contracts. The payment rendered or to be rendered to such provider of health care services shall be deemed confidential information that shall not be divulged by the commissioner, except that such payment may be disclosed and become a public record in any legislative, administrative, or judicial proceeding or inquiry. The plan shall also submit the name and address of each physician employed by or contracting with the plan, together with his or her license number.

(e) A statement describing the plan, its method of providing for health care services and its physical facilities. If applicable, this statement shall include the health care delivery capabilities of the plan including the number of full-time and part-time primary physicians, the number of full-time and part-time and specialties of all nonprimary physicians; the numbers and types of licensed or state-certified health care support staff, the number of hospital beds contracted for, and the arrangements and the methods by which health care services will be provided. For purposes of this subdivision, primary physicians include general and family practitioners, internists, pediatricians, obstetricians, and gynecologists.

(f) A copy of the forms of evidence of coverage and of the disclosure forms or material which are to be issued to subscribers or enrollees of the plan.

(g) A copy of the form of the individual contract which is to be issued to individual subscribers and the form of group contract which is to be issued to any employers, unions, trustees, or other organizations.

(h) Financial statements accompanied by a report, certificate, or opinion of an independent certified public accountant.

(i) A description of the proposed method of marketing the plan and a copy of any contract made with any person to solicit on behalf of the plan or a copy of the form of agreement used and a list of the contracting parties.

(j) A power of attorney duly executed by any applicant, not domiciled in this state, appointing the commissioner the true and

lawful attorney in fact of such applicant in this state for the purposes of service of all lawful process in any legal action or proceeding against the plan on a cause of action arising in this state.

(k) A statement describing the service area or areas to be served, including the service location for each provider rendering professional services on behalf of the plan and the location of any other plan facilities where required by the commissioner.

(*l*) A description of enrollee-subscriber grievance procedures to be utilized as required by this chapter, and a copy of the form specified by subdivision (c) of Section 1368.

(m) A description of the procedures and programs for internal review of the quality of health care pursuant to the requirements set forth in this chapter.

(n) A description of the mechanism by which enrollees and subscribers will be afforded an opportunity to express their views on matters relating to the policy and operation of the plan.

(o) Evidence of adequate insurance coverage or self-insurance to respond to claims for damages arising out of the furnishing of health care services.

(p) Evidence of adequate insurance coverage or self-insurance to protect against losses of facilities where required by the commissioner.

(q) If required by the commissioner by rule pursuant to Section 1376, a fidelity bond or a surety bond in the amount prescribed.

(r) Evidence of adequate workmen's compensation insurance coverage to protect against claims arising out of work-related injuries that might be brought by the employees and staff of a plan against the plan.

(s) Such other information as the commissioner may reasonably require.

SEC. 3. Section 1367 of the Health and Safety Code is amended to read:

1367. Each health care service plan, and where applicable, each specialized health care service plan, shall meet the following requirements:

(a) All facilities located in this state including, but not limited to, clinics, hospitals, and skilled nursing facilities to be utilized by the plan shall be licensed by the State Department of Health Services, if such licensure is required by law. Facilities not located in this state shall conform to all licensing and other requirements of the jurisdiction in which they are located.

(b) All personnel employed by or under contract to the plan shall be licensed or certified by their respective board or agency, where such licensure or certification is required by law.

(c) All equipment required to be licensed or registered by law shall be so licensed or registered and the operating personnel for such equipment shall be licensed or certified as required by law.

(d) The plan shall furnish services in a manner providing continuity of care and ready referral of patients to other providers

at such times as may be appropriate consistent with good professional practice.

(e) All services shall be readily available at reasonable times to all enrollees. To the extent feasible, the plan shall make all services readily accessible to all enrollees.

(f) The plan shall employ and utilize allied health manpower for the furnishing of services to the extent permitted by law and consistent with good medical practice.

(g) The plan shall have the organizational and administrative capacity to provide services to subscribers and enrollees. The plan shall be able to demonstrate to the department that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management.

(h) All contracts with subscribers and enrollees, including group contracts, and all contracts with providers, and other persons furnishing services, equipment, or facilities to or in connection with the plan, shall be fair, reasonable, and consistent with the objectives of this chapter.

(i) Each health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included in subdivision (b) of Section 1345, except that the commissioner may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from such requirement. The commissioner shall by rule define the scope of each basic health care service which health care service plans shall be required to provide as a minimum for licensure under this chapter. Nothing in this chapter shall prohibit a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, provided that such copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

Nothing in this section shall be construed to permit the commissioner to establish the rates charged subscribers and enrollees for contractual health care services.

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. 4. Section 1367 is added to the Health and Safety Code, to read:

1367. Each health care service plan, and where applicable, each specialized health care service plan, shall meet the following requirements:

(a) All facilities located in this state including, but not limited to, clinics, hospitals, and skilled nursing facilities to be utilized by the plan shall be licensed by the State Department of Health Services, if such licensure is required by law. Facilities not located in this state shall conform to all licensing and other requirements of the

jurisdiction in which they are located.

(b) All personnel employed by or under contract to the plan shall be licensed or certified by their respective board or agency, where such licensure or certification is required by law.

(c) All equipment required to be licensed or registered by law shall be so licensed or registered and the operating personnel for such equipment shall be licensed or certified as required by law.

(d) The plan shall furnish services in a manner providing continuity of care and ready referral of patients to other providers at such times as may be appropriate consistent with good professional practice.

(e) All services shall be readily available at reasonable times to all enrollees. To the extent feasible, the plan shall make all services readily accessible to all enrollees.

(f) The plan shall employ and utilize allied health manpower for the furnishing of services to the extent permitted by law and consistent with good medical practice.

(g) The plan shall have the organizational and administrative capacity to provide services to subscribers and enrollees. The plan shall be able to demonstrate to the department that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management.

(h) All contracts with subscribers and enrollees, including group contracts, and all contracts with providers, and other persons furnishing services, equipment, or facilities to or in connection with the plan, shall be fair, reasonable, and consistent with the objectives of this chapter.

(i) Each health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included in subdivision (b) of Section 1345, except that the commissioner may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from such requirement. The commissioner shall by rule define the scope of each basic health care service which health care service plans shall be required to provide as a minimum for licensure under this chapter. Nothing in this chapter shall prohibit a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, provided that such copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

Nothing in this section shall be construed to permit the commissioner to establish the rates charged subscribers and enrollees for contractual health care services.

This section shall become operative on July 1, 1978, unless a later enacted statute, which is chaptered before July 1, 1978, deletes or extends such date.

SEC. 5. Section 1370 of the Health and Safety Code is amended

to read:

1370. Every plan shall establish procedures in accordance with department regulations for continuously reviewing the quality of care, performance of medical personnel, utilization of services and facilities, and costs. Notwithstanding any other provision of law, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person who participates in quality of care or utilization reviews by peer review committees which are composed chiefly of physicians and surgeons for any act performed during such reviews if such person acts without malice, has made a reasonable effort to obtain the facts of the matter, and believes that the action taken is warranted by the facts, and neither the proceedings nor the records of such reviews shall be subject to discovery, nor shall any person in attendance at such reviews be required to testify as to what transpired thereat.

The above prohibition relating to discovery or testimony shall not apply to the statements made by any person in attendance at such a review who is a party to an action or proceeding the subject matter of which was reviewed, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits, or to the commissioner in conducting surveys pursuant to Section 1380.

This section shall not be construed to confer immunity from liability on any health care service plan. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a health care service plan, such cause of action shall exist notwithstanding the provisions of this section.

SEC. 6. Section 1375 of the Health and Safety Code is repealed.

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:

It is necessary to delete the requirement, which is to become operative September 16, 1978, that plans under the Knox-Keene Health Care Service Plan Act of 1975 have subsequent providers because, although worthy in concept, the requirement is not achievable in practice. It is, therefore, necessary that the provisions of this act go into immediate effect.

CHAPTER 286

An act to amend Section 1245.255 of the Code of Civil Procedure, relating to eminent domain.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 23, 1978]

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

SECTION 1. Section 1245.255 of the Code of Civil Procedure is amended to read:

1245.255. (a) A person having an interest in the property described in a resolution of necessity adopted by the governing body of the public entity pursuant to this article may obtain judicial review of the validity of the resolution:

(1) Before the commencement of the eminent domain proceeding, by petition for a writ of mandate pursuant to Section 1085. The court having jurisdiction of the writ of mandate action, upon motion of any party, shall order the writ of mandate action dismissed without prejudice upon commencement of the eminent domain proceeding unless the court determines that dismissal will not be in the interest of justice.

(2) After the commencement of the eminent domain proceeding, by objection to the right to take pursuant to this title.

(b) A resolution of necessity does not have the effect prescribed in Section 1245.250 to the extent that its adoption or contents were influenced or affected by gross abuse of discretion by the governing body.

(c) Nothing in this section precludes a public entity from rescinding a resolution of necessity and adopting a new resolution as to the same property subject, after the commencement of an eminent domain proceeding, to the same consequences as a conditional dismissal of the proceeding under Section 1260.120.

CHAPTER 287

An act to amend Section 504 of, and to add Section 302.3 to, the Streets and Highways Code, and to amend Section 21356 of, and to add Section 35783.5 to, the Vehicle Code, relating to highways.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 23, 1978.]

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

SECTION 1. Section 302.3 is added to the Streets and Highways Code, to read:

302.3. Notwithstanding Section 253.2, the California freeway and expressway system shall not include that portion of Route 2 from Harter Lane near Gould Canyon north of La Canada to Route 138.

SEC. 2. Section 504 of the Streets and Highways Code is amended to read:

504. Route 204 is from Route 58 to Route 99 near Bakersfield via Union Avenue and Golden State Avenue.

SEC. 3. Section 21356 of the Vehicle Code is amended to read:

21356. The Department of Transportation or local authorities, with respect to highways under their respective jurisdictions, may erect yield right-of-way signs at the entrances to intersections or highways. Such yield right-of-way signs shall not be erected upon the approaches to more than one of the intersecting streets.

Yield right-of-way signs shall be located at or near the entrance to the intersection or highway where motorists are required to yield the right-of-way.

SEC. 4. Section 35783.5 is added to the Vehicle Code, to read:

35783.5. Warning signs required by the terms of a permit shall either be removed from the vehicle or covered from the view of other motorists whenever the vehicle is operating without the load that required the permit.

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 this act is in accordance with the request of local governmental entity or entities which desire legislative authority to carry out the program specified in this act.

CHAPTER 288

An act to amend Sections 1502 and 1530 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 23, 1978]

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. (a) 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:

(1) "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.

(2) "Residential care facility for the elderly" means a group housing arrangement chosen voluntarily by residents who are over 62 years of age and who are provided varying levels of supportive services or care, as agreed upon at the time of admission, based upon

their varying needs.

(3) "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.

(4) "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.

(b) As used in this chapter:

(1) "Director" means the Director of Social Services.

(2) "State department" means the State Department of Social Services.

SEC. 2. Section 1530 of the Health and Safety Code is amended to read:

1530. The state department shall adopt, amend, or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules, regulations, and standards as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state.

Such regulations shall designate separate categories of licensure under which community care facilities shall be licensed pursuant to this chapter, which shall include a separate license category for residential care facilities for the elderly. Such regulations shall also designate the specialized services which community care facilities may be approved to provide pursuant to this chapter.

CHAPTER 289

An act to repeal Section 1317 of the Education Code, relating to classified employees.

[Approved by Governor June 22, 1978 Filed with Secretary of State June 23, 1978.]

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

SECTION 1. Section 1317 of the Education Code is repealed.

CHAPTER 290

An act to amend Section 45036 of the Education Code, relating to certificated school employees.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 23, 1978]

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

SECTION 1. Section 45036 of the Education Code is amended to read:

45036. Whenever, on or after September 15, 1961, a person has rendered service in a position requiring certification qualifications, or the governing board of a district has employed a person in a position requiring certification qualifications, or the county superintendent has drawn an order for a warrant in favor of a person in a position requiring certification qualifications, for a period of service during which the person did not have a valid credential required for such position in force as required by law, and when as a result thereof the employment of the person to render such service, the rendering of such service, the inclusion of the attendance of pupils taught by the person in the average daily attendance of the district, or the drawing of the order warrant for the service of such person, is in violation of Section 46300, 44830, 45034 or any other provision of this code, such employment, rendering of service, inclusion of attendance, or drawing of the order for the warrant shall be deemed fully legal for all purposes if the Commission for Teacher Preparation and Licensing approves thereof in accordance with this section.

The Commission for Teacher Preparation and Licensing shall adopt rules and regulations to establish procedures for a review in such cases and shall determine whether the rendering of such service shall be approved and made fully legal for all purposes. If the commission gives its approval to the rendering of such service, then such employment, inclusion of attendance, and drawing of the order for the warrant shall be automatically approved and made fully legal for all purposes.

The commission shall not approve of the rendering of such service unless it determines that the person rendering the service had, in fact, the necessary qualifications, during the period of service in question, for the credential required by law for the position in which the service was rendered, and unless a valid credential required for such position has been issued to such person prior to review and action by the commission.

CHAPTER 291

An act to add Section 2262.2 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor June 22, 1978. Filed with Secretary of State June 23, 1978.]

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

SECTION 1. Section 2262.2 is added to the Revenue and Taxation Code, to read:

2262.2. A local agency or district formed by a city after the effective date of this chapter to take over and perform services theretofore provided by a county service area for the same territory, may adjust, or cause to be adjusted, upwards, its maximum property tax rate in that territory by an amount equal to the tax rate previously levied, or which could have been levied, by the county service area (including any additional levies permitted by Section 2280), had it continued to provide those services for the territory provided that the county service area is no longer empowered to tax or does not tax the territory covered by the city's local agency or district.

SEC. 2. The Legislature finds and declares that this act is declarative of existing law and is not intended to amend such provisions of existing law.

CHAPTER 292

An act to add Section 84205.5 and Chapter 5.5 (commencing with Section 84900) to Part 50, and to repeal Section 84771, of the Education Code; to add Part 1.5 (commencing with Section 16250) to Division 4 of, and Article 6 (commencing with Section 16492) and Article 6.5 (commencing with Section 16496), to Chapter 3 of Part 2, of Division 4, of Title 2 of, and to add Sections 26912 and 26913 to, the Government Code; to amend Section 11836 of the Health and Safety Code, as added by Chapter 1252 of the Statutes of 1977; to amend Sections 110 and 110.5 of, and to add Sections 110.1, 110.6, 2217, and 2235 to, the Revenue and Taxation Code; and to amend Section 5705 of the Welfare and Institutions Code, relating to state and local government, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 24, 1978. Filed with Secretary of State June 24, 1978.]

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

EDUCATION

SECTION 1. In lieu of the amounts which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1978–79 fiscal year pursuant to Section 14002, Section 14003, Section 14006 and Section 41304 of the Education Code, there is hereby appropriated for transfer by the State Controller during the 1978–79 fiscal year from the General Fund in the State Treasury to Section A of the State School Fund, such sums as needed, in addition to the sums accruing to Section A of the State School Fund from other sources, as shall provide in Section A of the State School Fund for apportionment pursuant to Sections 2 and 6 of this act during the 1978–79 fiscal year an amount not to exceed four billion six hundred fifty-one million seven hundred seventy-one thousand fifty dollars ($4,651,771,050) to be allocated as follows:

(a) For the purposes of Section 2 of this act	$4,205,700,000
(b) For the purposes of Section 6 of this act	108,407,500
(c) For all apportionments pursuant to Article 11 (commencing with Section 41880) and Article 13 (commencing with Section 41920) of Chapter 5 of Part 24 of the Education Code	243,801,000
(d) For the purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code.....	13,373,550
(e) For the purposes of Article 12 (commencing with Section 41900) of Chapter 5 of Part 24 of the Education Code.....	19,800,000
(f) For the purposes of Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code.....	60,689,000

SEC. 2. (a) The county superintendent of schools shall determine for each school district in the county the sum of the following items:

(1) Using the average daily attendance of pupils during the 1978–79 school year, exclusive of summer school programs, plus the actual average daily attendance for summer programs in the 1977–78 school year, the school district's total revenue limit for the 1978–79 fiscal year pursuant to Sections 42212, 42238, 42239, 42241, 42241.3, 42241.7, 42243.5, 42243.6, the 1977–78 levied portion of 42244, 42245, 42250, and 46605 of the Education Code.

(2) Using the 1977–78 school year adult average daily attendance, the school district's total adult revenue limit for the 1978–79 school year pursuant to Sections 43001, 42241.7, 42243.6, 42244, 42245, and

46605 of the Education Code.

(3) The amount of property taxes levied in 1977–78 pursuant to Sections 4147, 8329, 16196, 16214, 42200, 46617, 49502, 52317, and 56811 of the Education Code and 5302.5 of the Streets and Highways Code.

(b) The county superintendent shall compute a factor for each school district as follows: Divide the sum of the amounts determined in paragraphs (1) and (3) of subdivision (a) by the total of the regular average daily attendance for the 1978–79 school year, exclusive of summer programs, plus the 1977–78 summer school average daily attendance. The resulting amount shall then be divided by $1,241 for elementary school districts, $1,427 for high school districts, and $1,322 for unified school districts. The resulting quotient is the adjustment factor of the school district.

(c) If the factor of a school district, as computed pursuant to subdivision (b), is 1.1 or less, the amount determined for the district pursuant to subdivision (a) shall be reduced by 9 percent.

(d) If the factor for a school district, as computed pursuant to subdivision (b), is 1.5 or more, the amount determined for the district pursuant to subdivision (a) shall be reduced by 15 percent.

(e) (1) If the factor for a school district, as computed pursuant to subdivision (b), is more than 1.1 but less than 1.5, the county superintendent of schools shall compute a percentage as follows:

He or she shall subtract 1.1 from the factor, divide the remainder by 0.4, multiply the quotient by 6 percent, and add the product to 9 percent.

(2) The amount determined for the district pursuant to subdivision (a) shall be reduced by the percentage computed pursuant to paragraph (1) of this subdivision.

(f) In lieu of the foundation program aid computed pursuant to the Education Code, for the 1978–79 fiscal year, the Superintendent of Public Instruction shall apportion to each school district the difference between its 1978–79 property tax revenue computed pursuant to Section 26912 of the Government Code and the amount determined pursuant to subdivision (a) of this section, as reduced pursuant to subdivisions (c), (d), and (e) of this section.

In no event shall more than four billion two hundred five million seven hundred thousand dollars ($4,205,700,000) be apportioned pursuant to this section.

SEC. 3. The provisions of Chapter 8.5 (commencing with Section 42500) and Chapter 8.7 (commencing with Section 42520) of Part 24 of the Education Code shall not be operative in the 1978–79 fiscal year.

SEC. 4. For the 1978–79 fiscal year, notwithstanding any other provision of law, property tax revenues received pursuant to Section 26912 of the Government Code, and the state aid prescribed by Section 2 of this act, may be used for any purpose determined by the governing board.

SEC. 5. The aid provided in Section 2 of this act shall be reduced by one-third of a school district's general fund and special reserve

fund ending balances which exceed five percent of the district's general fund total income as adjusted at the end of the 1977–78 fiscal year, or fifty thousand dollars ($50,000), whichever is greater.

For purposes of this section, general fund and special reserves shall not include:

(a) Noncash assets, such as stores, inventory, property and buildings, or other investments.

(b) Any amounts for self-insurance, contractual obligations, or reserves established by governing board policy adopted prior to June 6, 1978.

(c) Any amounts restricted by law or court order.

(d) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the governing board of the district.

SEC. 6. (a) Notwithstanding any other provision of law, the Superintendent of Public Instruction shall apportion state aid to county offices of education pursuant to the provisions of this section.

(b) The Superintendent of Public Instruction shall determine the estimated budget of each county office of education for the 1978–79 fiscal year. Such estimated budget shall include:

(1) The estimated revenue limit for the 1978–79 fiscal year for programs operated pursuant to Section 2500, Section 2502 as it relates to regional occupational centers and programs, and 56364 of the Education Code.

(2) Revenues received in the 1977–78 fiscal year by the county superintendent of schools from taxes levied pursuant to Sections 1510, 2501, 2502, 2503, 2504, 2506, 2520, and 8330 of the Education Code multiplied by 0.068.

(c) The Superintendent of Public Instruction shall multiply this estimated 1978–79 fiscal year budget by 0.90 and subtract from the product the sum of (1) the property tax revenues received in the 1978–79 fiscal year from the county property tax pursuant to Section 26912 of the Government Code, (2) state and federal categorical aid, (3) the local foundation program contribution of districts pursuant to Section 1705 of the Education Code, and (4) contributions or payments made pursuant to Sections 52321 and 56364 of the Education Code.

(d) The remainder computed pursuant to subdivision (c) shall be distributed as state aid in a manner consistent with state aid to school districts under this act, provided that no more than one hundred eight million four hundred seven thousand five hundred dollars ($108,407,500) shall be disbursed pursuant to this section.

(e) The state aid prescribed by subdivision (d) of this section shall be reduced by an amount equal to one-third of the county superintendent of school's general fund reserves which exceed 5 percent of the county superintendent's general fund total income as adjusted at the end of the 1977–78 fiscal year, or fifty thousand dollars ($50,000), whichever is the greater.

For purposes of this subdivision, general fund reserves shall not include:

(1) Noncash assets, such as stores, inventory, property and buildings, or other investments.

(2) Any amounts for self-insurance for contractual obligations, or reserves established by governing board policy adopted prior to June 6, 1978.

(3) Any amounts restricted by law or court order.

(4) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the governing board of the district.

SEC. 7. In the 1978–79 fiscal year, county boards of education are exempt from the provisions of Sections 14070, 14071, and 14072 of the Education Code.

SEC. 8. For the 1978–79 fiscal year only, that portion of Section 2501 of the Education Code which requires the levy of a countywide tax pursuant to Section 41203 of the Education Code shall not be operative and shall not be considered in the amount computations prescribed by Section 6.

SEC. 9. The county superintendent of schools shall not be required to pay to any school district an amount in excess of the amount received for Sections 2501, 2505, and 56364 of the Education Code.

SEC. 10. (a) The following sums of money are hereby appropriated, as is specifically provided, for the support of the following state educational programs for the 1978–79 fiscal year.

(1) In lieu of the amount which would otherwise be appropriated for transfer by the Controller from the General Fund in the State Treasury to Section A of the State School Fund for the 1978–79 fiscal year pursuant to subdivisions (a) and (b) of Section 75 of Chapter 894 of the Statutes of 1977, and notwithstanding the third paragraph of Section 87 of Chapter 894 of the Statutes of 1977, there is hereby appropriated for the purpose of making allowances pursuant to Article 4 (commencing with Section 52045) of Chapter 6 of Part 28 of the Education Code, for transfer by the Controller during the 1978–79 fiscal year from the General Fund to Section A of the State School Fund, the sum of one hundred eighteen million three hundred eighty-seven thousand two hundred dollars ($118,387,200) for the purpose of making allowances for kindergarten and grades 1 to 6, inclusive, and four million five hundred twenty-four thousand dollars ($4,524,000) for the purpose of making allowances for grades 7 to 12, inclusive.

(2) For transfer by the State Controller from the General Fund to Section A of the State School Fund, in lieu of the appropriations made for the 1978–79 fiscal year pursuant to Section 54050, subdivision (b) of Section 54054, and subdivision (a) of Section 54059 of the Education Code, and notwithstanding the second paragraph of Section 87 of Chapter 894 of the Statutes of 1977, for the purposes of the Educationally Disadvantaged Youth Programs, there is hereby appropriated the sum of one hundred twelve million nine hundred fifty-eight thousand dollars ($112,958,000).

(3) There is hereby appropriated from the General Fund to the

Department of Education for demonstration programs in reading and mathematics, the sum of three million seventy-nine thousand five hundred twelve dollars ($3,079,512) and for the professional development center program as specified in Article 10 (commencing with Section 44630) of Chapter 3 of Part 25 of Division 3 of Title 2 of the Education Code, the sum of six hundred fifty-seven thousand three hundred six dollars ($657,306). The Department of Education, in utilizing the funds appropriated by this paragraph, shall support the programs in the 1978–79 fiscal year in 13 school districts and shall include as criteria for participation, a district's efforts to establish a multidistrict project and to obtain and use matching funds from local, state, or federal sources.

(4) There is hereby appropriated from the General Fund to the Department of Education for special elementary school reading instruction program teachers, the sum of fourteen million five thousand three hundred seventeen dollars ($14,005,317).

(5) For transfer by the State Controller from the General Fund to Section A of the State School Fund, in lieu of the appropriations made for the 1978–79 fiscal year pursuant to Sections 54051 and 54052 of the Education Code, for the purpose of funding Article 1 (commencing with Section 52100) of Chapter 7 of Part 28 of the Education Code, the sum of eight million two hundred thirty-one thousand eight hundred eighty-two dollars ($8,231,882), and for the purpose of funding Article 3 (commencing with Section 52160) of Chapter 7 of Part 28 of the Education Code, the sum of two million eight hundred sixty-two thousand dollars ($2,862,000).

(6) There is hereby appropriated from the General Fund to the Department of Education for Indian Education Centers, the sum of six hundred six thousand seven hundred fifty-three dollars ($606,753); provided that the appropriation made by this paragraph is limited to carrying out the provisions of Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of the Education Code.

(7) There is hereby appropriated from the General Fund to the Department of Education for the Native American Indian Education Program, as provided in Chapter 6.5 (commencing with Section 52060) of Part 28 of the Education Code, the sum of two hundred fifty-seven thousand five hundred eighty dollars ($257,580).

(8) In lieu of the appropriation provided for in Section 60624 of the Education Code, the State Controller shall transfer from the General Fund to the State Instructional Materials Fund, for apportionment to public and non public elementary schools in the 1978–79 fiscal year, the amount of thirty-eight million three hundred fifty-one thousand eighty dollars ($38,351,080).

(9) There is hereby appropriated from the General Fund to the Department of Education for transfer to the State Child Nutrition Fund, pursuant to Section 41312 of the Education Code, for child nutrition programs pursuant to the provisions of Section 41311 and clause (3) of subdivision (a) of Section 41312 of the Education Code, the sum of thirty-five million two hundred ninety-two thousand

seven hundred twenty-nine dollars ($35,292,729); provided, that claims for reimbursement of meals pursuant to this paragraph shall be submitted by school districts not later than September 30, 1979, to be eligible for reimbursement.

(10) Notwithstanding the provisions of Section 42050 of the Vehicle Code and subdivision (b) of Section 41304 of the Education Code, the sum of six million dollars ($6,000,000) is appropriated from the Driver Training Penalty Assessment Fund to the unappropriated surplus of the General Fund.

(11) For transfer by the State Controller from the General Fund to Section A of the State School Fund, in lieu of the appropriation made for the 1978–79 fiscal year pursuant to subdivision (b) of Section 54057 of the Education Code, for the purposes of the Urban Impact Aid Program, as described in Section 54060 of the Education Code, there is hereby appropriated in the 1978–79 fiscal year the sum of thirty-six million seven hundred twenty thousand dollars ($36,720,000).

(12) In lieu of the amount which would otherwise be appropriated for transfer to Section A of the State School Fund for the 1978–79 fiscal year pursuant to subdivisions (a) and (b) of Section 74 of Chapter 894 of the Statutes of 1977, there is hereby appropriated from the General Fund for the purpose of making allowances for purposes of Article 1 (commencing with Section 44670) and Article 2 (commencing with Section 44680) of Chapter 3.1 of Part 25 of the Education Code, the sums of four hundred ninety-five thousand dollars ($495,000) and four hundred fifty thousand dollars ($450,000), respectively.

(13) In lieu of the amount appropriated by Section 4 of Chapter 1255 of the Statutes of 1977, there is hereby appropriated from the General Fund in the State Treasury to the State Library, for the purpose of implementing the provisions of Chapter 4 (commencing with Section 18700) of Part 11 of the Education Code, the sum of four million seven hundred eighty thousand dollars ($4,780,000).

(b) The State Board of Education may modify the specific funding formulas for each of the categorical aid programs affected by this section, including the modification of formulas set forth in terms of a given amount for unit of average daily attendance, in order to allocate funds authorized for each program in the 1978–79 fiscal year.

SEC. 11. Section 84205.5 is added to the Education Code, to read:

84205.5. For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, the "full cash value" of all property in a community college district shall include the assessed valuation of all real properties in those territories or components which subsequent to the 1975–76 fiscal year became a part of the community college district.

SEC. 12. Section 84771 of the Education Code is repealed.

SEC. 13. Chapter 5.5 (commencing with Section 84900) is added to Part 50 of the Education Code, to read:

CHAPTER 5.5. COMMUNITY COLLEGES EMERGENCY FINANCE ACT OF 1978

84900. By the enactment of this chapter, the Legislature intends to provide immediate financial relief to public California community colleges for the 1978–79 fiscal year as a result of lost local tax revenues as a result of the operation of Article XIII A of the California Constitution.

84901. In distributing the proceeds of local tax revenues authorized by Article XIII A of the California Constitution, it is the intent of the Legislature that there shall be apportioned to community college districts at least the same proportion of such tax revenues as community college districts received in 1977–78 fiscal year.

84902. (a) In lieu of the amounts which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section B of the State School Fund pursuant to Section 14020 of the Education Code, there is hereby appropriated for transfer by the State Controller during the 1978–79 fiscal year from the General Fund in the State Treasury to Section B of the State School Fund, in addition to the sums accruing to Section B of the State School Fund from other sources, for apportionment pursuant to Section 84903 and Article 11 (commencing with Section 84850) of Chapter 5 of this part during the 1978–79 fiscal year, the sum of five hundred thirty-seven million sixty-four thousand nine hundred dollars ($537,064,900).

(b) In addition to the amount appropriated by subdivision (a) of this section, there is hereby appropriated from the General Fund to Section B of the State School Fund for transfer by the State Controller during the 1978–79 fiscal year the amount of two hundred sixty million dollars ($260,000,000). The State Controller shall disburse such amount upon order of the Chancellor, for apportionment pursuant to Section 84904; provided that no more than 75 percent of the appropriation made by this subdivision shall be disbursed prior to February 1, 1979.

84903. In lieu of the schedule of apportionments prescribed by Sections 84322, 84323, 84324, and 84325, the amount to be transferred to Section B of the State School Fund for the 1978–79 fiscal year pursuant to subdivision (a) of Section 84902 shall be expended during such fiscal year in accordance with the advance apportionment prescribed by Section 84320, adjusted for the amount appropriated by subdivision (a) of Section 84902.

84904. (a) The Chancellor shall distribute the amount appropriated by subdivision (b) of Section 84902 so that each district receives the same percentage of its target budget after deducting the sum of (1) the apportionment made pursuant to Section 84903 (exclusive of the special apportionment for handicapped), (2) available local property tax revenues, and (3) available district reserves.

(b) "Target budget," for purposes of this section, means the product of 1.068 times the sum of the revenue received for the 1977–78 fiscal year pursuant to Sections 2102, 8329, 8382, 23401, 56810, 56811, 56815, 76482, 81338, 81341, 81342.5, 84006, 84203, 84812, 84870, 85100, 85110, 85132, and 85133.1 and (for the second principal apportionment) Article 5 (commencing with Section 84762) of Chapter 5 of this part of the Education Code, Sections 218, 219, 988, and 992 of the Revenue and Taxation Code, and Section 5302.5 of the Streets and Highways Code.

(c) "Available district reserves", for purposes of this section, means one-third of the unrestricted general fund balance held on June 30, 1978, in excess of five percent of a district's general fund total income for the 1977–78 fiscal year. As used in this section, the "unrestricted general fund balance" shall not include any of the following:

(1) Reserves committed prior to June 6, 1978, for contractual obligations.

(2) Reserves restricted by district board action taken prior to June 6, 1978, or by law, or by court order.

(3) Reserves committed prior to June 6, 1978, to a district self-insurance fund.

(4) Reserves committed prior to June 6, 1978, to a capital outlay obligation.

(5) Non-cash assets, such as stores, inventory, property and buildings, or other investment.

84905. The Chancellor may allocate up to fifteen million dollars ($15,000,000) of the funds appropriated by subdivision (a) of Section 84902 to community college districts for special needs, pursuant to rules and regulations adopted by the Board of Governors of the California Community Colleges. However, no community college district shall be eligible for a special needs allocation if that district has unrestricted reserves and board-restricted reserves greater than 5 percent of the district's general fund income for the 1977–78 fiscal year. Any allocation for special needs shall not be included within the limit of 75 percent allocation prescribed in subdivision (b) of Section 84902.

84906. In lieu of the manner of giving warrants for apportionments, as provided in Sections 14041 and 14042, and for the 1978–79 fiscal year only, the State Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county containing a community college district at such times and in such an amount as determined and certified by the Chancellor; provided that no more than 75 percent of the appropriation made by Section 84902 may be expended prior to February 1, 1979.

84907. (a) For purposes of community college district operation for the 1978–79 fiscal year, the Chancellor may waive Section 79002.

(b) For purposes of community college district operations for the 1979–80 fiscal year, the Chancellor may waive Section 84370, but in no case shall a community college district receive any apportionment

from the State School Fund in the 1979–80 fiscal year unless it has maintained the regular day schools of the district for at least 160 days in the 1978–79 fiscal year.

(c) For the 1978–79 fiscal year the 25 percent local matching requirement for community colleges pursuant to Section 8251 of the Education Code shall not be effective.

84908. Community college districts shall not use funds received from the Controller pursuant to Section 84903 to support noncredit course offerings unless such courses are in elementary and secondary basic skills; a class in English for foreigners; a course in citizenship; a course in a trade or industrial subject, including apprenticeship classes as they are defined by the Chancellor's Office; or a special course for handicapped adults.

84909. Of the funds transferred to Section B of the State School Fund by subdivision (a) of Section 84902, there shall be transferred up to one million eight hundred thousand dollars ($1,800,000) to the Community College Fund for Instructional Improvement for the purposes of Article 7 (commencing with Section 84380) of Chapter 3 of this part.

SEC. 14. Chapter 8 (commencing with Section 2100) of Part 2 of the Education Code shall not be operative for the 1978–79 fiscal years.

DISTRIBUTION OF FUNDS TO LOCAL AGENCIES

SEC. 15. Part 1.5 (commencing with Section 16250) is added to Division 4 of Title 2 of the Government Code, to read:

PART 1.5. DISTRIBUTION OF FUNDS TO LOCAL AGENCIES

CHAPTER 1. CITIES

16250. (a) Out of the amount appropriated by Section 16100, there shall be allocated to the cities in this state, for the 1978–79 fiscal year only, two hundred fifty million dollars ($250,000,000) to be distributed as provided in subdivisions (b), (c), and (d) of this section.

(b) (1) For each city the amount of property taxes collected plus the amount of homeowners' and business inventory reimbursement in 1977–78 shall be determined by the Controller.

(2) From the amount determined pursuant to paragraph (1), there shall be subtracted the amount of property tax and homeowners' and business inventory reimbursement allocated to each city in 1978–79 pursuant to Section 26912.

(3) The amount determined pursuant to paragraph (2) shall be aggregated for all cities in the state.

(4) The Controller shall then determine what the percentage computed for each city pursuant to paragraph (2) is of the total statewide amount computed pursuant to paragraph (3).

(5) The percentage determined pursuant to paragraph (4) shall be applied to the two hundred fifty million dollars ($250,000,000) to determine each city's dollar share of the surplus allocation.

(c) From each city's dollar share of the total allocation, there shall be subtracted an amount equal to one-third of the city's general fund reserve balance on July 1, 1978, as defined in subdivision (e), in excess of 5 percent of the city's 1977–78 total revenues.

(d) The amount determined in subdivision (c) shall be distributed to each city by the Controller in accordance with the following schedule:

10 percent—on August 31, 1978.

45 percent—on December 10, 1978.

45 percent—on April 10, 1978.

(e) For the purposes of this section, "general fund reserves" shall not include:

(1) Noncash assets such as stores, inventory, property and buildings, or other investments.

(2) Any amounts for self-insurance, for contractual obligations, or for reserves established by a governing board policy adopted prior to June 6, 1978.

(3) Any amounts restricted by law or court order.

(4) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the city council.

(f) For the purpose of this subdivision, the amount of property tax collected pursuant to paragraphs (1) and (2) of Section 2270 of the Revenue and Taxation Code for the purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, shall be excluded from all calculations.

(g) Funds distributed under this section shall be distributed first for police and fire programs in order not to jeopardize the health and safety of the community. The legislative body shall ensure that the level of police and fire protection programs actually provided in the 1977–78 fiscal year shall be continued in the 1978–79 fiscal year.

Nothing in this section shall prevent the legislative body from reviewing and establishing its police and fire protection program in the 1978–79 fiscal year in a manner which will make such program more efficient and effective.

CHAPTER 2. COUNTIES

16260. (a) Except as provided in subdivision (x), out of the amount appropriated by Section 16100, there shall be allocated for counties and cities and counties, for the 1978–79 fiscal year only four hundred thirty-six million dollars ($436,000,000) to be distributed as provided in subdivisions (b), (c), (d), and (e):

(b) (1) For each county and city and county, the amount of property taxes collected, plus the amount of homeowner and business inventory exemption reimbursements, for the 1977–78 fiscal

year shall be computed by the Controller.

(2) From the amount determined pursuant to paragraph (1), there shall be subtracted the amount of property tax and homeowner and business inventory exemption reimbursements allocated to each county and city and county in 1978–79 pursuant to Section 26912.

(3) From the amount determined pursuant to paragraph (2), there shall be subtracted the dollar amount of a county's obligation in 1978–79 relieved by Sections 33 and 34 of the bill.

(4) The amount determined pursuant to paragraph (3) shall be aggregated for counties and cities and counties in the state.

(5) The Controller shall then determine what the percentage computed for each county and city and county pursuant to paragraph (3) is of the total statewide computed pursuant to paragraph (4).

(6) The percentage determined pursuant to paragraph (5) shall be applied to the amount described in subdivision (a), modified by subdivision (x) if applicable,to determine the dollar share of the surplus allocation for each county and city and county.

(c) From each county's or city and county's surplus allocation, there shall be subtracted an amount equal to one-third of the county's or city and county's general fund reserve balance on July 1, 1978, as defined in subdivision (e), in excess of 5 percent of the county's of the county's or city and county's total 1977–78 revenues.

(d) The amount determined in subdivision (e), if positive, shall be distributed to each county and city and county by the Controller in accordance with the following schedule:

10 percent—on August 31, 1978

45 percent—on December 10, 1978

45 percent—on April 10, 1979

(e) As used in this section "general fund reserves" includes reserves as of July 1, 1978, that are not legally obligated. "General fund reserves" shall not include:

(1) Noncash assets such as stores, inventory, property and buildings, or other investments.

(2) Any amounts for self-insurance, for contractual obligations, or for reserves established by a governing board policy adopted prior to July 1, 1978.

(3) Any amounts restricted by law or court order.

(4) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the board of supervisors.

(f) For the purpose of this subdivision, the amount of property tax collections pursuant to paragraphs (1) and (2) of Section 2270 of the Revenue and Taxation Code for the purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978.

(g) Funds distributed for this section shall be given first for police and fire programs in order not to jeopardize the health and safety of the community. The legislative body shall ensure that the level of

police and fire protection programs actually provided in the 1977–78 fiscal year shall be continued in 1978–79.

Nothing in this section shall prevent the legislative body from reviewing and establishing its police and fire protection program in the 1978–79 fiscal year in a manner which will make such program more efficient and effective.

(h) The Controller shall estimate the amounts required to be determined pursuant to subdivision (b) (3).

The Controller shall determine the actual amounts and make a reconciliation with the April 10, 1979, distribution.

(x) The amount allocated in subdivision (a) shall be reduced by an amount equal to the dollar amount of any cost-of-living increase in aid payments under the Aid to Families with Dependent Children program, as provided in Section 35 of this bill.

CHAPTER 3. SPECIAL DISTRICTS

Article 1. General Provisions and Definitions

16270. The Legislature finds and declares that many special districts have the ability to raise revenue through user charges and fees and that their ability to raise revenue directly from the property tax for district operations has been eliminated by Article XIII A of the California Constitution. It is the intent of the Legislature that such districts rely on user fees and charges for raising revenue due to the lack of the availability of property tax revenues after the 1978–79 fiscal year. Such districts are encouraged to begin the transition to user fees and charges during the 1978–79 fiscal year.

16271. As used in this chapter:

(a) "Governing body" means the board of supervisors except that in the case of a subsidiary district "governing body" means the city council, and in the case of a multi-county district "governing body" means the governing body of the multi-county district itself.

(b) "Local fiscal officer" means the county treasurer, except that in the case of a subsidiary district "local fiscal officer" means the city treasurer; and in the case of a multi-county district "local fiscal officer" means the treasurer of the district.

(c) "Multi-county district" means any special district which includes territory in more than one county.

(d) "Special district" means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Special district" includes 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 benefitting that area.

County free libraries established pursuant to Chapter 2 (commencing with Section 27151) of Division 20 of the Education Code; areas receiving county fire protection services pursuant to

Section 25643 of the Government Code; and county road districts established pursuant to Chapter 7 (commencing with Section 550) of Division 2 of the Streets and Highways Code, shall be considered "special districts" for all purposes of this chapter.

"Special district" does not include a city, a county, a school district or a community college district. "Special district" does not include any agency which is not authorized to levy a property tax rate.

(e) "Subsidiary district" means a special district in which the city council of a city has been empowered to act as ex officio members of the board of directors of such district and either:

(1) The entire territory of such district is included within the boundaries of a city, or

(2) A portion or portions of the territory of such district is included within the boundaries of a city and such portion or portions:

(i) Represent 70 percent or more of the area of taxable or assessable land within such district, as shown on the last equalized assessment roll; and

(ii) Contains 70 percent or more of the number of registered voters who reside within the district as shown on the voters' registrar in the office of the county clerk or registrar of voters.

(f) "General fund reserves" means the general fund reserve balance as of July 1, 1978, that is not legally obligated. General fund reserves shall not include:

(1) Noncash assets such as stores, inventory, property and buildings, or other investments.

(2) Any amounts for self-insurance, for contractual obligations, or for reserves established by a legislative body of the county, city, or special district, as the case may be.

(3) Any amounts restricted by law or court order.

(4) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the governing body.

(g) For the purpose of this chapter, the amount of property tax levied pursuant to existing law, for the purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, shall be excluded from all calculations.

Article 2. State Allocation

16272. Out of the amount appropriated by Section 16100, there shall be allocated to each governing body, for the 1978–79 fiscal year only, one hundred and twenty-five million dollars ($125,000,000) to be distributed as provided in this article.

16272.3. Each fiscal officer of a governing body shall report to the State Controller, on or before July 15, 1978, the amount of the ad valorem property taxes levied by the special districts under the jurisdiction of that governing body for fiscal year 1977–78.

16272.5. The State Controller, on or before July 20, 1978, shall add the amounts reported pursuant to Section 16272.3, and shall

determine the proportion which the amounts submitted by each governing body bears to the total amount of the property taxes reported by such governing bodies. The percentage determined for each governing body shall be applied by the one hundred and twenty-five million dollars ($125,000,000) to determine the dollar share of the surplus allocation for each governing body. The Controller shall then notify in writing each fiscal officer of the allocation which will be made for the 1978–79 fiscal year, on or before July 20, 1978.

16272.7. The allocation for each governing body as determined in Section 16272.5 shall be distributed to each governing body by the Controller as follows:

10 percent—on August 31, 1978
45 percent—on December 10, 1978
45 percent—on April 10, 1979

Article 3. Distribution Process

16274. Not later than seven days after the notice from the State Controller, the governing body shall hold a public hearing for the purpose of determining the distribution of funds received pursuant to Section 16272.5. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council and shall publish such notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The notice shall include the following: (1) the amount of funds available to special districts, (2) the statutory criteria for the distribution of such funds, and (3) the time and place of the hearing.

16275. Following the close of the public hearing, the governing body shall distribute the funds in accordance with the following criteria:

(a) Public Safety Services:

(1) In distributing funds to districts which provide fire protection services, and any police protection district, county service area, or community services district which provides police protection services, exclusively, the governing body shall provide an amount sufficient to ensure that each district maintains the same level of protection as was actually provided during 1977–78.

(b) Other special district services:

(1) Districts with general fund reserves, as defined in Section 16271, of 5 percent or less of their total 1977–78 revenues shall be given priority over districts with general fund reserves in excess of 5 percent of their total 1977–78 revenues.

(2) Districts which have relied most heavily upon revenues derived from property taxation to finance the provision of a service shall be given priority over those districts which are less dependent upon revenues derived from property taxation.

(3) Districts which are not authorized to utilize nonproperty tax

revenue sources, including but not limited to fees, rates and tolls to finance the provision of a service shall be given priority over districts which are authorized to utilize such nonproperty tax sources.

(4) In distributing funds to districts which provide more than one service, exclusive of fire and police protection services which are funded under the public safety services category, the board shall apply the criteria of paragraphs 1, 2, and 3 to each such service and shall make a distribution of funds to the district for each such service.

(5) Any distribution made pursuant to this section shall be reduced by one-third of the amount of the district's general fund reserves which are in excess of 5 percent of the district's total 1977–78 revenues.

16276. Within 30 days of the notice of allocation received pursuant to Section 16272.5, the governing body shall determine the amount of funds to be disbursed to each special district. The funds provided for by this chapter shall be used exclusively for special districts and shall not be used for any general county or municipal expenses.

16276.3. Within five days of the determination by the governing body pursuant to Section 16276, the governing body shall publish a notice in a newspaper of general circulation which includes: (1) the districts which received funds, (2) the amount of funds received, and (3) the purpose for which such funds shall be used.

16276.5. The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurers property tax trust fund.

16277. Nothing in this chapter shall be construed to authorize the governing body to specify the manner in which such funds are to be expended by any district where such district has a legislative body other than the governing body.

16278. The determination of the governing body in distributing funds to a special district pursuant to this chapter shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion. In any action or proceeding to review any determination of the governing body, such inquiry shall be limited to whether there was fraud or prejudicial abuse of discretion. Prejudicial abuse of discretion shall be established if the court finds that the determination of the governing body was not supported by substantial evidence in light of the whole record.

CHAPTER 4. COST OF LIVING INCREASES

16280. No state funds from the state surplus or state loan funds shall be available to any local public agency which provides a cost of living salary increase in the 1978–79 fiscal year for local public agency employees or cost of living increases for any other individuals, including AFDC and other welfare recipients, if such increase is in excess of the cost of living salary increase provided for state employees. The cost of living salary increase provided for state

employees shall be determined by dividing the total amount made available by the Legislature for salary increases to state employees by the total salaries paid to state employees. If the Legislature limits the cost of living salary increase for state employees on the basis of salary range, the local public agency shall likewise limit any cost of living increase for local public agency employees and other individuals on the same basis.

Any contract between a local public agency and an employee organization which provides for a cost of living salary increase to local public agency employees in excess of such increase provided for state employees is null and void, and such contract is hereby declared to be reopened and subject to new negotiation.

This section shall not preclude regular merit increases, promotions, or transfers, but shall preclude the transfer of employees to new positions created with higher pay schedules for the purpose of circumventing this chapter.

16281. It is the intent of the Legislature in enacting this chapter to alleviate the current fiscal crisis created by the passage of Proposition 13 (Article XIII A of the California Constitution), and to provide for maintaining essential services which would otherwise be lost.

The Legislature finds and declares that limiting the cost of living salary increases for local public agency employees and cost of living increases for other individuals will allow essential local government services to be maintained at a higher level than would otherwise be the case, and will promote full employment and prevent layoffs.

The Legislature further finds and declares that this chapter constitutes a matter of statewide concern, and shall apply to charter counties and charter cities. The provisions of this chapter shall supersede any inconsistent provisions in the charter of any county or city.

CHAPTER 5. REPORTS

16285. Each city, county, and city and county, shall report to the Department of Finance by November 1, 1978, the following:

(a) Its 1977–78 expenditures by category of service and revenues by source;

(b) Its 1978–79 projected expenditures by category of service and revenues by source.

(c) Any adjustments in fees, charges, and any taxes levied after June 6, 1978, and an estimate of revenues generated from those adjustments in the 1978–79 fiscal year.

The counties, cities, and cities and counties, shall report this data to the Department of Finance in a form and manner determined by the Department of Finance.

The Department of Finance and the Legislative Analyst shall report to the Governor and the Legislature by February 1, 1979, on the following:

(a) A summary of the expenditure and revenue data received from counties, cities, and cities and counties;

(b) A determination of the extent to which reductions in expenditures have been made in each category of service;

(c) An analysis of the impact of such reductions in expenditures on the maintenance and accessibility of each category of service.

LOCAL AGENCY EMERGENCY LOAN FUND

SEC. 16. Article 6 (commencing with Section 16492) is added to Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 6. Local Agency Emergency Loan Fund

16492. The Legislature finds and declares that local agencies may be unable to sell short-term notes to financial institutions at the end of the 1977–78 fiscal year and the beginning of the 1978–79 fiscal year due to the lack of certainty in their ability to raise revenue to repay such short-term notes. Therefore, another source of short-term financing is necessary to ensure the orderly delivery of basic programs and services during the beginning of the fiscal year. In order to meet this need, the state, in this article, hereby establishes a Local Agency Emergency Loan Fund to serve as the lender of last resort.

16492.5. It is the purpose of the Local Agency Emergency Loan Fund to provide short-term loans to local agencies for operational purposes so that vital services are not interrupted.

16493. As used in this article:

(a) "Board" means the Pooled Money Investment Board.

(b) "Local agency" means a city, county, city and county, special district, school district, county board of education, or community college district which levied a property tax during the 1977–78 fiscal year or for which a property tax was levied. "Local agency" also means any city, special district, or school district formed during the 1977–78 fiscal year which was authorized to levy a property tax but did not actually levy such a tax for that year.

16493.5. There is hereby created in the State Treasury a Local Agency Emergency Loan Fund. Short-term loans shall be available to local agencies for the purpose of meeting operating costs at the end of the 1977–78 fiscal year and during the 1978–79 fiscal year. Such funds shall not be used for capital outlay projects.

16494. The amount of any loan shall not exceed 50 percent of the local agency's property tax revenues for the 1977–78 fiscal year, including state property tax relief subventions. The maximum amount of a loan to a local agency which was formed during the 1977–78 fiscal year and authorized to levy a property tax, but did not do so, shall be no more than 50 percent of the amount such agency could have levied if it had levied such a tax.

16494.7. Any local agency may apply to the board, by no later than August 21, 1978, for a loan pursuant to this article after the adoption by the local agency's governing body of a resolution containing all of the following:

(a) A statement that the local agency is authorized to issue revenue or tax anticipation notes;

(b) A statement indicating the local agency's property tax revenues for the 1977–78 fiscal year, including state property tax subvention. With respect to a local agency formed during the 1977–78 fiscal year and authorized to levy a property tax, but did not do so, a statement estimating the amount such agency could have levied if it had levied such a tax;

(c) A finding based on substantial evidence that the agency's cash flow is not sufficient to meet current obligations for the operation of vital services and that all unrestricted reserves except for a prudent surplus have been exhausted or will be exhausted at the time the loan is made;

(d) A statement that taxes, revenues, and other income not obligated by law for a specific purpose and anticipated to be received during the 1978–79 fiscal year, will be available to repay the principal and interest on such loan before May 31, 1979;

(e) A statement that revenue and tax anticipation notes are not currently being purchased from the local agency by private lenders; and

(f) Evidence that the local agency is unable to use interfund transfers to meet its short-term cash obligations.

16495. (a) The board may approve, reduce, or deny any loan application. Such action shall be taken within 10 days of the receipt of an application. No loan shall be made by the board after August 31, 1978. The board shall establish the form and content of loan applications, and procedures for periodic disbursements of approved loans to local agencies.

(b) For the purposes of this article, each member of the board may appoint a representative to act on his behalf. The board shall have the authority to appoint sufficient staff to process loan applications received by the board.

16495.5. (a) All loans shall bear an interest rate comparable to the prevailing market interest rate statewide for tax anticipation notes purchased by major California banks, as determined by the board. The interest on such loans shall accrue until final payment.

(b) Any such loan constitutes a lien and charge against the taxes, revenues, and other income not obligated by law collected during the fiscal year in which it was borrowed. The loan shall be repaid into the General Fund from the money received by the local agency from the taxes, revenues, and income as it becomes available. At a minimum, 50 percent of the principal and interest shall be repaid by December 31, 1978, and the remaining principal and interest shall be repaid by May 31, 1979. If such loan is not repaid, the board shall request the State Controller to offset the amount not repaid against

any payments required by law to be made by the state to the defaulting local agency. If the total of such payments is less than the amount owed to the state, the state may exercise its lien rights pursuant to this section.

(c) The State Controller may audit all loan recipients.

SEC. 17. The sum of eight hundred seventy million dollars ($870,000,000) is hereby appropriated from the General Fund for transfer to the Local Agency Emergency Loan Fund for the purposes of Article 6 (commencing with Section 16492) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. One hundred sixteen thousand dollars ($116,000) of such sum shall be available for expenditure by the board and the State Controller for costs incurred in administering the provisions of such Article 6.

LOCAL AGENCY INDEBTEDNESS FUND

SEC. 18. Article 6.5 (commencing with Section 16496 is added to Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 6.5. Local Agency Indebtedness Fund

16496. The Legislature finds and declares that local agencies may be required to reorganize revenue sources currently used as security for the payment of local agency bonds which have not been voter-approved, that until such time as that reorganization of revenue sources occurs, it is in the public interest of the state to protect the credit of the state and local agencies by assuring that no bond of a local agency goes into default. If a default were allowed to occur, the credit and the future borrowing capacity of both local agencies and the state could be impaired. Therefore, there is need for the state to make loans to local agencies for the purpose of avoiding a default in the payments due under any bond of a local agency.

In order to meet this need, the state, in this article, hereby establishes a separate Local Agency Indebtedness Fund, to be administered in accordance with the provisions of this article.

16496.5. It is the purpose of the Local Agency Indebtedness Fund to provide loans, with a maximum term of three years, to local agencies for the purpose of protecting the credit of the state and local agencies by preventing a default, technical or actual, in the payment of a bond of a local agency during the 1978–79 fiscal year while local agencies are reorganizing revenue sources which support payments on such bonds.

16497. As used in this article:

(a) "Board" means the Pooled Money Investment Board.

(b) "Local agency" means any county, city and county, or city which has established a public district, public authority, redevelopment agency, parking authority, joint powers authority, or

other public corporation, or any agency of any thereof, which is authorized to issue bonds.

(c) "Bonds" means bonds, warrants, notes, and other evidences of indebtedness issued by or on behalf of a local agency, which have not been specifically approved and authorized by the voters of the local agency prior to June 6, 1978.

(d) "Legislative body" means the city council or board of supervisors of the local agency.

16497.5. There is hereby created in the State Treasury the Local Agency Indebtedness Fund. Loans shall be available to local agencies from such fund for the purpose of making payments due on bonds during the 1978–79 fiscal year in order to prevent a technical or actual default from occurring in the payments required on such bonds during such fiscal year.

16498. Any local agency may apply to the board, by no later than June 30, 1979, for a loan pursuant to this article, after the adoption by the legislative body of the local agency of a resolution containing all of the following:

(a) A statement of the amount of principal and interest required to be paid for the 1978–79 fiscal year on bonds issued and outstanding by the local agency and the time or times at which such principal and interest are payable;

(b) A statement of the amount of local revenues budgeted and available for the payment of principal and interest due on such bonds;

(c) A statement of the amount required as a loan from the Local Agency Indebtedness Fund to the local agency in order to avoid a technical or actual default in payments due on such bonds; and

(d) Where bonds have been issued which are secured by tax increment, evidence that the taxes allocated under subdivision (b) of Section 33670 of the Health and Safety Code are inadequate to make the principal and interest payments on bonds due during the 1978–79 fiscal year.

16498.5. Where a local agency is a lessee of a public building or facility and makes lease payments for the use thereof, which lease payments are pledged to the payment of bonds of another lessor local agency, the lessee local agency may make the application and receive the loan under this article for the purpose of making the lease payment and avoiding a technical or actual default under its lease with the lessor local agency which has issued the bonds. The local agency may apply for a loan under this section only when such local agency has exhausted all other revenue to make the lease payment.

16499. The board shall make a loan to a local agency applying for such loan in order to prevent an imminent default on the bonds of such local agency. All loans shall bear the same interest rate as loans from the Local Agency Emergency Loan Fund. The interest on such loans shall accrue until final payment. All loans shall have a maximum repayment period of three years from the date of approval of the loan. The board shall make such loan following a finding that:

(a) The local agency has insufficient funds to make principal and interest payments during the 1978–79 fiscal year; and

(b) Where bonds have been issued which are secured by tax increment, evidence that the taxes allocated under subdivision (b) of Section 33670 of the Health and Safety Code are inadequate to make the principal and interest payments on bonds due during the 1978–79 fiscal year.

16499.5. The board may adopt reasonable rules to administer the Local Agency Indebtedness Fund in accordance with the intent of this article, to protect the credit of the state and its local agencies by preventing imminent defaults on bonds on local agencies during the 1978–79 fiscal year and to give local agencies time to reorganize revenue sources for the payments due on such bonds.

SEC. 19. The sum of thirty million dollars ($30,000,000) is appropriated from the General Fund for transfer to the Local Agency Indebtedness Fund for the purposes of Article 6.5 (commencing with Section 16496) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

COUNTY HEALTH SERVICES

SEC. 20. (a) It is the intent of the Legislature to maintain essential county health services and to ensure that reductions in county health services are not disproportionate to reductions in county property tax revenues as offset by allocations of funds from this act.

(b) As used in this section:

(1) "County health services" means public health services, outpatient health services and inpatient health services provided directly by the county or financed or purchased by the county through grants, contracts, or agreements, but shall not include services provided pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code or Division 10.5 (commencing with Section 11750) of the Health and Safety Code.

(2) "Net county costs for health services" means expenditures for county health services, less revenues received for county health services, plus Federal Revenue Sharing funds budgeted or expended for health services.

(3) A reduction in net county costs for health services shall be deemed to be disproportionate when the ratio, determined by dividing net county costs for health services budgeted in the 1978–79 fiscal year by the net county costs for health services provided in the 1977–78 fiscal year, is less that the ratio determined by dividing the sum of (a) county property tax revenues for the 1978–79 tax year as calculated in paragraph (1) of subdivision (b) of Section 16172 of the Government Code, (b) the dollar amount of a county's obligations relieved pursuant to Sections 33 and 34 of this act during the 1978–79 fiscal year, and (c) the dollar amount of funds allocated to the county by this act as calculated in subdivision (d) of Section 16260 of the

Government Code and appropriated in Section 16100 of the Government Code, by the sum of county revenues derived from property taxation during the 1977–78 fiscal year, including state reimbursements for homeowners' and business inventory exemptions.

(c) The provisions of Sections 1442 and 1442.5 of the Health and Safety Code shall not be operative from and after the effective date of this act until July 1, 1979.

(d) A county shall not make a disproportionate reduction in net county costs for health services in public health services, outpatient health services or inpatient health services, including services provided under contract by cities, which will be detrimental to the health needs of the public in the case of public health services or the health care needs of the indigent in the case of outpatient or inpatient health services.

(e) Notwithstanding the provisions of any other law, when any county which receives funds from the State Controller pursuant to this act makes a disproportionate reduction in net county costs for public health services, outpatient health services or inpatient health services, including such services provided under contract by cities, and the State Director of Health Services finds as provided in this section that the impact of such reductions will be detrimental to the health needs of the public in the case of public health services or the health care needs of the indigent in the case of outpatient or inpatient health services, the State Director of Health Services shall notify the State Controller of this finding and the State Controller shall reduce any allocation of funds under this act by an amount equal to the disproportionate reduction in net county costs for health services.

(f) Each county shall on or before August 15, 1978, submit to the State Director of Health Services the county budget for health services proposed for the 1978–79 fiscal year. Such budgets shall specify and include estimated revenues and net costs for public health services, outpatient health services, and inpatient health services, including such services provided under contract by cities. Each county shall, on or before September 15, 1978, submit to the State Director of Health Services the county's actual expenditures, revenues and net costs for public health services, outpatient services, and inpatient services provided during the 1977–78 fiscal year, including such services provided under contract by cities.

(g) The State Director of Health Services shall review all such actual or estimated expenditures, revenues, and net costs and determine for each county whether the 1978–79 county health services budget provides for a disproportionate reduction in net county costs for health services in each of the areas of public health services, inpatient health services, or outpatient health services, including such services provided under contract by cities. On or before October 15, 1978, the State Director of Health Services shall notify any county found to have a disproportionate reduction in any

of such areas.

(h) Upon receipt of such notice, the board shall provide public notice that a public hearing will be held. The county board of supervisors shall within 15 days of receiving such notice hold a public hearing to determine whether the amount of such reduction which is disproportionate will be detrimental to the health needs of the public in the case of public health services or detrimental to the health care needs of the indigent of the county in the case of outpatient or inpatient health services. The county board or supervisors shall make a finding based on the public hearings that the reductions are or are not detrimental. On or before November 15, 1978, the county shall transmit to the State Director of Health Services a copy of the finding, together with the written evidence on which the finding was based.

(i) If it is the finding of the board of supervisors that the reductions are detrimental, the State Director of Health Services shall notify the State Controller by December 15, 1978, to reduce the amount of the funds otherwise allowable to the county under this act by an amount equal to the disproportionate reduction in net county costs for health services. If it is the finding of the board of supervisors that the reductions are not detrimental, the State Director of Health Services shall review the finding and the evidence upon which the finding is based and shall either approve or disapprove the finding of the county board of supervisors. If the director disapproves the finding, the director shall notify the State Controller by December 15, 1978, to reduce the county's allocation of funds from this act by an amount equal to the disproportionate reduction in net county costs for health services.

(j) Counties shall make reports relative to the administration of this section to the State Department of Health Services in a form and manner determined by the State Director of Health Services.

(k) The State Department of Health Services may adopt any regulations necessary to implement this section. The department may adopt such regulations on an emergency basis pursuant to Article 4 (commencing with Section 11420) of Chapter 4.5 of Division 3 of Title 2 of the Government Code, based on the finding by the department that such regulations are necessary to resolve the financial crisis created by the adoption of Proposition 13 on the June 6, 1978, ballot. Such a finding shall meet the requirements of Section 11421 of the Government Code.

SEC. 21. Section 11836 of the Health and Safety Code, as added by Chapter 1252 of the Statutes of 1977, is amended to read:

11836. The cost of all services specified in the approved county program budget shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as provided for in the county program budget. Where the services specified in the approved program budget are provided pursuant to other general health or social

programs, only that portion of the service dealing with the prevention of alcoholism, and the treatment and rehabilitation of alcoholics and their families may be financed under this division.

For the purposes of this section, "county program budget" shall mean the total of state funds to be advanced to the county and the required county match.

During the 1978–79 fiscal year the required county match for local participation under this chapter shall be waived.

SEC. 22. Section 5705 of the Welfare and Institutions Code is amended to read:

5705. To continue the approximate 1968–1969 ratio of state-county mental health expenditures, the net cost of all services specified in the approved County Short-Doyle Plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the County Short-Doyle Plan.

During the 1978–79 fiscal year the requirement for local financial participation in the net cost of services provided under this part shall be waived.

SEC. 23. Section 21 of this act shall become operative July 1, 1978.

TAX APPORTIONMENT

SEC. 24. Section 26912 is added to the Government Code, to read:

26912. (a) For the purposes of this section, a local agency includes a city, county, city and county, and special district, as such terms are defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, if such local agency levied a property tax during the 1977–78 fiscal year or if a property tax was levied for such local agency for such fiscal year.

(b) For the 1978–79 fiscal year only, the amount of revenue derived from levying a tax pursuant to subdivision (b) of Section 2235 of the Revenue and Taxation Code shall be allocated by the county auditor, subject to the allocation and payment of funds, as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each local agency, school district, county superintendent of schools, and community college district in the following manner:

(1) (A) The auditor shall determine the share of each local agency of 1978–79 property tax revenue by dividing the total amount of property tax revenue received by all local agencies, school districts, community college districts, and county superintendents of schools in the 1977–78 fiscal year and multiplying the quotient by the total amount of revenue generated pursuant to subdivision (b) of Section 2235 of the Revenue and Taxation Code.

(B) For each local agency, the county auditor shall compute a factor equal to the average amount of property tax revenue received in the three fiscal years prior to the 1978–79 fiscal year by each local

agency within the county, divided by the average amount of property tax revenue received by all such agencies during the three fiscal years prior to the 1978–79 fiscal year. The county auditor shall multiply the factor for each local agency by the amount of revenue determined pursuant to subparagraph (A).

(C) Notwithstanding subparagraph (B), in each case where a local agency has been formed in the past three years and has assumed the duties of another local agency, it shall be entitled to the average amount of revenue for the prior three years of the local agency from whom it assumed its duties.

(2) (A) The county auditor shall determine the school share of the 1978–79 fiscal year property tax revenue by subtracting the local agency share, as determined under subparagraph (A) of paragraph (1) of this subdivision, from the total amount of revenue generated pursuant to subdivision (b) of Section 2235 of the Revenue and Taxation Code.

(B) For each school district, county superintendent of schools, and community college district, the county auditor shall compute a factor equal to the amount of property tax revenue received in the 1977–78 fiscal year by such district and the county superintendent of schools within the county divided by the total amount of property tax revenue received by all such districts and the county board of education in the 1977–78 fiscal year. The county auditor shall multiply the factor for each school district, county superintendent of schools, and community college district by the amount of revenue determined pursuant to subparagraph (A).

(3) For the purpose of this subdivision, the amount of property tax levied for the purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, shall be excluded from all calculations.

(4) The amounts computed under this subdivision shall be the amount of property tax revenue to be allocated to each local agency for the 1978–79 fiscal year.

(c) For the 1978–79 fiscal year only, the amount of state reimbursement to each county with respect to property tax losses pursuant to the homeowners exemption under Section 5523 of the Revenue and Taxation Code, the business inventory exemption under Section 988 of the Revenue and Taxation Code, and the special treatment accorded livestock, motion pictures and wine and brandy under Section 922 of the Revenue and Taxation Code, shall be allocated by each county auditor, subject to the allocation and payment of funds, as provided in subdivision (b) of Section 33670 of the Health and Safety Code, to local agencies, school districts, county superintendents of school, and community college districts within the county pursuant to the proportions established in subdivision (b). This subdivision shall not apply to reimbursements with respect to tax rates levied to pay the interest or principal on outstanding general obligation bonds or other indebtedness approved by the

voters prior to July 1, 1978.

(d) For local agencies, school districts, and community college districts located in more than one county, the county auditor of each county in which such local agency or district is located shall, for the purposes of computing the amount for such local agency or district pursuant to paragraphs (1) and (2) of subdivision (b), treat the portion of the local agency or district located within that county as a local agency or district.

SEC. 25. Section 26913 is added to the Government Code to read:

26913. If the governing body of a local agency notifies the county auditor by July 10 that it does not wish to receive its total allocation pursuant to Section 26912, the funds not claimed by such agency shall be allocated pursuant to Section 26912.

SEC. 26. Section 110 of the Revenue and Taxation Code is amended to read:

110. Except as is otherwise provided in Section 110.1, "full cash value" or "fair market value" means the amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other and both with knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon those uses and purposes.

SEC. 27. Section 110.1 is added to the Revenue and Taxation Code to read:

110.1. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property means the full cash value of property as determined pursuant to Section 110 for either:

(1) The lien date in 1975; or

(2) The date the property is purchased, newly constructed, or when a change in ownership has occurred, after the 1975 lien date, which shall be enrolled on the lien date next succeeding the date when real property, or a portion thereof, is purchased, newly constructed, or when a change of ownership has occurred.

(b) The value determined pursuant to subdivision (a) shall be the "base year value." If property has not been appraised pursuant to Section 405.5 to its appropriate base year value, "full cash value" means the reappraised value of such property as of the base year lien date. Such reappraisals may be made at any time, notwithstanding the provisions of Section 405.61.

(c) For each lien date after the lien date in which the full cash value is determined pursuant to subdivision (a) and (b), the full cash value of real property shall reflect the percentage change in cost of living, as defined in Section 2212; provided, that such value shall not reflect an increase in excess of 2 percent of the full cash value of the preceding lien date.

SEC. 28. Section 110.5 of the Revenue and Taxation Code is amended to read:

110.5. "Full value" means fair market value, full cash value, or such other value standard as is prescribed by the Constitution or in this code under the authorization of the Constitution.

SEC. 29. Section 110.6 is added to the Revenue and Taxation Code, to read:

110.6. The Legislature finds and declares that a change in ownership of real property means all recorded and unrecorded transfers of legal or equitable title, except the transfer of bare legal title, whether by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other change in the method of holding title, whether by voluntary or involuntary transfer or by operation of law. The term shall also include, but is not limited to, the transfer of stock of a corporation vested with legal title which conveys to the transferee the exclusive right to occupancy and possession of the real property, or a portion thereof, and the creation of a leasehold or taxable possessory interest, or the sublease or assignment thereof, for a term in excess of 10 years.

The board shall prescribe rules and regulations to govern assessors when determining when a change in ownership of real property occurs.

SEC. 30. Section 2217 is added to the Revenue and Taxation Code, to read:

2217. For the purpose of Section 1 of Article XIIIA of the California Constitution, the term "district" means a local agency, which includes a city, county, city and county, special district, school district, county superintendent of schools, or community college district which levied, or had levied on its behalf, a property tax during the 1977–1978 fiscal year.

SEC. 31. Section 2235 is added to the Revenue and Taxation Code, to read:

2235. (a) Notwithstanding any other provision of law, except as provided in subdivision (b), no local agency, school district, county superintendent of schools, or community college district shall levy an ad valorem property tax, other than that amount which is equal to the amount needed to make annual payments for the interest and principal on general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978.

(b) A county shall levy an ad valorem property tax on taxable assessed value at a rate equal to four dollars ($4) per one hundred dollars ($100) of assessed value. The revenue from such tax shall be distributed, subject to the allocation and payment as provided in subdivision (d) of Section 33675 of the Health and Safety Code, to local agencies, school districts, county superintendents of schools, and community college districts in accordance with the provisions of Section 26912 of the Government Code.

SEC. 32. Article 4 (commencing with Section 2260), Article 5 (commencing with Section 2270), Article 6 (commencing with Section 2285), Article 7 (commencing with Section 2295), and Article 8 (commencing with Section 2305) of Chapter 3 of Part 4 of Division

1 of the Revenue and Taxation Code shall not apply to property tax rates only for the 1978–1979 fiscal year.

WELFARE

SEC. 33. Notwithstanding any other provision of law, for the period from July 1, 1978, to June 30, 1979, the state shall pay the following:

(a) Each county's share toward the cost of payments provided pursuant to the State Supplementary Program under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code, as specified in Section 12400 of that code.

(b) Each county's share toward the cost of health care provided pursuant to the Medi-Cal Program under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, as specified in Sections 14150, 14150.3, and 14150.5 of that code.

(c) Each county's share of payments provided pursuant to the Aid to Families with Dependent Children Program under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, as specified in Section 11450(a) of that code.

(d) Ninety-five percent of the nonfederal share of payments for foster care pursuant to Sections 11450(b) and 11403 of the Welfare and Institutions Code, provided that no county shall be reimbursed for any rate increases negotiated with any boarding home or institution subsequent to June 1, 1978, unless so authorized by the Director of the State Department of Social Services upon the director's determination that such rate increases are necessary and fiscally prudent.

(e) Each county's share of costs for the administration of the Aid to Families with Dependent Children Program, as specified in Section 15204.2.

(f) Each county's share of the cost of administration of the federal Food Stamp Program under Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code, as specified in Section 18906 of that code.

SEC. 34. (a) Notwithstanding the provisions of subdivisions (b) of both Sections 15200.1 and 15200.2 of the Welfare and Institutions Code, the percentage of that portion of amounts received from or collected from noncustodial parents and to be paid to counties and other states pursuant to those subdivisions shall be 15 percent, instead of 27.5 percent, for the period July 1, 1978, to June 30, 1979.

(b) Notwithstanding the provisions of Section 15204.2 of the Welfare and Institutions Code, for the period July 1, 1978, to June 30, 1979, the state shall pay the nonfederal share of costs for activities required of counties by Section 11475.1 of the Welfare and Institutions Code, which relate to the collection of support from

noncustodial parents and the determination of paternity in the case of a child born out of wedlock.

SEC. 35. Notwithstanding the provisions of Section 11453 of the Welfare and Institutions Code, schedules applicable for the period July 1, 1978, through June 30, 1979, pursuant to Sections 11450(a) and 11452 of the Welfare and Institutions Code shall be the schedules in effect in June 1978 multiplied by the percentage amount of any state employee cost of living increases granted by the Budget Act for 1978, provided that such percentage increase shall not exceed the percentage increase that would otherwise apply without regard to this section.

SEC. 36. Notwithstanding Sections 12201, 12205, 12205.1, and 12205.2 of the Welfare and Institutions Code, for the period September 1, 1978, through June 30, 1979, the total state and federal payments when added to nonexempt income and resources made pursuant to Section 12200 of the Welfare and Institutions Code shall be the payment schedule in effect in June 1978 multiplied by the percentage amount of any state employee cost of living increases granted by the Budget Act of 1978, provided that such percentage increase shall not exceed the percentage increase that would otherwise apply without regard to this section. However, those recipients of aid who receive payments pursuant to Article 5 (commencing with Section 12200) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code shall receive at least the minimum payment necessary to meet the requirements for continuing payments of Title XIX of the federal Social Security Act monies to this state.

(b) In the event that subdivision (a) operates so as to qualify recipients of aid under the State Supplementary Program for the Aged, Blind and Disabled for federal food stamp benefits, the Director of the State Department of Social Services shall establish an administrative system which facilitates efficient and expeditious issuance of food stamp benefits to such recipients. As a means of achieving this objective, the director may conduct a statewide demonstration project testing the feasibility of a centralized process for determining eligibility and issuing food stamp benefits. The director is hereby authorized to secure any waiver of federal regulations and requirements as may be necessary to carry out such a project, including early implementation of the elimination of the purchase requirements permitted by provisions of the federal Food Stamp Act of 1977.

SEC. 37. For the purposes of this act, the Director of the State Department of Social Services shall supervise the performance of counties in administering the provisions of law and regulations related to the Aid to Families with Dependent Children Program and may impose such sanctions as provided by this section to assure adequate county administration performance.

The director may hold counties financially liable for ineligibles and overpayments as represented by a dollar error rate. For those

counties in excess of a standard to be determined by the director, liability shall not exceed their percentage of the nonfederal share of expenditures for which the counties would have been liable pursuant to Sections 11403, 11450(b), and 15200 of the Welfare and Institutions Code had this act not been enacted. Any county which has a dollar error rate in excess of national standards for which fiscal sanctions are imposed against the state by the federal government shall be liable for their percentage share derived pursuant to Sections 11403, 11450(b), and 15200 of the Welfare and Institutions Code.

Any fiscal incentive adjustments for quality control received from the federal government pursuant to Public Law 95-216 shall be allocated to the counties in a manner determined by the director.

Nothing herein shall limit county liability for exceptions taken against claims for costs incurred prior to July 1, 1978, which are determined to be improper.

SEC. 38. (a) The sum of one hundred sixty-seven million five hundred seventy-five thousand four hundred dollars ($167,575,400) is hereby appropriated from the General Fund to the State Department of Social Services for each county's share toward the cost of state supplementary payments.

(b) The sum of four hundred eighteen million dollars ($418,000,000) is hereby appropriated from the General Fund to the State Department of Health Services, for each county's share toward the cost of health care provided pursuant to the Medi-Cal Program.

(c) There is hereby appropriated from the General Fund to the State Department of Social Services, sufficient funds, as necessary for each county's share of costs specified in subdivision (a) of Section 11450 of the Welfare and Institutions Code for the Aid to Families with Dependent Children Program, provided that if the Director of Finance determines that the estimate of expenditures will exceed two hundred fifty-seven million dollars ($257,000,000), he shall so report to the Legislature. At such time as the report is made the amount shall be increased by the amount of such excess unless and until otherwise provided by law.

(d) There is hereby appropriated from the General Fund to the State Department of Social Services sufficient funds as necessary for county costs incurred for foster care, for children eligible for aid under Section 11403 and subdivision (b) of Section 11450 of the Welfare and Institutions Code; provided, that no county will be reimbursed for any rate increases negotiated with any boarding home or institution subsequent to June 1, 1978, unless so authorized by the Director of the State Department of Social Services upon his or her determination that such rate increases are necessary and fiscally prudent; provided, that if the Director of Finance determines that the estimate of expenditures will exceed ninety-two million three hundred four thousand dollars ($92,304,000) he shall so report to the Legislature. At such time as the report is made, the amount shall be increased by the amount of such excess unless and until otherwise provided by law.

(e) The sum of twenty-four million four hundred fifty thousand eight hundred dollars ($24,450,800) is hereby appropriated from the General Fund to the State Department of Social Services for each county's cost for administration of the Child Support Enforcement Program.

(f) The sum of sixty-three million two hundred thirty-nine thousand, three hundred dollars ($63,239,300) is hereby appropriated from the General Fund to the State Department of Social Services for each county's share of the costs for administration of the Aid to Families with Dependent Children program subject to the restrictions imposed by Item 276 of the Budget Act of 1978.

(g) The sum of twenty-one million four hundred sixty-six thousand dollars ($21,466,000) is hereby appropriated from the General Fund to the State Department of Social Services for each county's share of the cost of administering the federal Food Stamp Program, subject to the administrative cost control plan of the State Department of Social Services subject to the requirements of Item 276 of the Budget Act of 1978.

SEC. 39. There are no state-mandated local costs in this act that require reimbusement under Section 2231 of the Revenue and Taxation Code because any additional duties imposed on local government have been expressly approved by a majority of the voters of this state through the initiative process.

SEC. 40. 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 approval of Proposition 13 (Article XIII A of the California Constitution) by the voters of California at the June 6, 1978, Primary Election may, under certain circumstances, cause a shortage of funds to meet operating and certain debt expenses, and cause the curtailment or elimination of programs and services which are vital to the state's public health, safety, education, and welfare. In order that such services not be interrupted, it is necessary that this act take effect immediately.

CHAPTER 293

An act making an appropriation in augmentation of Item 382 of the Budget Act of 1977, relating to emergencies, to take effect immediately, usual current expenses.

[Approved by Governor June 24, 1978 Filed with Secretary of State June 24, 1978]

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

SECTION 1. The sum of seventeen million five hundred thousand dollars ($17,500,000) is hereby appropriated from the General Fund to the Emergency Fund in augmentation of, and upon the same terms and conditions as the appropriation made by, Item 382 of the Budget Act of 1977.

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 294

An act to amend Section 1260.220 of the Code of Civil Procedure, to amend the heading of Article 2 (commencing with Section 810) of Chapter 1 of Division 7 of, and to amend Sections 810, 811, 812, 813, 815, 817, and 822 of, the Evidence Code, and to amend Section 4986 of the Revenue and Taxation Code, relating to evidence in the valuation of property.

[Approved by Governor June 26, 1978. Filed with Secretary of State June 26, 1978.]

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

SECTION 1. Section 1260.220 of the Code of Civil Procedure is amended to read:

1260.220. (a) Except as provided in subdivision (b), where there are divided interests in property acquired by eminent domain, the value of each interest and the injury, if any, to the remainder of such interest shall be separately assessed and compensation awarded therefor.

(b) The plaintiff may require that the amount of compensation be first determined as between plaintiff and all defendants claiming an interest in the property. Thereafter, in the same proceeding, the trier of fact shall determine the respective rights of the defendants in and to the amount of compensation awarded and shall apportion the award accordingly. Nothing in this subdivision limits the right of a defendant to present during the first stage of the proceeding evidence of the value of, or injury to, the property or the defendant's interest in the property; and the right of a defendant to present evidence during the second stage of the proceeding is not affected by the failure to exercise the right to present evidence during the first stage of the proceeding.

SEC. 2. The heading of Article 2 (commencing with Section 810) of Chapter 1 of Division 7 of the Evidence Code is amended to read:

Article 2. Evidence of Market Value of Property

SEC. 3. Section 810 of the Evidence Code is amended to read:

810. This article provides special rules of evidence applicable only to eminent domain and inverse condemnation proceedings.

SEC. 4. Section 811 of the Evidence Code is amended to read:

811. As used in this article, "value of property" means market value of any of the following:

(a) Real property or any interest therein.

(b) Tangible personal property.

SEC. 5. Section 812 of the Evidence Code is amended to read:

812. This article is not intended to alter or change the existing substantive law, whether statutory or decisional, interpreting the meaning of "market value," whether denominated "fair market value" or otherwise.

SEC. 6. Section 813 of the Evidence Code is amended to read:

813. (a) The value of property may be shown only by the opinions of:

(1) Witnesses qualified to express such opinions;

(2) The owner of the property or property interest being valued; and

(3) An officer, regular employee, or partner designated by a corporation, partnership, or unincorporated association that is the owner of the property or property interest being valued, if the designee is knowledgeable as to the value of the property or property interest.

(b) Nothing in this section prohibits a view of the property being valued or the admission of any other admissible evidence (including but not limited to evidence as to the nature and condition of the property and, in an eminent domain proceeding, the character of the improvement proposed to be constructed by the plaintiff) for the limited purpose of enabling the court, jury, or referee to understand and weigh the testimony given under subdivision (a); and such evidence, except evidence of the character of the improvement proposed to be constructed by the plaintiff in an eminent domain proceeding, is subject to impeachment and rebuttal.

(c) For the purposes of subdivision (a), "owner of the property or property interest being valued" includes, but is not limited to, a person entitled to possession of the property.

SEC. 7. Section 815 of the Evidence Code is amended to read:

815. When relevant to the determination of the value of property, a witness may take into account as a basis for an opinion the price and other terms and circumstances of any sale or contract to sell and purchase which included the property or property interest being valued or any part thereof if the sale or contract was freely made in good faith within a reasonable time before or after the date of valuation, except that in an eminent domain proceeding where the sale or contract to sell and purchase includes only the property or property interest being taken or a part thereof, such sale

or contract to sell and purchase may not be taken into account if it occurs after the filing of the lis pendens.

SEC. 8. Section 817 of the Evidence Code is amended to read:

817. (a) Subject to subdivision (b), when relevant to the determination of the value of property, a witness may take into account as a basis for an opinion the rent reserved and other terms and circumstances of any lease which included the property or property interest being valued or any part thereof which was in effect within a reasonable time before or after the date of valuation, except that in an eminent domain proceeding where the lease includes only the property or property interest being taken or a part thereof, such lease may not be taken into account in the determination of the value of property if it is entered into after the filing of the lis pendens.

(b) A witness may take into account a lease providing for a rental fixed by a percentage or other measurable portion of gross sales or gross income from a business conducted on the leased property only for the purpose of arriving at an opinion as to the reasonable net rental value attributable to the property or property interest being valued as provided in Section 819 or determining the value of a leasehold interest.

SEC. 9. Section 822 of the Evidence Code is amended to read:

822. Notwithstanding the provisions of Sections 814 to 821, the following matter is inadmissible as evidence and is not a proper basis for an opinion as to the value of property:

(a) The price or other terms and circumstances of an acquisition of property or a property interest if the acquisition was for a public use for which the property could have been taken by eminent domain.

(b) The price at which an offer or option to purchase or lease the property or property interest being valued or any other property was made, or the price at which such property or interest was optioned, offered, or listed for sale or lease, except that an option, offer, or listing may be introduced by a party as an admission of another party to the proceeding; but nothing in this subdivision permits an admission to be used as direct evidence upon any matter that may be shown only by opinion evidence under Section 813.

(c) The value of any property or property interest as assessed for taxation purposes or the amount of taxes which may be due on the property, but nothing in this subdivision prohibits the consideration of actual or estimated taxes for the purpose of determining the reasonable net rental value attributable to the property or property interest being valued.

(d) An opinion as to the value of any property or property interest other than that being valued.

(e) The influence upon the value of the property or property interest being valued of any noncompensable items of value, damage, or injury.

(f) The capitalized value of the income or rental from any

property or property interest other than that being valued.

SEC. 10. Section 4986 of the Revenue and Taxation Code is amended to read:

4986. (a) All or any portion of any tax, penalty, or costs, heretofore or hereafter levied, may, on satisfactory proof, be canceled by the auditor on order of the board of supervisors with the written consent of the county legal adviser if it was levied or charged:

(1) More than once.

(2) Erroneously or illegally.

(3) On the canceled portion of an assessment that has been decreased pursuant to a correction authorized by Article 1 (commencing with Section 4876) of Chapter 2 of this part.

(4) On property which did not exist on the lien date.

(5) On property annexed after the lien date by the public entity owning it.

(6) On property acquired prior to September 18, 1959, by the United States of America, the state, or by any county, city, school district or other political subdivision and which, because of such public ownership, became not subject to sale for delinquent taxes.

(b) On property acquired after the lien date by the United States of America, if such property upon such acquisition becomes exempt from taxation under the laws of the United States, or by the state or by any county, city, school district or other public entity, and because of such public ownership becomes not subject to sale for delinquent taxes, no cancellation shall be made in respect of all or any portion of any such unpaid tax, or penalties or costs, but such tax, together with such penalties and costs as may have accrued thereon while on the secured roll, shall be paid through escrow at the close of escrow or, if unpaid for any reason, they shall be collected like any other taxes on the unsecured roll. If unpaid at the time set for the sale of property on the secured roll to the state, they shall be transferred to the unsecured roll pursuant to Section 2921.5, and collection thereof shall be made and had as provided therein, except that the statute of limitations on any suit brought to collect such taxes and penalties shall commence to run from the date of transfer of such taxes, penalties and costs to the unsecured roll, which date shall be entered on the unsecured roll by the auditor opposite the name of the assessee at the time such transfer is made. The foregoing toll of the statute of limitations shall apply retroactively to all such unpaid taxes and penalties so transferred, the delinquent dates of which are prior to the effective date of the amendment of this section at the 1959 Regular Session.

If any property described in this subdivision is acquired by a negotiated purchase and sale, gift, devise, or eminent domain proceeding after the lien date but prior to the commencement of the fiscal year for which current taxes are a lien on the property, the amount of such current taxes shall be canceled and neither the person from whom the property was acquired nor the public entity shall be liable for the payment of such taxes. If, however, the

property is so acquired after the commencement of the fiscal year for which the current taxes are a lien on the property, that portion only of such current taxes, together with any allocable penalties and costs thereon, which are properly allocable to that part of the fiscal year which ends on the day before the date of acquisition of the property shall be paid through escrow at the close of escrow, or if unpaid for any reason, they shall be transferred to the unsecured roll pursuant to Section 2921.5 and shall be collectible from the person from whom the property was acquired. The portion of such taxes, together with any penalties and costs thereon, which are allocable to that part of the fiscal year which begins on the date of the acquisition of the property, shall be canceled and shall not be collectible either from the person from whom the property was acquired nor from the public entity.

In no event shall any transfer of unpaid taxes, penalties or costs be made with respect to property which has been tax deeded to the state for delinquency.

For purposes of this subdivision, if proceedings for acquisition of the property by eminent domain have not been commenced, the date of acquisition shall be the date that the conveyance is recorded in the name of the public entity or the date of actual possession by the public entity, whichever is earlier. If proceedings to acquire the property by eminent domain have been commenced and an order for possession prior to judgment obtained prior to acquisition of the property by deed, the date of acquisition shall be the date upon or after which the plaintiff may take possession as authorized by the order for possession prior to judgment.

No cancellation under paragraph (2) of subdivision (a) of this section shall be made in respect of all or any portion of any tax, or penalties or costs attached thereto, collectible by county officers on behalf of a municipal corporation without the written consent of the city attorney or other officer designated by the city council unless the city council, by resolution filed with the board of supervisors, has authorized the cancellation by county officers. The resolution shall remain effective until rescinded by the city council. For the purpose of this section and Section 4986.9, the date of possession shall be the date after which the plaintiff may take possession as authorized by order of the court or as authorized by a declaration of taking.

CHAPTER 295

An act to add Section 1319 to, and to add Article 12 (commencing with Section 45450) to Chapter 5 of Part 25 of, the Education Code, and to amend Section 42201 of the Vehicle Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 27, 1978 Filed with Secretary of State June 27, 1978]

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

SECTION 1. Section 1319 is added to the Education Code, to read:

1319. The county superintendent of schools may employ, in accordance with the provisions of Chapter 5 (commencing with Section 45100) of Part 25 of Division 3 of Title 2, such personnel as may be necessary to act as guards at pedestrian crossings to ensure the safety of schoolchildren who use such intersections.

SEC. 2. Article 12 (commencing with Section 45450) is added to Chapter 5 of Part 25 of the Education Code, to read:

Article 12. Particular Employees

45450. The governing board of any school district may employ, in accordance with the provisions of this chapter, such personnel as may be necessary to act as guards at pedestrian crossings to ensure the safety of schoolchildren who use such intersections.

45451. The governing board of any school district which employs school crossing guards pursuant to this article may be reimbursed from funds including, but not limited to, those collected pursuant to Sections 42200 and 42201 of the Vehicle Code.

SEC. 3. Section 42201 of the Vehicle Code is amended to read:

42201. (a) Of the total amount of fines and forfeitures received by a county under subsection (a) of subdivision (1) of Section 1463 of the Penal Code, that proportion which is represented by fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by the state or by the county shall be paid into the treasury of the county and deposited in the road fund of the county; provided, however, that the board of supervisors of the county may, by resolution, provide that not more than 50 percent thereof be transferred into the general fund of the county.

(b) The board of supervisors of a county may enter into a contract with the Department of the California Highway Patrol for the purpose of providing adequate protection for school pupils who are required to cross heavily traveled streets, highways, and roadways in the unincorporated areas of the county. When requested the Department of the California Highway Patrol may provide such service and the county shall reimburse the state for salaries and wages of crossing guards furnished by the Department of the California Highway Patrol pursuant to such contract, including any necessary retirement and general administrative costs and expenses in connection therewith, and may pay the costs thereof from amounts deposited in the road fund pursuant to this section.

(c) When requested by any county which had in effect on June 30, 1970, a contract with the Department of California Highway Patrol

to provide protection for school pupils at school crossings, the department shall provide such service and the county shall reimburse the state in the manner provided in subdivision (b).

(d) Fines and forfeitures received by a county under Section 1463 of the Penal Code may be used to pay the compensation of school crossing guards who are not regular full-time members of county law enforcement agencies.

SEC. 4. Notwithstanding any other provisions of law, during the 1978–79 fiscal year each of the deadlines specified in Sections 1623, 1624, 42127, 85000, 85003, and 85023 of the Education Code requiring the taking of particular action involving the adoption of budgets shall be extended by one month.

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 clarify existing law at the earliest possible time and in order to facilitate the orderly administration of the schools under the tax limitation-initiative constitutional amendment approved by the electorate on June 6, 1978, it is necessary that this act take effect immediately.

CHAPTER 296

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

[Approved by Governor June 27, 1978 Filed with Secretary of State June 27, 1978]

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

SECTION 1. Notwithstanding Sections 54902, 54902.1, 54903, and 54903.1 of the Government Code, the formation of the Cotati-Rohnert Park Unified School District and the boundary change of the Calistoga Joint Unified School District shall be effective for assessment and taxation purposes for the 1978–79 fiscal year if each required statement and map or plot was filed with each assessor whose roll is used for the levy, with the State Board of Equalization in Sacramento, with the Superintendent of Public Instruction, and with the county superintendent of schools, on or before February 15, 1978.

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 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. 3. Due to the unique circumstances of the inadvertance of the Calistoga Joint Unified School District and the Cotati-Rohnert Park Unified School District, and the ambiguity concerning the specified filing deadline, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Article IV of the California Constitution.

SEC. 4. This act shall remain in effect only until January 1, 1979, and as of that date is repealed.

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 concerning such necessity are:

In order that the assessment and taxation of property in the Cotati-Rohnert Park Unified School District and the Calistoga Joint Unified School District may take place in fiscal year 1978–79 as the voters or the board of supervisors approved, it is essential that this act take immediate effect.

CHAPTER 297

An act to amend Section 4848 of the Business and Professions Code, relating to veterinary medicine.

[Approved by Governor June 28, 1978. Filed with Secretary of State June 28, 1978.]

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

SECTION 1. Section 4848 of the Business and Professions Code is amended to read:

4848. The board shall by means of examination, ascertain the professional qualifications of all applicants for licenses to practice veterinary medicine in this state and shall issue a license to every person which it finds to be qualified.

The examination shall consist of a written examination and a practical examination which may be given at the same time or at different times as determined by the board. The written examination may be waived by the board in any case in which it determines that the applicant has taken an examination for license in another state substantially equivalent in scope and subject matter to the written examination last given in California before such determination is made, and has achieved a score on the out-of-state examination at least equal to the score required to pass such California written examination. Nothing in this chapter shall preclude the board from permitting a person who has completed a portion of his educational program, as determined by the board, in a veterinary college, recognized by the board under Section 4846, to take the examination

or any part thereof prior to satisfying the requirements for application for a license established by Section 4846.

No license shall be issued to anyone who has not demonstrated his competency by examination.

The board may waive the examination requirements, and issue a license to an applicant to practice veterinary medicine, surgery and dentistry, provided such applicant meets the following requirements and would not be declined issuance of a license by any other provision of this code:

(a) The applicant is licensed in one or more other states in which the board has determined that he has taken licensing examinations consisting of a written and a practical examination each equivalent in scope and subject matter to the written and practical examinations last given in California, and he has achieved a score on each of the out-of-state examinations at least equal to the score required to pass such California examination.

(b) The applicant has been lawfully and continuously engaged in the practice of veterinary medicine, surgery and dentistry for four years or more in one or more states that accept California licensees immediately preceding filing his application for licensure in this state.

(c) The applicant has graduated from a veterinary college recognized by the board under Section 4846.

(d) The board determines that no disciplinary action has been taken against the applicant by any public agency concerned with the practice of veterinary medicine and that the applicant has not been the subject of adverse judgments resulting from the practice of veterinary medicine which the board determines constitutes evidence of a pattern of incompetence or negligence.

(e) The applicant passes an examination administered by the board or a committee authorized by the board. It shall be oral or practical or clinical in nature and full consideration shall be given to the duration and character of the applicant's practice.

Notwithstanding any other provision of law, the board shall not waive the examination requirements and issue a license to any applicant unless the state in which the applicant is licensed shall have extended a like privilege to engage in the practice of veterinary medicine, surgery and dentistry within its own borders to veterinarians heretofore and hereafter licensed by this state and removing to such other state.

The board shall report to the Legislature on or before June 30, 1980, as to the impact of this section and any recommendations for necessary changes.

CHAPTER 298

An act to amend Section 591.4 of the Probate Code, relating to decedents' estates.

[Approved by Governor June 28, 1978. Filed with Secretary of State June 28, 1978.]

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

SECTION 1. Section 591.4 of the Probate Code is amended to read:

591.4. The advice of proposed action shall be delivered personally or sent by first-class mail, or sent by airmail to any person residing outside the jurisdiction of the United States, to each person described in Section 591.3 at his last known address. The advice of proposed action shall state the name and mailing address of the executor or administrator and the action proposed to be taken, with a reasonable specific description of such action, and the date on or after which the proposed action is to be taken. Such date shall not be less than 15 days after the personal delivery, or mailing, of the advice. The failure of the executor or administrator to comply with the provisions of this section shall not affect the validity of the action so taken or the title to any property conveyed or transferred to bona fide purchasers and to third persons dealing in good faith with him who changed their position in reliance on the action, conveyance or transfer without notice of the failure of the executor or administrator to comply with such provisions. The receipt of such advice shall not prejudice the right of any person interested in the estate to have the court later review the action taken.

CHAPTER 299

An act to amend the heading of Article 2 (commencing with Section 11710) of Part 1 of Division 3 of Title 2 of, and to amend Sections 11710, 11711, 11712, and 11713 of, the Government Code, relating to intergovernmental information systems.

[Approved by Governor June 28, 1978. Filed with Secretary of State June 28, 1978.]

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

SECTION 1. The heading of Article 2 (commencing with Section 11710) of Part 1 of Division 3 of Title 2 of the Government Code is amended to read:

Article 2. Intergovernmental Board on Information Systems

SEC. 2. Section 11710 of the Government Code is amended to read:

11710. There is in the state government an Intergovernmental Board on Information Systems hereafter referred to as the board.

The board shall consist of 16 members and 12 alternates appointed by the Governor with six members from state government representing the Business and Transportation Agency, the Resources Agency, the Health and Welfare Agency, the State and Consumer Services Agency, the Department of Justice, and the State Data Processing Officer (Department of Finance); three members representing county governments, three members representing city governments, three members representing school districts, and one member representing higher education interests. County representatives shall be selected from among candidates nominated by the County Supervisors Association of California. City representatives shall be selected from among candidates nominated by the League of California Cities. One school district representative shall be selected from among candidates nominated by the Association of California School Administrators; one shall be selected from among candidates nominated by the California School Boards Association; and one shall be selected from among candidates nominated by the California State Board of Education. The higher education representative shall be selected from among candidates nominated by the California Postsecondary Education Commission. Each of the state government organizations and the educational organizations represented shall have a designated alternate. The counties collectively shall have a designated alternate, as shall the cities collectively. Alternates may attend all meetings and shall have full voting power in the absence of a regular member whom the alternate represents. The board shall elect its own chairman. Members of the board shall receive no compensation for their services, except for the chairman who shall be reimbursed for his expenses actually and necessarily incurred by him in the performance of his duties under this chapter.

SEC. 3. Section 11711 of the Government Code is amended to read:

11711. The Intergovernmental Board on Information Systems shall:

(a) Establish and publicize the objectives for intergovernmental information systems within California, including provisions for their review and comment by all California government organizations served by the board.

(b) Establish and publicize standards which define and assess the relevance, usefulness, feasibility, transferability, and appropriate privacy, security, and confidentiality safeguards of intergovernmental information systems.

(c) Review and evaluate each major intergovernmental

information system proposed by state government against the standards criteria described in subdivision (b), and report those findings to the government organizations affected by the system, and to interested parties in the legislative and executive branches of California state government.

(d) Recommend any legislation required to insure the effective application of the standards described in subdivision (b).

(e) Carry out educational programs for government jurisdictions to aid in their development of effective and economical intergovernmental information systems.

(f) Provide consulting services which aid government jurisdictions in the correct application of the intergovernmental information system standards, and in the solution of immediate management problems.

(g) Provide counsel to the State Legislature and to the Governor with respect to any matters relating to intergovernmental information systems.

(h) At the request of the Legislature or the Governor, conduct management evaluations of existing intergovernmental information systems and provide to those authorities reports of findings.

(i) Maintain an inventory of federal information standards and general practices.

(j) Recommend any legislation required to insure the protection of individual privacy and the necessary confidentiality of information becoming part of an intergovernmental information system.

SEC. 4. Section 11712 of the Government Code is amended to read:

11712. The board shall report annually, on or before November 30, to the Governor, the Legislature, and to the organizations which the members of the board represent. The report shall include information on the board's activities, accomplishments, plans and recommendations.

SEC. 5. Section 11713 of the Government Code is amended to read:

11713. The board may:

(a) Select and appoint an executive director, and employ, pursuant to the provisions of Article VII of the California Constitution and the State Civil Service Act, other necessary staff support.

(b) Require government organizations to furnish information, as required to assure the board's compliance with subdivision (c) of Section 11711.

(c) Appoint such advisory groups as may be necessary to carry out the board's functions

(d) Receive and disburse funds, as required, to advance the work of the board as provided for pursuant to this chapter.

CHAPTER 300

An act to amend Section 813 of the Penal Code, relating to arrest warrants.

[Approved by Governor June 28, 1978 Filed with Secretary of State June 28, 1978.]

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

SECTION 1. Section 813 of the Penal Code is amended to read:

813. When a complaint is filed with a magistrate charging a public offense originally triable in the superior court of the county in which he sits, if such magistrate is satisfied from the complaint that the offense complained of has been committed and that there is reasonable ground to believe that the defendant has committed it, he must issue a warrant for the arrest of the defendant; provided, that a judge of the justice court who is not a member of the State Bar may issue such a warrant only upon the concurrence of the district attorney of the county in which he sits or the Attorney General.

CHAPTER 301

An act to amend Sections 198, 205, and 602 of the Code of Civil Procedure, relating to jurors.

[Approved by Governor June 28, 1978 Filed with Secretary of State June 28, 1978]

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

SECTION 1. Section 198 of the Code of Civil Procedure is amended to read:

198. A person is competent to act as juror if he or she is:

1. A citizen of the United States of the age of 18 years who meets the residency requirements of electors of this state;

2. In possession of his or her natural faculties and of ordinary intelligence, provided that no person shall be deemed incompetent solely because of the loss of sight in any degree or other disability which substantially impairs or interferes with the person's mobility; and

3. Possessed of sufficient knowledge of the English language.

SEC. 2. Section 205 of the Code of Civil Procedure is amended to read:

205. (a) The selections and listings in each county shall be made at random from the jury eligibility roll specified in Section 204e of persons suitable and competent to serve as jurors, and in making such selections there shall be taken only the names of persons who

are not exempt from serving, who are in the possession of their natural faculties, who are of fair character and approved integrity, and who are of sound judgment.

(b) A person shall not be deemed incompetent, and shall not be excluded from the list of prospective jurors, solely because of the loss of sight in any degree or other disability which substantially impairs or interferes with the person's mobility.

SEC. 3. Section 602 of the Code of Civil Procedure is amended to read:

602. Challenges for cause may be taken on one or more of the following grounds:

(1) A want of any of the qualifications prescribed by this code to render a person competent as a juror.

(2) The existence of any incapacity which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the challenging party.

(3) Consanguinity or affinity within the fourth degree to any party or to an officer of a corporation which is a party.

(4) Standing in the relation of, or being the parent, spouse, or child of one who stands in the relation of, guardian and ward, master and servant, employer and clerk, or principal and agent, or debtor and creditor, to either party or to an officer of a corporation which is a party, or being a member of the family of either party; or a partner in business with either party; or surety on any bond or obligation for either party, or being the holder of bonds or shares of capital stock of a corporation which is a party; or having stood within one year previous to the filing of the complaint in the action in the relation of attorney and client with either party or with the attorney for either party. A depositor of a bank or a holder of a savings account in a savings and loan association shall not be deemed a creditor of such bank or savings and loan association for the purpose of this subsection solely by reason of his being such a depositor or account holder.

(5) Having served as a juror in a civil action or been a witness on a previous trial between the same parties, for the same cause of action; or having served as a juror within one year previously in any civil action or proceeding in which either party was plaintiff or defendant.

(6) Interest on the part of the juror in the event of the action, or in the main question involved in the action, except his interest as a member or citizen or taxpayer of a county, city and county, incorporated city or town, or other political subdivision of a county, or municipal water district.

(7) Having an unqualified opinion or belief as to the merits of the action founded upon knowledge of its material facts or of some of them.

(8) The existence of a state of mind in the juror evincing enmity against or bias to either party.

(9) That he is a party to an action pending in the court for which he is drawn and which action is set for trial before the panel of which he is a member.

SEC. 4. The Legislature hereby declares that failure to include any specific category of disabled persons within the proviso in subdivision 2 of Section 198 of the Code of Civil Procedure or within subdivision (b) of Section 205 of the Code of Civil Procedure shall not be interpreted as legislative intent either to qualify or disqualify such persons from jury service.

CHAPTER 302

An act to amend Section 42821 of the Education Code, relating to school districts.

[Approved by Governor June 28, 1978 Filed with Secretary of State June 28, 1978]

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

SECTION 1. Section 42821 of the Education Code is amended to read:

42821. The governing board of any school district which has established a revolving cash fund pursuant to Section 42820 shall designate a person or persons who shall be authorized to make immediate payments by check, drawn on the revolving cash fund, for purchases in an amount of two hundred dollars ($200) or less, including tax and freight, or at the time of preparing the order for such purchases to make such check payable to the vendor permitting him to fill in the amount to be paid upon shipment of the purchases, such check to state on its face that it is not valid for more than two hundred dollars ($200).

A monthly list of such payments shall be submitted to the governing board by the designated person or persons for approval.

Upon approval of such expenditures by the governing board, the clerk of the governing board shall draw an order for the replenishment of the revolving cash fund from the county or joint school district fund in the county treasury belonging to the school district. Such order shall be treated in the same manner as prescribed for payment of other claims against the funds of the school district.

Any person who issues a check drawn on the revolving cash fund shall be personally liable for the amount of the check only if the expenditure is in violation of rules and regulations established by the governing board with respect to the revolving cash fund.

CHAPTER 303

An act to amend Section 25910 of the Health and Safety Code, relating to asbestos, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1978 Filed with Secretary of State June 28, 1978.]

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

SECTION 1. Section 25910 of the Health and Safety Code is amended to read:

25910. (a) Except as provided in subdivisions (b), (c), and (d), no person shall cause or permit the spraying of any substance containing any amount of asbestos in or upon a building or other structure during its construction, alteration, or repair.

(b) (1) Portland cement plaster containing less than one-half of 1 percent asbestos shall be exempt from the provisions of this chapter until July 1, 1979.

(2) Pursuant to the provisions of Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code, on or before June 1, 1979, the Occupational Safety and Health Standards Board shall conduct public hearings for the purpose of establishing classifications of methods and processes which are exempt from the prohibition of subdivision (a) for the use of portland cement plaster which contains less than one-half of 1 percent asbestos if no economically feasible method or process of spraying portland cement plaster which does not contain asbestos is commercially available. The board shall, on or before July 1, 1979, establish by regulation such classifications, if any, of methods and processes for the use of portland cement plaster which contains less than one-half of 1 percent asbestos which the board determines are exempt from the prohibition of subdivision (a). After July 1, 1979, the board may, after public hearings, amend, add, or repeal such regulations.

(3) During any use, spraying, application, handling, storage, repair, disposal, processing, or transportation of portland cement plaster containing asbestos, the person who causes or permits such acts pursuant to an exemption provided in, or adopted pursuant to, this subdivision shall comply with the provisions of Section 5208, Title 8, California Administrative Code as it exists on the effective date of the amendments to this section enacted by the Statutes of 1978 or as such provisions may, thereafter, be amended. However, on or before July 1, 1979, the board shall adopt regulations, and make such regulations operative on July 1, 1979, to establish the time weighted average concentration limits and ceiling concentration limits for employee exposure to airborne asbestos fibers arising from any use, spraying, application, handling, storage, repair, disposal, processing, or transportation of portland cement plaster containing asbestos

pursuant to an exemption adopted pursuant to this subdivision at levels no higher than the levels contained in subparagraph (A), paragraph (1), subdivision (g) of Section 5208, Title 8, California Administrative Code, as it exists on the effective date of the amendments to this section enacted by the Statutes of 1978 or as such regulations may, thereafter, be amended.

(c) (1) Exterior and interior coatings and laminating resins containing encapsulated asbestos fibers bound within the finished product from manufacture through application, and cold process asphalt roof coatings, shall be exempt from the provisions of this chapter until July 1, 1979.

(2) Pursuant to the provisions of Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code, on or before June 1, 1979, the Occupational Safety and Health Standards Board shall conduct public hearings for the purpose of establishing classifications of use of products defined in paragraph (1) of this subdivision which are exempt from the prohibition of subdivision (a). The board shall, on or before July 1, 1979, establish by regulation such classifications, if any, of the use of products defined in paragraph (1) of this subdivision which the board determines are exempt from the prohibition of subdivision (a). After July 1, 1979, the board may, after public hearings, amend, add, or repeal such regulations.

(3) During any use, spraying, application, handling, storage, repair, disposal, processing, or transportation of such products, the person who causes or permits such acts pursuant to an exemption provided in, or adopted pursuant to, this subdivision shall comply with the provisions of Section 5208, Title 8, California Administrative Code as it exists on the effective date of the amendments to this section enacted by the Statutes of 1978 or may, thereafter, be amended. However, on or before July 1, 1979, the board shall adopt regulations, and make such regulations operative on July 1, 1979, to establish the time weighted average concentration limits for employee exposure to airborne asbestos fibers arising from any use, spraying, application, handling, storage, repair, disposal, processing, or transportation of exterior and interior coatings and laminating resins containing asbestos fibers contained within the finished product from manufacture through application, and cold process asphalt roof coatings pursuant to an exemption adopted pursuant to this subdivision at levels no higher than the levels contained in subparagraph (A), paragraph (1), subdivision (g) of Section 5208, Title 8, California Administrative Code, as it exists on the effective date of the amendments to this section enacted by the Statutes of 1978 or as such regulations may, thereafter, be amended.

(d) (1) Any substance which contains less than one-quarter of 1 percent asbestos which occurs solely as a result of naturally occurring impurities in the substance or its components shall be exempt from the provisions of this chapter until July 1, 1979.

(2) Pursuant to the provisions of Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code, on or before June 1,

1979, the Occupational Safety and Health Standards Board shall conduct public hearings for the purpose of establishing classifications of use of products defined in paragraph (1) of this subdivision which are exempt from the prohibition of subdivision (a). The board shall, on or before July 1, 1979, establish by regulation such classifications, if any, of the use of products defined in paragraph (1) of this subdivision which the board determines are exempt from the prohibition of subdivision (a). After July 1, 1979, the board may, after public hearings, amend, add, or repeal such regulations.

(3) During any use, spraying, application, handling, storage, repair, disposal, processing, or transportation of such products, the person who causes or permits such acts pursuant to an exemption provided in, or adopted pursuant to, this subdivision shall comply with the provisions of Section 5208, Title 8, California Administrative Code as it exists on the effective date of the amendments to this section enacted by the Statutes of 1978 or may, thereafter, be amended. However, on or before July 1, 1979, the board shall adopt regulations, and make such regulations operative on July 1, 1979, to establish the time weighted average concentration limits and ceiling concentration limits for employee exposure to airborne asbestos fibers arising from any use, spraying, application, handling, storage, repair, disposal, processing, or transportation of any substance which contains less than one-quarter of 1 percent asbestos which occurs solely as a result of naturally occurring impurities in the substance or its components pursuant to an exemption adopted pursuant to this subdivision at levels no higher than the levels prescribed in subparagraph (A), paragraph (1), subdivision (g) of Section 5208, Title 8, California Administrative Code, as it exists on the effective date of the amendments to this section enacted by the Statutes of 1978 or as such regulations may, thereafter, be amended.

(e) The adoption of classifications of methods or processes or uses which are exempted from the prohibition of subdivision (a) by the Occupational Safety and Health Standards Board made pursuant to this section shall not in any way limit or prevent any inspections by the Division of Industrial Safety of the Department of Industrial Relations. The provisions of this section shall not supersede or in any way limit the requirements for monitoring and complying with the airborne asbestos fiber exposure limits, employee protective requirements, and reporting requirements of Section 24230 of this code, of Section 142.3 or 6500 of the Labor Code, or of the rules and regulations adopted pursuant thereto.

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 the changes made by this act may take effect prior to July 1, 1978, and at the earliest opportunity during the construction season, it is necessary that this act take immediate effect.

CHAPTER 304

An act to amend Section 2900.5 of the Penal Code, relating to sentencing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 1978. Filed with Secretary of State June 28, 1978]

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

SECTION 1. 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, juvenile detention facility, or similar residential institution, all days of custody of the defendant, including days served as a condition of probation in compliance with a court order, and including days credited to the period of confinement pursuant to Section 4019, shall be credited upon his term of imprisonment, 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 term of imprisonment to be imposed, the entire term of imprisonment shall be deemed to have been served. In any case where the court has imposed both a prison or jail term of imprisonment and a fine, any days to be credited to the defendant shall first be applied to the term of imprisonment 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. Credit shall be given only once for a single period of custody attributable to multiple offenses for which a consecutive sentence is imposed.

(c) For the purposes of this section, "term of imprisonment" includes any 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.

(d) It shall be the duty of the court imposing the sentence to determine the date of admission to custody, the date of release from custody, and 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. 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 insure that only proper credit shall be applied to the reduction of time served for conviction of criminal offenses it is necessary that this act go into immediate effect.

CHAPTER 305

An act to amend Section 94.5 of the Penal Code, relating to judges.

[Became law without Governor's signature June 29, 1978. Filed with Secretary of State June 29, 1978]

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

SECTION 1. Section 94.5 of the Penal Code is amended to read:

94.5. Every judge, justice, commissioner, or assistant commissioner of a court of this state who accepts any money or other thing of value for performing any marriage, including any money or thing of value voluntarily tendered by the persons about to be married or who have been married by such judge, justice, commissioner, or assistant commissioner, whether the acceptance occurs before or after performance of the marriage and whether or not performance of the marriage is conditioned on the giving of such money or the thing of value by the persons being married, is guilty of a misdemeanor.

It is not a necessary element of the offense described by this section that the acceptance of the money or other thing of value be committed with intent to commit extortion or with other criminal intent.

This section does not apply to the request for or acceptance of a fee expressly imposed by law for performance of a marriage or to the request or acceptance by any retired judge or retired justice of a fee for the performance of a marriage. For the purposes of this section, a retired judge or retired justice sitting on assignment in court shall not be deemed to be a retired judge or retired justice.

This section does not apply to an acceptance of a fee for performing a marriage on Saturday, Sunday, or a legal holiday.

CHAPTER 306

An act to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith" approved by electors November 7, 1922, by amending Sections 5 and 12 thereof, relating to chiropractic, making an appropriation therefor and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 29, 1978 Filed with Secretary of State June 29, 1978]

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

SECTION 1. Section 5 of the act cited in the title is amended to read:

Sec. 5. License to Practice: Fee: Educational Requirements. It shall be unlawful for any person to practice chiropractic in this state without a license so to do. Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, upon such form and in such manner as may be provided by the board. Proof of graduation from an approved chiropractic school or college must reach the board 15 days prior to any meeting thereof. Each application must be accompanied by a licensee fee of not more than seventy-five dollars ($75), as determined by the board. Except in the cases herein otherwise prescribed, each applicant shall present evidence of having attended, and graduated from, a chiropractic college accredited by or recognized as a candidate for accreditation by the Accrediting Commission of the Council on Chiropractic Education, or the equivalent thereof, and shall present to the board at the time of making such application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.

The schedule of minimum educational requirements to enable any person to practice chiropractic in this state is as follows, except as herein otherwise provided:

Group 1	
Anatomy, including embryology and histology	14%
Group 2	
Physiology	6%
Group 3	
Biochemistry and clinical nutrition	6%
Group 4	
Pathology and bacteriology	10%

Group 5	
Public health, hygiene and sanitation	3%
Group 6	
Diagnosis, dermatology, syphilology and geriatrics, and radiological technology, safety, and interpretation	18%
Group 7	
Obstetrics and gynecology and pediatrics	3%
Group 8	
Principles and practice of chiropractic, physical therapy, psychiatry, and office procedure	25%
Total	85%
Electives	15%

Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to this section submitted to the electors by the 1975–1976 Regular Session of the Legislature shall meet all requirements that existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by said amendments.

SEC. 2. Section 12 of the act cited in the title is amended to read:

Sec. 12. Each person practicing chiropractic within this state shall, on or before the first day of January of each year, after a license is issued to him as herein provided, pay to said Board of Chiropractic Examiners a renewal fee of not more than seventy-five dollars ($75) as determined by the board. The secretary shall, on or before November 1st of each year, mail to all licensed chiropractors in this state a notice that the renewal fee will be due on or before the first day of January next following. Nothing in this act shall be construed to require the receipts to be recorded in like manner as original licenses. The failure, neglect or refusal of any person holding a license or certificate to practice under this act in the State of California to pay said annual fee during the time his or her license remains in force shall, after a period of 60 days from the first day of January of each year, ipso facto, work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application therefor and the payment to the said board of a fee of twice the annual amount of the renewal fee in effect at the time the restoration application is filed except that such licentiate who fails, refuses or neglects to pay such annual tax within a period of 60 days after the first day of January of each year shall not be required to submit to an examination for the reissuance of such certificate.

SEC. 3. This 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 Board of Chiropractic Examiners may apply the increases in fees authorized by this act to applicants for examinations

to be held in 1979 and to licensees of the Chiropractic Act who are renewing such licenses in January 1979, it is necessary that this act go into immediate effect.

CHAPTER 307

An act to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith" approved by electors November 7, 1922, by amending Sections 4, 5, and 10 thereof, and by adding Section 20 thereto, relating to the practice of chiropractic, said amendment to take effect upon the approval thereof by the electors, and providing for the submission thereof to the electors pursuant to subdivision (c) of Section 10 of Article II of the State Constitution.

[Approved by Governor June 29, 1978 Filed with Secretary of State June 29, 1978]

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

SECTION 1. Section 4 of the act cited in the title is amended to read:

Sec. 4. Powers of board. The board shall have power:

(a) To adopt a seal, which shall be affixed to all licenses issued by the board.

(b) To adopt from time to time such rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public. Such rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

(c) To examine applicants and to issue and revoke licenses to practice chiropractic, as herein provided.

(d) To summon witnesses and to take testimony as to matters pertaining to its duties; and each member shall have power to administer oaths and take affidavits.

(e) To do any and all things necessary or incidental to the exercise of the powers and duties herein granted or imposed.

(f) To determine minimum requirements for teachers in chiropractic schools and colleges.

(g) To approve chiropractic schools and colleges whose graduates may apply for licenses in this state. The following shall be eligible for

approval:

(1) Any chiropractic school or college having status with the accrediting agency and meeting the requirements of Section 5 of this act and the rules and regulations adopted by the board.

(2) Any chiropractic school or college initially commencing instruction prior to the effective date of the amendments to this section approved by the electors at the November, 1976, general election, provided such school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided such school or college attains status with the accrediting agency within a time period commencing on the effective date of this provision and ending March 1, 1980.

(3) Any chiropractic school or college initially commencing instruction subsequent to the effective date of the amendments to this section approved by the electors at the November, 1976, general election, provided such school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided such school or college attains status with the accrediting agency within a time period not exceeding three years following such commencement of instruction.

Upon submission of evidence satisfactory to the board that the accrediting agency has unreasonably denied status to a chiropractic school or college approved under paragraph (2) or (3) of this subdivision by not considering the application for status submitted by that school or college in a timely manner, by denying the application for status submitted by that school or college without good cause, or by imposing arbitrary and capricious additional requirements upon that school or college as conditions for the attainment of status, the board shall grant an extension of the time period for the attainment of status specified in the paragraph under which that school or college is approved, as it applies to that school or college, of at least six months but no more than one year. Prior to the expiration of such extension or of any additional extension the board grants, the board shall determine whether that school or college has been unreasonably denied status by the accrediting agency for any of the reasons specified in the immediately preceding sentence during the extension. Should the board determine such unreasonable denial of status during the extension has occurred, the board shall grant an additional extension of the time period for the attainment of status, as it applies to that school or college, of at least six months but no more than one year.

As used in this section, "accrediting agency" means (1) the Accrediting Commission of the Council on Chiropractic Education, other chiropractic school and college accrediting agencies as may be recognized by the United States Commissioner of Education, or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, (2) in the event such commission ceases to exist or ceases to be recognized by such commissioner, a chiropractic school and college

accrediting agency as may be designated by the board or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, or (3) in the event such commission ceases to exist or ceases to be recognized by such commissioner, no other such accrediting agency is recognized by such commissioner, and no such accrediting agency is acceptable to the board, the board.

As used in this section, "status" means correspondent status, status as a recognized candidate for accreditation, accredited status, or other similar status as may be adopted and used by the accrediting agency.

As used in this section, "in a timely manner" means within the time deadlines as may be established by the accrediting agency for submission of applications, consideration of applications submitted, acceptance or rejection of applications submitted, and other similar functions, as those time deadlines are interpreted by the board.

As used in this section, "without good cause" means not in accordance with rules and regulations that may be established by the accrediting agency as conditions for the attainment of status, as those rules and regulations are interpreted by the board.

As used in this section, "arbitrary and capricious additional requirements" means requirements which may be imposed by the accrediting agency as conditions for the attainment of status during the time period specified for the attainment of status by a chiropractic school or college that, in the board's judgement, cannot be satisfied within such time period or do not serve to improve the educational standards or quality of such school or college.

(h) The board may employ such investigators, clerical assistants, commissioners on examination and other employees as it may deem necessary to carry into effect the provisions of this act, and shall prescribe the duties of such employees.

SEC. 2. Section 5 of the act cited in the title is amended to read:

Sec. 5. License to Practice: Fee: Educational Requirements. It shall be unlawful for any person to practice chiropractic in this state without a license so to do. Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, upon such form and in such manner as may be provided by the board. Proof of graduation from an approved chiropractic school or college, as defined in Section 4, must reach the board 15 days prior to any meeting thereof. Each application must be accompanied by a licensee fee of fifty dollars ($50). Except in the cases herein otherwise prescribed, each applicant shall present to the board at the time of making such application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.

The schedule of minimum educational requirements to enable any person to practice chiropractic in this state is as follows, except as

herein otherwise provided:

Group 1	
Anatomy, including embryology and histology	14%
Group 2	
Physiology	6%
Group 3	
Biochemistry and clinical nutrition	6%
Group 4	
Pathology and bacteriology	10%
Group 5	
Public health, hygiene and sanitation	3%
Group 6	
Diagnosis, dermatology, syphilology and geriatrics, and radiological technology, safety, and interpretation	18%
Group 7	
Obstetrics and gynecology and pediatrics	3%
Group 8	
Principles and practice of chiropractic, physical therapy, psychiatry, and office procedure	25%
Total	85%
Electives	15%

Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to this section submitted to the electors by the 1977–1978 Regular Session of the Legislature shall meet all requirements that existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by such amendments.

SEC. 2.5. Section 5 of the act cited in the title is amended to read:

Sec. 5. License to Practice: Fee: Educational Requirements. It shall be unlawful for any person to practice chiropractic in this state without a license so to do. Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, upon such form and in such manner as may be provided by the board. Proof of graduation from an approved chiropractic school or college, as defined in Section 4, must reach the board 15 days prior to any meeting thereof. Each application must be accompanied by a licensee fee of not more than seventy-five dollars ($75), as determined by the board. Except in the cases herein otherwise prescribed, each applicant shall present to the board at the time of making such application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.

The schedule of minimum educational requirements to enable any person to practice chiropractic in this state is as follows, except as herein otherwise provided:

Group 1	
Anatomy, including embryology and histology	14%
Group 2	
Physiology	6%
Group 3	
Biochemistry and clinical nutrition	6%
Group 4	
Pathology and bacteriology	10%
Group 5	
Public health, hygiene and sanitation	3%
Group 6	
Diagnosis, dermatology, syphilology and geriatrics, and radiological technology, safety, and interpretation	18%
Group 7	
Obstetrics and gynecology and pediatrics	3%
Group 8	
Principles and practice of chiropractic, physical therapy, psychiatry, and office procedure	25%
Total	85%
Electives	15%

Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to this section submitted to the electors by the 1977–1978 Regular Session of the Legislature shall meet all requirements than existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by said amendments.

SEC. 3. Section 10 of the act cited in the title is amended to read:

Sec. 10. (a) The board may by rule or regulation adopt, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of professional service and the protection of the public. Such rules or regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

(b) The board may refuse to grant, or may suspend or revoke, a license to practice chiropractic in this state, or may place the licensee upon probation or issue a reprimand to him, for violation of the rules and regulations adopted by the board in accordance with this act, or for any cause specified in this act, including, but not limited to: The employment of fraud or deception in applying for a license or in passing an examination as provided in this act; the practice of chiropractic under a false or assumed name; or the personation of another practitioner of like or different name; 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 substantially related to the practice of chiropractic; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate him for the performance of his professional duties; the advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed; or the advertising, directly, indirectly or in substance, upon any card, sign, newspaper advertisement, or other written or printed sign or advertisement, that the holder of such license or any other person, company or association by which he or she is employed, or in whose services he or she is, will treat, cure, or attempt to treat or cure, any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, for lost manhood, sexual weakness or sexual disorder or any disease of the sexual organs; or being employed by, or being in the service of any person, company or association so advertising. The proceedings for the refusal to grant, suspension or revocation of a license upon any of the foregoing grounds shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature, and the board shall have all the powers granted therein. The secretary on all cases of revocation shall enter on his register the fact of such revocation, and shall certify the fact of such revocation under the seal of the board to the county clerk of the counties in which the certificates of the person whose certificate has been revoked is recorded; and said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person the following: "This certificate was revoked on the _____ day of _____," giving the day, month and year of such revocation in accordance with said certification to him by said secretary. The record of such revocation so made by said county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all proceedings of said board in the matter of said revocation.

(c) At any time after two years following the revocation or cancellation of a license or registration under this section, the board may, by a majority vote, reissue said license to the person affected, restoring him to, or conferring on him all the rights and privileges granted by his original license or certificate. Any person to whom such rights have been restored shall pay to the secretary the fee specified in Section 5 upon the issuance of a new license.

SEC. 4. Section 20 is added to the act cited in the title, to read:

Sec. 20. Intent of the amendments approved by the electors at the November 1978, general election. In approving the amendments to this act submitted to the electors at the November 1978, general election, it is the intent of the people of the State of California to respond to a decision of the Superior Court of the County of Los Angeles which held that the board's interpretation of the amendments to this act approved by the electors at the November 1976, general election did not reasonably provide adequate

opportunity for two chiropractic colleges then instructing students in California to apply for and obtain status as Recognized Candidates for Accreditation by the Accrediting Commission of the Council on Chiropractic Education. The people deem the amendments to the act approved by the electors at the November 1978, general election to reasonably provide adequate opportunity for the two chiropractic colleges which were the subject of the aforementioned decision, other chiropractic schools and colleges instructing students as of the effective date of the amendments to this act approved by the electors at the November 1976, general election, and chiropractic schools and colleges which may be established and commence instruction following the effective date of the amendments to this act approved by the electors at the November 1976, general election, to attain status with the accrediting agency, as those terms are defined in subdivision (g) of Section 4. All courts shall be guided by this statement of intent in any decisions they may render relative to this act, but nothing in this act shall be construed to proscribe judicial review of any actions of the board relative to the administration and enforcement of this act.

SEC. 5. Sections 1, 2, 3, and 4 of this act shall become effective only when submitted to and approved by the electors, pursuant to subdivision (c) of Section 10 of Article II of the State Constitution.

SEC. 6. Sections 1, 2, 3, and 4 of this act shall be submitted to the electors for their approval or rejection at the next succeeding general election occurring at any time subsequent to 130 days after this section takes effect, or at any statewide special election which may be called by the Governor, in his discretion, prior to such general election, in the same manner that a constitutional amendment proposed by the Legislature would be submitted, and all of the provisions of law relative to submission of such constitutional amendments to the electors and to matters incidental thereto shall apply to the submission of Sections 1, 2, 3, and 4 of this act, except as otherwise provided in this section or as such provisions may be clearly inapplicable for the submission of an amendment to an initiative measure pursuant to subdivision (c) of Section 10 of Article II of the State Constitution.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill No. 2380 are both chaptered and both amend Section 5 of the Chiropractic Act, and this bill is chaptered after Assembly Bill No. 2380, that Section 5 of the Chiropractic Act, as amended by Section 1 of Assembly Bill No. 2380 be further amended on the operative date of this act in the form set forth in Section 2.5 of this act to incorporate the changes in Section 5 proposed by this bill. Therefore, Section 2.5 of this act shall be operative only if Assembly Bill No. 2380 is chaptered before this bill and amends Section 5, and this act becomes effective as provided in Section 5 of this act, and in such case Section 2.5 of this act shall become operative on the operative date of this act and Section 2 of this act shall not become operative.

CHAPTER 308

An act to amend Section 21080.5 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. The Legislature finds that:

(a) Agriculture is a major and essential component of California's economy.

(b) The proper, safe, and efficient use of pesticides is essential for the protection and production of agricultural commodities and for health protection.

(c) Timeliness in the application of pesticides is paramount in good pest management and is essential in the prevention of economic waste.

(d) Reasonable environmental review of such pesticide use is prudent and appropriate.

(e) Individual permits to apply pesticides must often be issued on short notice, thereby making impracticable the type of environmental review which would occur if the issuance of such permits was subject to the preparation of an environmental impact report or a negative declaration pursuant to the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

(f) Preparation of environmental impact reports and negative declarations for pesticide permits would be an unreasonable and expensive burden on California agriculture and health protection agencies.

SEC. 2. The Legislature hereby declares that the procedures for governmental review of pesticide application and use shall not unnecessarily burden permit applicants or require such applicants to furnish unnecessary information.

SEC. 3. In view of the findings of Section 1, the Legislature hereby declares that it is the policy of the State of California that environmental review of the pesticide regulatory program required by Division 6 (commencing with Section 11401) and by Chapters 1 (commencing with Section 12501), 2 (commencing with Section 12751), 3 (commencing with Section 14001), and 3.5 (commencing with Section 14101) of Division 7 of the Food and Agricultural Code should be achieved through the procedures established in Section 21080.5 of the Public Resources Code and not by requiring environmental impact reports or negative declarations in connection with the issuance of pesticide permits.

SEC. 4. In order to effectuate the policy stated in Section 3 of this

act, it is the intent of the Legislature that the Director of Food and Agriculture obtain certification of the pesticide regulatory program required by the provisions of the Food and Agricultural Code as set forth in Section 3 of the act pursuant to the provisions of Section 21080.5 of the Public Resources Code.

SEC. 5. (a) In order to prevent disruption of California agriculture during the period when the Director of Food and Agriculture is seeking to obtain certification pursuant to Section 3 of this act, and in order to provide adequate time for the Legislature to act in the event that such certification is not obtained, the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code shall not apply to any action or activity governed by Division 6 (commencing with Section 11401) or by Chapters 1 (commencing with Section 12501), 2 (commencing with Section 12751), 3 (commencing with Section 14001), and 3.5 (commencing with Section 14101) of Division 7 of the Food and Agricultural Code until such time as certification is obtained as provided in subdivision (b), or, in the event that such certification is not obtained, until January 1, 1981.

(b) Not later than November 1, 1979, the Director of Food and Agriculture shall submit to the Secretary of the Resources Agency for certification, pursuant to Section 21080.5 of the Public Resources Code and to the requirements of this section, the pesticide regulatory program required by the provisions of the Food and Agricultural Code as set forth in subdivision (a).

The Secretary of the Resources Agency shall determine whether or not such regulatory program meets the requirements for certification prescribed by Section 21080.5 and by this section within 60 days of the receipt of such program from the director.

(c) The pesticide regulatory program submitted to the Secretary of the Resources Agency pursuant to subdivision (b) shall consist of the procedures for the following:

(1) The registration, evaluation and classification of pesticides;

(2) The licensing and regulation of pesticide dealers and pest control operators and advisers; and

(3) The monitoring and regulation of the use of pesticides in agricultural and urban areas of the state and of human health and environmental effects of pesticides.

(d) For purposes of certifying the pesticide regulatory program, the Secretary of the Resources Agency shall not require the rules and regulations adopted by the administering agency pursuant to the pesticide regulatory program to require the issuance of a pesticide permit for the use of restricted or nonrestricted materials under the pesticide regulatory program to comply with the provisions of clauses (iv), (v), or (vi) of paragraph (2) of, or of paragraph (3) of, subdivision (d) of Section 21080.5 of the Public Resources Code. However, the rules and regulations adopted by the administering agency shall require consideration of alternatives and mitigation measures to minimize any significant environmental impact. The

determination of the Secretary of the Resources Agency to certify the pesticide regulatory program shall not be subject to challenge under subdivision (h) of Section 21080.5 of the Public Resources Code on the grounds that the pesticide permit element of the pesticide regulatory program does not comply with such provisions of subdivision (d) of Section 21080.5 of the Public Resources Code.

SEC. 6. Section 21080.5 of the Public Resources Code is amended to read:

21080.5. (a) When the regulatory program of a state agency, board, or commission requires a plan or other written documentation, containing environmental information and complying with the requirements of paragraph (3) of subdivision (d) of this section, to be submitted in support of any of the activities listed in subdivision (b), such plan or other written documentation may be submitted in lieu of the environmental impact report required by this division; provided, that the Secretary of the Resources Agency has certified the regulatory program pursuant to this section.

(b) The provisions of this section shall apply only to regulatory programs or portions thereof which involve:

(1) The issuance to a person, other than a public agency, of a lease, permit, license, certificate, or other entitlement for use; or

(2) The adoption or approval of standards, rules, regulations or plans for use in the regulatory program.

(c) A regulatory program certified pursuant to this section is exempt from the provisions of Chapter 3 (commencing with Section 21100) and Chapter 4 (commencing with Section 21150) of this division and Section 21167.

(d) In order to qualify for certification pursuant to this section, a regulatory program shall require utilization of an interdisciplinary approach which will ensure the integrated use of the natural and social sciences in decisionmaking and shall meet all of the following criteria;

(1) The enabling legislation of the regulatory program shall:

(i) Include protection of the environment among its principal purposes.

(ii) Contain authority for the administering agency to promulgate rules and regulations for the protection of the environment, guided by standards set forth in the enabling legislation.

(2) The rules and regulations adopted by the administering agency shall:

(i) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

(ii) Include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.

(iii) Require the administering agency to consult with all public

agencies which have jurisdiction, by law, with respect to the proposed activity.

(iv) Require that final action on the proposed activity include the written responses of the issuing authority to significant environmental points raised during the evaluation process.

(v) Require the filing of a notice of the decision by the administering agency on the proposed activity with the Secretary of the Resources Agency. Such notices shall be available for public inspection, and a list of such notices shall be posted on a weekly basis in the office of the Resources Agency. Each such list shall remain posted for a period of 30 days.

(vi) Require notice of the filing of the plan or other written documentation to be made to the public and to any person who requests, in writing, such notification. The notification shall be made in a manner that will provide the public or any such person with sufficient time to review and comment on such filing.

(3) The plan or other written documentation required by the regulatory program shall:

(i) Include a description of the proposed activity with alternatives to the activity, and mitigation measures to minimize any significant adverse environmental impact.

(ii) Be available for a reasonable time for review and comment by other public agencies and the general public.

(e) The Secretary of the Resources Agency shall certify a regulatory program which the secretary determines meets all the qualifications for certification set forth in this section, and withdraw certification on determination that the regulatory program has been altered so that it no longer meets such qualifications. Certification and withdrawal of certification shall occur only after compliance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

In determining whether or not a regulatory program meets the qualifications for certification set forth in this section, the inquiry of the Secretary of the Resources Agency shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The inquiry shall not extend to individual decisions to be reached under such regulatory program, including the nature of specific alternatives or mitigation measures which might be proposed to lessen any significant adverse environmental effects of the activity.

In the event that the Secretary of the Resources Agency determines that the regulatory program submitted for certification does not meet the qualifications for certification set forth in this section, the secretary shall adopt findings setting forth the reasons for such determination.

(f) After a regulatory program has been certified pursuant to this section, any proposed change in such program which could affect compliance with the qualifications for certification specified in subdivision (d) may be submitted to the Secretary of the Resources

Agency for review and comment. The scope of the secretary's review shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The review shall not extend to individual decisions to be reached under such regulatory program, including specific alternatives or mitigation measures which might be proposed to lessen any significant adverse environmental effects of the activity. The secretary shall have 30 days after receipt of such proposed change to notify the state agency, board, or commission whether the proposed change will alter the regulatory program so that it no longer meets the qualification for certification established in this section and will result in a withdrawal of certification as provided in this section.

(g) Any action or proceeding to attack, review, set aside, void, or annul a determination or decision of a state agency, board, or commission approving or adopting a proposed activity under a regulatory program which has been certified pursuant to this section on the basis that the plan or other written documentation prepared pursuant to paragraph (3) of subdivision (d) does not comply with the provisions of this section shall be commenced no later than 30 days from the date of the filing of notice of the approval or adoption of the activity.

(h) Any action or proceeding to attack, review, set aside, void or annul a determination of the Secretary of the Resources Agency to certify a regulatory program pursuant to this section on the basis that the regulatory program does not comply with the provisions of this section shall be commenced within 30 days after certification by the secretary.

In any action brought under this subdivision, the inquiry shall extend only to whether there was a prejudicial abuse of discretion by the Secretary of the Resources Agency. Abuse of discretion is established if the secretary has not proceeded in a manner required by law or if the determination is not supported by substantial evidence.

(i) For purposes of this section, any county agricultural commissioner shall be considered a state agency.

SEC. 7. The provisions of subdivision (c) of Section 21080.5 of the Public Resources Code shall apply to any pesticide regulatory program required by Division 6 (commencing with Section 11401) or by Chapters 1 (commencing with Section 12501), 2 (commencing with Section 12751), 3 (commencing with Section 14001), and 3.5 (commencing with Section 14101) of Division 7 of the Food and Agricultural Code which has been certified pursuant to Section 21080.5 of the Public Resources Code. Pesticide permits issued pursuant to such a certified program for the use of restricted or nonrestricted materials shall be exempt from the provisions of Chapter 3 (commencing with Section 21100) and Chapter 4 (commencing with Section 21150) of Division 13 of the Public Resources Code, from the provisions of Section 21167 of the Public Resources Code, from the provisions of subdivision (g) of Section

21080.5 of the Public Resources Code, and from those provisions of subdivision (d) of Section 21080.5 of the Public Resources Code specified in subdivision (d) of Section 5 of this act.

SEC. 8. The Department of Food and Agriculture shall, as close as possible to July 1, 1978, but not later than September 1, 1978, complete a draft of its report on the Environmental Assessment of Pesticide Programs which is currently under preparation. The department shall provide for public review and comment on such draft and shall complete its final report and transmit it to the Governor and Legislature not later than February 1, 1979.

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:

Environmental impact reports and negative declarations will have to be prepared for the issuance of individual pesticide permits beginning July 1, 1978. In order to prevent this unworkable contingency and to develop a workable review of pesticide regulations, it is necessary that this act go into immediate effect.

CHAPTER 309

An act to amend Section 58889.3 of, and to repeal and add and repeal Section 58604.5 of, the Food and Agricultural Code, relating to marketing orders, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978.]

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

SECTION 1. Section 58604.5 of the Food and Agricultural Code is repealed.

SEC. 2. 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 or other costs to foreign markets.

This section shall remain in effect only until May 31, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before May 31, 1981, deletes or extends such date.

SEC. 3. Section 58889.3 of the Food and Agricultural Code is amended 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.

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, it is necessary that this act go into immediate effect.

CHAPTER 310

An act to add Section 9314 to the Welfare and Institutions Code, relating to senior nutrition programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. The Legislature hereby finds that existing nutrition programs for senior citizens only partially meet the need of such persons for an adequate and nutritious diet. The Legislature intends to encourage the establishment and growth of senior nutrition programs which utilize donated food.

SEC. 2. Section 9314 is added to the Welfare and Institutions Code, to read:

9314. The department may make grants from available state funds to fund senior nutrition programs which complement programs implemented pursuant to Title VII of the federal Older Americans Act. To qualify for such grants, a program shall include the following:

(a) Participation of senior volunteers in the operation of the program

(b) Utilization of entirely donated food

(c) Distribution of food on a regular basis.

Grant funds shall be used for the collection, storage, and distribution of food, but not including personnel costs.

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 ensure the operation of established senior nutrition programs without interruption, it is necessary that this act take effect immediately.

CHAPTER 311

An act to amend Section 8693 of, and to add Section 8277 to, the Fish and Game Code, relating to fish, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978.]

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

SECTION 1. Section 8277 is added to the Fish and Game Code, to read:

8277. The director may extend the crab season in any district, or part thereof, south of Mendocino County. Before extending such season the director shall consider written findings of the department regarding the state of the crab resource which consider, but are not limited to, population and maturity. The director may extend the season only if the written findings do not conclude that such extension will damage the crab resource. In no case shall the season be extended past July 31 of any year.

SEC. 2. Section 8693 of the Fish and Game Code is amended to read:

8693. In Districts 17, 18, 19, and 20A, drift gill nets and set gill nets may be used except for the taking of salmon.

Rockfish and lingcod may be taken with drift gill nets and set gill nets in such districts subject to the following restrictions:

(a) Rockfish and lingcod may not be taken between a line running 240° magnetic from the south steamplant stack at Moss Landing and a line running 320° magnetic from the lighthouse at Point Pinos in water less than 60 fathoms.

(b) Rockfish and lingcod may not be taken between a line running 320° magnetic from the lighthouse at Point Pinos and a line running 250° magnetic from Hurricane Point in waters less than 50 fathoms.

(c) Rockfish and lingcod may not be taken between a line running 250° magnetic from Hurricane Point and a line running 180° magnetic from Pfeiffer Point in water less than 45 fathoms.

(d) Rockfish and lingcod may not be taken between a line running due west magnetic from the lighthouse at Point Piedras Blancas and a line running due west magnetic from Point Sal in

water less than 40 fathoms.

(e) Rockfish and lingcod may not be taken between a line running 250° magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from the south steamplant stack at Moss Landing, inside 40 fathoms, by means of drift gill nets and set gill nets which have mesh smaller than 5½ inches.

(f) Loads or lots of fish taken in the areas described under subdivisions (a) to (e), inclusive, may contain 200 pounds or less of rockfish and lingcod in combination, but in no instance more than 100 pounds of rockfish.

(g) On and after July 1, 1978, drift gill nets and set gill nets which have mesh smaller than 4⅛ inches may not be used nor may they be possessed on any boat fishing for rockfish and lingcod in Districts 17, 18, 19, and 20A. On and after such date, drift gill nets and set gill nets used or possessed on any boat fishing for rockfish and lingcod in such districts, shall not be constructed of twine larger than number 6 nylon, except that the bottom 15 meshes may be constructed of heavier twine.

SEC. 3. 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. 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 this act to be operative in time to extend the present crab season and to thereby prevent major economic loss to the crab industry, it is necessary that this act go into immediate effect.

CHAPTER 312

An act to amend Sections 5.1 and 8.1 of, and to add Section 4.4 to, the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973) and Sections 5.1 and 8.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973), relating to the South Delta Water Agency and the Central Delta Water Agency, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 4.4 is added to the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973), to read:

Sec. 4.4. Notwithstanding any other provision of this act, the agency shall have the power to contract with the State of California and with the United States, or with either, for services furnished during a period declared by the Governor to be a drought emergency in the area resulting in serious water shortage or quality degradation for the purpose of protecting the quality or quantity of the water supply for the lands within the agency. Such contract may be entered into upon approval of a majority of the members of the board and without an election of the voters. All such contracts shall be limited to one year and shall recognize that the plan is being implemented as an urgently needed relief measure to prevent great losses and that California and the United States have no obligation to provide such service in any future year or years.

SEC. 1.5. Section 5.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973) is amended to read:

Sec. 5.1. On or before the 30th day of June of each year, the board shall determine, and cause to be thereafter assessed and collected as provided in this act, an amount of money sufficient to meet and pay the estimated expenses and obligations, including a reasonable reserve for contingencies, of the agency, until such time as moneys shall be available to the agency from assessments levied in the next succeeding year, subject, however, to a maximum rate, the revenue of which shall not exceed one hundred thousand dollars ($100,000), for purposes other than payment under the contracts provided for in Section 4.1. No vote shall be required to establish a maximum rate upon formation of the agency as would otherwise be required under Section 2286 of the Revenue and Taxation Code, and the maximum rate shall be the statutory rate allowed by law unless the voters of the agency approve a higher rate as provided in subdivision (3) of Section 2263 of the Revenue and Taxation Code.

SEC. 2. Section 5.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973) is amended to read:

Sec. 5.1. On or before the 30th day of June of each year, the board shall determine, and cause to be thereafter assessed and collected as provided in this act, an amount of money sufficient to meet and pay the estimated expenses and obligations, including a reasonable reserve for contingencies, of the agency, until such time as moneys shall be available to the agency from assessments levied in the next succeeding year; provided, however, that the assessment shall not exceed the rate of one dollar ($1) per one hundred dollars ($100) of the value assessed on the county tax roll of all taxable land within the agency for purposes other than payment under the contracts provided for in Section 4.1 of this act; and provided, further, that the total amount of money assessed during any year pursuant to this act for purposes other than payment under the contracts provided for in Section 4.1 of this act shall not exceed the sum of one hundred thousand dollars ($100,000). No vote shall be required to establish a

maximum rate upon formation of the agency as would otherwise be required under Section 2286 of the Revenue and Taxation Code, and the maximum rate shall be the statutory rate allowed by law unless the voters of the agency approve a higher rate as provided in subdivision (3) of Section 2263 of the Revenue and Taxation Code.

SEC. 3. Section 8.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973) is amended to read:

Sec. 8.1. In the event that the agency fails to enter into and execute on or before December 31, 1983 a contract with the United States and the State of California of the character and nature described in Section 4.1 of this act, the agency is dissolved and its existence is automatically terminated, and all of its corporate powers shall cease, except for the purpose of winding up the affairs of the agency.

SEC. 4. Section 8.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973) is amended to read:

Sec. 8.1. In the event that the agency fails to accomplish on or before December 31, 1983, the purposes of the agency of the character and nature described in Section 4.1 of this act, the agency is dissolved and its existence is automatically terminated, and all of its corporate powers shall cease, except for the purpose of winding up the affairs of the agency.

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 South Delta Water Agency and the Central Delta Water Agency to levy taxes necessary for the operation of the agencies during the current year it is necessary that the provisions of this act go into immediate effect.

CHAPTER 313

An act to amend Sections 29631 and 29632 of, and to add Section 29637 to the Government Code, relating to victims of crimes.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 29631 of the Government Code is amended to read:

29631. The Legislature hereby declares that it serves a public purpose, and is of benefit to the state and to every county and city in the state, to indemnify those innocent residents of the State of California whose property has been injured or destroyed as a result of the acts specified in Section 29632.

SEC. 2. Section 29632 of the Government Code is amended to read:

29632. The legislative body of a county or of a city may establish a program which provides for the reimbursement of any innocent resident of the county or city, as the case may be, whose property is or has been at any time subsequent to a date designated by the legislative body injured or destroyed as the consequence of:

(a) An act of a peace officer in the detection of crime or the apprehension or arrest of any person for any public offense; or

(b) An act of a person in resisting or avoiding arrest.

SEC. 3. Section 29637 is added to the Government Code, to read:

29637. For the purposes of this article, the legislative body of a county or a city may by resolution determine that a resident may be reimbursed for any losses not otherwise covered by insurance.

CHAPTER 314

An act to amend Section 23008 of, and to add Section 23008.1 to, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 23008 of the Education Code is amended to read:

23008. If more or less than the required contributions specified in Sections 22804 and 23400 are paid to the system based on any salary payment to a member, proper adjustments shall be made by the county superintendent or other employing agency on a monthly report within 60 days of discovery or of notification by the system.

The board may assess penalties for late or improper adjustments. Such penalties shall be no more than the regular interest as defined in Section 22145. The penalty so assessed shall be deemed interest earned in the year in which received.

If a required report contains erroneous information and the system, acting in good faith, disburses funds based on such information, the county superintendent or other employing agency who submitted the report shall reimburse the system in full for the amount of such disbursement. Reimbursement shall be made immediately upon notification by the system.

SEC. 2. Section 23008.1 is added to the Education Code, to read:

23008.1. The board, if in the interest of the system, may, in connection with adjustments to the required contributions referred to in Section 23008, receive or make payments directly from or to the member or beneficiary with interest.

CHAPTER 315

An act to amend Sections 44850.1 and 87419.1 of the Education Code, relating to school and community college employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 44850.1 of the Education Code is amended to read:

44850.1. Notwithstanding Section 44850, and notwithstanding provisions of the charter of any city or city and county to the contrary, on and after July 1, 1978, the certificated employees of any school district governed by such a charter who serve as the head of a department of the district or in an administrative or supervisory position shall neither acquire nor retain permanent status in such position unless the employee is or becomes eligible for permanent status in accordance with provisions of this code.

SEC. 2. Section 87419.1 of the Education Code is amended to read:

87419.1. Notwithstanding Section 87419, and notwithstanding provisions of the charter of any city or city and county to the contrary, on and after July 1, 1978, the certificated employees of any community college district governed by such a charter who serve as the head of a department of the district or in an administrative or supervisory position shall neither acquire nor retain permanent status in such position unless the employee is or becomes eligible for permanent status in accordance with provisions of this 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:

In order that implementation of this act may coincide with the 1978–79 school year, it is necessary that this act become effective immediately.

CHAPTER 316

An act to amend Sections 23509.5 and 23557.5 of the Elections Code, relating to elections.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 23509.5 of the Elections Code is amended to read:

23509.5. The general district election, if conducted by all-mailed ballot, shall be held on the first Tuesday following the first Monday in September of odd-numbered years. However, if permitted by the county clerk or county clerks of the county or counties affected by the use of all-mailed ballots, the general district election may be held on the first Tuesday after the first Monday in November in each odd-numbered year. All other district elections conducted by mailed ballot may be held in accordance with the dates set forth in the district enabling act or may be consolidated with the general district election.

SEC. 2. Section 23557.5 of the Elections Code is amended to read:

23557.5. A mailed-ballot election may not be consolidated with any other election unless the other election is also being conducted by all-mailed ballot and no mailed-ballot election may be held on one of the regular election days set forth in Chapter 1 (commencing with Section 2500) of Division 4, except as provided in Section 23509.5.

CHAPTER 317

An act to amend Section 5353 of the Elections Code, relating to elections.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978.]

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

SECTION 1. Section 5353 of the Elections Code is amended to read:

5353. (a) Each city, county, school district, community college district, county board of education, and special district may hold, at its discretion, an advisory election in consolidation with any regular election or special election for the purpose of allowing voters within the respective jurisdiction, or a portion thereof, to voice their opinion on substantive issues or to indicate to the local legislative body approval or disapproval of the ballot proposal.

(b) An advisory vote will be indicated as such on the ballot as a heading above the ballot proposal and by only the following description: "Advisory Vote Only."

(c) As used in this section, "advisory vote" means an indication of general voter opinion regarding the ballot proposal. The results of the advisory vote will in no manner be controlling on the sponsoring legislative body.

(d) An advisory election may be held in territory outside of the jurisdiction of the local entity calling the advisory election if the ballot proposal affects the residents of such territory. The sponsoring

legislative body shall determine the territory in which the advisory election shall be held. However, the conduct of an advisory election in such territory shall only be held if a regular election or special election is to be held in such territory and the advisory election can be consolidated with it.

CHAPTER 318

An act to add Section 20930.7 to the Government Code, relating to retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978.]

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

SECTION 1. Section 20930.7 is added to the Government Code, to read:

20930.7. "Public service" also means service which was credited under a local system of the City of Costa Mesa prior to the effective date of its contract with the board, and on account of which all contributions to such local system are transferred to this system within 90 days after the effective date of such contract with the board. Notwithstanding Section 20932, such service credit shall be at no further cost to the member, and such service shall be treated as current service, notwithstanding any other provision of law.

This section shall only apply to members who were employed by the City of Costa Mesa on the effective date of its contract with the board. Such members may elect not to receive credit for such service within 60 days after such effective date, otherwise they shall automatically receive such service credit.

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 this act is in accordance with the request of a local government entity which desires legislative authority to carry out the program specified in 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 to permit the City of Costa Mesa to become a contracting member of the Public Employees' Retirement System for the 1978–79 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 319

An act to amend Section 1780 of the Government Code, relating to public officers.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 1780 of the Government Code is amended to read:

1780. (a) Notwithstanding any other provision of law, a vacancy in any elective office on the governing board of a special district, other than those specified in Section 1781, shall be filled as provided in this section. The remaining district board members may fill the vacancy by appointment. The person appointed shall hold office until the next district general election that is scheduled 90 or more days after the effective date of the vacancy, unless an election is also held on the same date for the purpose of electing a director to serve a full term in the same office to which the person was appointed, in which event the person appointed to the vacancy shall fill the balance of the unexpired term of his predecessor. Appointments pursuant to this subdivision shall be made within a period of 60 days immediately subsequent to the effective date of such vacancy and a notice of the vacancy shall be posted in three or more conspicuous places in the district at least 15 days before the appointment is made. In lieu of making an appointment the remaining members of the board may within 60 days of the vacancy call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 90 or more days after the vacancy occurs.

(b) If the vacancy is not filled by the district board as specified, or if the board has not called for an election within 60 days of the vacancy, the city council of the city in which the district is wholly located, or if the district is not wholly located within a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may fill the vacancy within 90 days of the vacancy, or the city council or county supervisors may order the district to call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 90 or more days after the vacancy occurs.

(c) If within 90 days of the vacancy the remaining members of the board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, the district shall call an election to fill the vacancy. The election shall be held on

the next available election date provided by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 90 or more days after the vacancy occurs.

(d) Persons appointed to fill a vacancy shall hold office until the next district general election and thereafter until the person elected at such election to fill the vacancy has been qualified, but persons elected to fill a vacancy shall hold office for the unexpired balance of the term of office.

CHAPTER 320

An act to amend Section 6920 of the Elections Code, to amend Section 32100.3 of the Health and Safety Code, to amend Sections 11825, 11828, 11850, and 28747 of, and to repeal Section 11826 of, the Public Utilities Code, and to amend Section 5532 of the Public Resources Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 6920 of the Elections Code is amended to read:

6920. Each candidate, at least 74 days prior to the election, shall leave with the officer with whom his nomination papers are required to be left a declaration of candidacy 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.

The name of a candidate shall not be placed on the ballot unless the declaration of candidacy provided for in this section has been properly filed.

SEC. 1.2. Section 32100.3 of the Health and Safety Code is amended to read:

32100.3. Not less than 95 days prior to the day fixed for the hospital district general election, the secretary shall publish at least once, in a newspaper of general circulation published in the district, if there is one, and if not, in a newspaper of general circulation in the county, a notice stating the date of the election and the number of offices to be filled at said election, together with a statement that nominations for said offices may be filed with him on forms to be supplied by the district. Forms shall be available and may be circulated not earlier than 95 days preceding the election, and may

be filed not earlier than 90 days nor later than 74 days prior to the election.

SEC. 1.4. Section 11825 of the Public Utilities Code is amended to read:

11825. Not more than 95 days prior to the election, upon request, the secretary of the district shall issue nomination papers and all other forms required for nomination to the office of director.

SEC. 2. Section 11826 of the Public Utilities Code is repealed.

SEC. 3. Section 11828 of the Public Utilities Code is amended to read.

11828. (a) Except as otherwise provided in this division, the provisions of the Elections Code prescribed for independent nominations shall substantially govern as to the manner of appointment of circulators, the form of nomination papers and other forms, the securing of signatures, the filing of the candidate's declaration of candidacy, and all other things necessary to get the name of the candidate upon the ballot. At the time of issuance of nomination papers, the secretary of the district shall cause to be entered on the first page of each section of the nomination papers the name of the candidate and the office for which he is a candidate. The secretary shall imprint a stamp on the first page of each section of the nomination papers which reads "Official Filing Form," and shall affix his signature. The secretary shall keep a list containing the name and address of each candidate, the office for which he is a candidate, and the date on which the nomination papers were issued, which list shall be a public record.

(b) Circulators may obtain signatures to the nomination paper of any candidate at any time not more than 95 days nor less than 74 days prior to the election. Nomination papers shall be signed either by 1 percent or by 50 of the registered voters from within the district, whichever is the lesser number, but in no event by more than 100 registered voters from within the district. Nomination papers shall be filed with the secretary of the district not more than 90 nor less than 74 days before the date of the election and shall be examined by him. As soon as possible under the circumstances, the secretary shall determine the number of valid signatures. If there are less than 50 valid signatures, the secretary of the district shall notify the candidate of that fact, and shall accept additional valid signatures at any time prior to the close of the period for circulating nomination papers. Each candidate, at least 74 days prior to the election, shall file a sufficient candidate's declaration of candidacy. The secretary of the district shall certify the names of all candidates to be placed upon the ballot to the county clerk or county clerks within the territory affected at least 67 days prior to the date of the election so that the names of the candidates may be placed upon the ballot.

SEC. 4 Section 11850 of the Public Utilities Code is amended to read:

11850. (a) Notwithstanding any other provision of this chapter, in any district formed prior to January 1, 1974, and containing a

population of 1,000,000 or more on such date, the number of directors on the district board shall be increased from five to seven as provided in this article.

(b) In any district to which subdivision (a) is applicable and in any district which has owned and operated an electric distribution system for at least eight years and which has a population of 250,000 or more, candidates for the office of director shall be elected by the voters of the ward each represents and shall not be voted upon at large. In any such district nomination papers may be circulated only within the ward from which the candidate is to be elected, and shall be signed either by 1 percent of the voters within the ward or by 50 voters whichever is the lesser number but in no event by more than 100 voters within the ward.

SEC. 5. Section 28747 of the Public Utilities Code is amended to read:

28747. Each candidate for the board shall file nomination papers in the form and manner prescribed in the Uniform District Election Law with the county clerk of the county in which the candidate resides. Forms shall be available and may be circulated not earlier than 95 days preceding the election, and may be filed not earlier than 90 days nor later than 74 days prior to the election.

SEC. 6. Section 5532 of the Public Resources Code is amended to read:

5532. Except as otherwise provided in this section and Section 5531, the provisions of Chapter 5 (commencing with Section 6400) of Division 6 of the Elections Code shall substantially govern as to the manner of appointment of circulators, the form of nomination documents and the securing of signatures to the nomination documents, the filing of the candidate's nomination documents, the payment of filing fees, and all other things necessary to get the name of the candidate upon the ballot.

Circulators may obtain signatures to the nomination paper of any candidate at any time not more than 95 days nor less than 74 days prior to the election, and all nomination documents shall be filed with the secretary of the district not more than 90 days nor less than 74 days before the day of election and shall be examined by him.

The election shall be consolidated with the general election as to territory which is the same, and the secretary of the district shall certify the names of all candidates to be placed upon the ballot to the county clerk or county clerks within the territory affected by the consolidation at least 67 days prior to the date of the election.

Upon the filing of a sufficient nomination paper and declaration of candidacy by any candidate, the name of the candidate shall go upon the ballot at the ensuing general election. Upon receipt of the returns of the canvass by the respective boards of supervisors, the directors of the district shall meet and determine results of the election and declare the candidate or candidates elected.

The secretary of the district shall issue certificates of election, signed by him and duly authenticated, immediately following the

determination of the result of the election by the directors of the district.

The oath of office shall be taken, subscribed, and filed with the secretary of the district within 30 days after the officer has notice of his election or appointment or before the expiration of 15 days before the commencement of his term of office. No other filing is required.

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 that the provisions of this act may apply to the 1978 general election, it is necessary that this act take effect immediately.

CHAPTER 321

An act to amend Section 1277 of the Health and Safety Code, relating to health facilities.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978.]

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

SECTION 1. Section 1277 of the Health and Safety Code is amended to read:

1277. (a) No license shall be issued by the state department unless it finds that the premises, the management, the bylaws, rules and regulations, the equipment, the staffing, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the health facility is operated in the manner required by this chapter and by the rules and regulations adopted hereunder.

(b) Notwithstanding any provision of Division 7 (commencing with Section 7000) of the Welfare and Institutions Code or any other law to the contrary, the licensure requirements for professional personnel in state and other governmental health facilities licensed by the state department shall not be less than for professional personnel in health facilities under private ownership. Such personnel who have been continuously employed on January 1, 1979, in the same state or other governmental health facilities licensed by the state department, including those persons on authorized leave, shall be exempt from the requirements of this subdivision. The requirements of this subdivision may be waived by the state department for new graduates and recruits from outside of this state for a period not to exceed two years from the date of their employment, on which date they shall have proper licenses or be terminated.

(c) A special permit shall be issued by the state department when

it finds that the staff, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the special services unit is operated in the manner required in this chapter and by the rules and regulations adopted hereunder.

(d) The state department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership. The state department shall report to the Legislature by March 1 of each year any waivers of requirements imposed by its regulations granted during the prior calendar year to any health facility.

CHAPTER 322

An act to add Chapter 10.6 (commencing with Section 13880) to Division 7 of the Water Code, relating to domestic water systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978.]

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

SECTION 1. Chapter 10.6 (commencing with Section 13880) is added to Division 7 of the Water Code, to read:

CHAPTER 10.6. CALIFORNIA SAFE DRINKING WATER GRANT PROGRAM

13880. The purpose of this chapter is to authorize the use of moneys in the California Safe Drinking Water Fund for a grant program for public agencies owning or operating domestic water systems, as authorized pursuant to the provisions of the California Safe Drinking Water Bond Law of 1976. The Legislature hereby finds and declares that it is necessary to establish a grant program to aid public agencies in the construction of projects for domestic water systems, and that certain public agencies owning or operating domestic water systems will be otherwise unable to meet minimum safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

13881. As used in this chapter:

(a) "Department" means the Department of Water Resources.

(b) "Domestic water system" means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly supplies water to at least 25 individuals. Such term includes any water supply, treatment, storage, and distribution facilities under the control of the operator of such system.

(c) "Fund" means the California Safe Drinking Water Fund created pursuant to Section 13859.

(d) "Project" means proposed facilities for the construction, improvement, or rehabilitation of the domestic water system, and may include water supply, treatment works, and all or part of a water distribution system, if such inclusions are necessary to carry out the purpose of this chapter.

(e) "Public agency" means any city, county, district, or other political subdivision of the state which owns or operates a domestic water system.

(f) "Treatment works" means any devices or systems used in the treatment of water supplies, including necessary lands, which render such supplies pure, wholesome, and potable for domestic purpose.

13882. (a) The department, subject to the requirements of this chapter, is authorized to make state grants to public agencies from moneys in the fund available for such purpose pursuant to subdivision (d) of Section 13861, to aid in the construction of projects which will enable the public agency to meet, at a minimum, safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code. Any such grant may be made by the department only upon the specific approval of the Legislature, by an act enacted after the receipt of a report filed pursuant to Section 13884.

(b) Any contract for a grant pursuant to this chapter may include such provisions as may be agreed upon by the parties thereto, and any such contract shall include, in substance, the following provisions:

(1) An estimate of the reasonable cost of the project.

(2) An agreement by the department to grant to the public agency, during the progress of construction or following completion of construction as may be agreed upon by the parties, an amount which equals the portion of construction costs found by the department to be eligible for a state grant.

(3) An agreement by the public agency, (i) to proceed expeditiously with, and complete, the project, (ii) to commence operation of the project upon completion thereof, and to properly operate and maintain the project in accordance with the applicable provisions of law, (iii) to apply for and make reasonable efforts to secure federal assistance for the project, (iv) to secure approval of the department and of the State Department of Health Services before applying for federal assistance in order to maximize and best utilize the amounts of such assistance available, and (v) to provide for payment of the public agency's share of the cost of the project, if any.

13883. Applications for grants under this chapter shall be made to the department in such form and with such supporting material as may be prescribed by the department.

13884 The department shall prepare a report on each grant application pursuant to this chapter. Such report shall be filed with

the Legislature, if it is in session, or if it is not in session, with the Rules Committee of the Assembly and Senate. The department shall be authorized to make such grant only upon the specific approval of the grant by the Legislature, by an act enacted after the receipt of such report from the department.

13885. Grants may be made only for projects for domestic water systems. The department may make reasonable allowance for future water supply needs and may provide for additional capacity when excessive costs would be incurred by later enlargement. Such grants may be made for all or any part of the cost of constructing, improving, or rehabilitating any such system when, in the judgment of the State Department of Health Services, such improvement or rehabilitation is necessary to provide pure, wholesome, and potable water available in adequate quantity at sufficient pressure for health, cleanliness, and other domestic purposes. No single public agency shall receive grants pursuant to this chapter totaling more than four hundred thousand dollars ($400,000). The total amount of grants made pursuant to this chapter shall not exceed fifteen million dollars ($15,000,000).

13886. An application for a grant pursuant to this chapter shall not be approved by the department unless the department determines that the public agency is otherwise unable to meet minimum safe drinking water standards established pursuant to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code. No grant shall be made by the department except upon approval by the State Department of Health Services of project plans submitted by the applicant and upon issuance to the public agency of a permit or amended permit as specified in Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

13887. First priority for grants shall be afforded to public agencies having immediate health related problems, as certified by the State Department of Health Services. Additional high priority shall be afforded to projects to correct immediate problems, as opposed to grants for construction of projects to meet future growth needs.

13888. Preliminary design work, including a cost estimate for the project, shall be completed before the grant is awarded. Operation and maintenance costs shall be the responsibility of the public agency and may not be considered as part of the project cost.

13889. No application for a grant may be made pursuant to this chapter unless the public agency has also applied for a loan pursuant to the California Safe Drinking Water Bond Law of 1976. No public agency whose loan application has been rejected on the basis of lack of financial need shall be eligible for a grant.

If the department has determined that the applicant is unable to repay the full costs of a loan, the applicant may also file for a grant. Upon receipt of a grant application, the department shall determine that portion of the full costs that the applicant is capable of repaying. Grant funds shall only be provided for that portion that the applicant

is not capable of repaying.

13990. Grant funds shall be expended by the public agency within three years of the making of the grant. No grant funds may be expended by the public agency unless the public agency is able to demonstrate to the department, within one year of the making of the grant, supported by an acceptable bid, that the amount to be expended for the project will be within 20 percent of the public agency's cost estimate for the project.

13991. For the purpose of administering the provisions of this chapter, the total expenditures of bond proceeds by the department and the State Department of Health Services in any fiscal year may not exceed 3 percent of the total of the grants awarded in such fiscal year pursuant to this chapter.

13992. The department, after public notice and hearing and with the advice of the State Department of Health Services, shall adopt rules and regulations necessary to carry out the purposes of this chapter. Such rules and regulations shall be transmitted to the Legislature within 60 days after the effective date of this chapter.

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 grants to be made from the California Safe Drinking Water Fund to public agencies to resolve critical water supply problems and to permit agencies which would be otherwise unable to meet minimum safe drinking water standards to meet such standards at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 323

An act to add Sections 45196.5 and 88196.5 to the Education Code, relating to schools and community colleges.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 45196.5 is added to the Education Code, to read:

45196.5. A school district may deduct from the salary otherwise payable to an employee under Section 45196 an amount which is payable, in lieu of salary and on account of the absence for illness or accident, to the employee as the beneficiary under a policy of insurance purchased by the district.

This section shall not be applicable unless specifically included in a collective bargaining agreement between the exclusive

representative and the school employer.

SEC. 2. Section 88196.5 is added to the Education Code, to read:

88196.5. A community college district may deduct from the salary otherwise payable to an employee under Section 88196 an amount which is payable, in lieu of salary and on account of the absence for illness or accident, to the employee as the beneficiary under a policy of insurance purchased by the district.

This section shall not be applicable unless specifically included in a collective bargaining agreement between the exclusive representative and the school employer.

CHAPTER 324

An act to add Section 1482.5 to the Health and Safety Code, relating to medical emergencies.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 1482.5 is added to the Health and Safety Code, to read:

1482.5. (1) Authority for patient health care management in a medical emergency shall be vested in that licensed health care professional or paramedic at the scene of the emergency who is most medically qualified specific to the provision of rendering emergency medical care. If a licensed health care professional or paramedic is not available, the authority shall be vested in the most appropriate medically qualified representative of public safety agencies who may have responded to the scene of the emergency.

(2) If any county desires to establish a unified command structure for patient management at the scene of a medical emergency within such county, a committee may be established in such county comprised of representatives of the county agency responsible for county health services, the county sheriff's department, the California Highway Patrol, public prehospital-care provider agencies serving the county, and public fire, police, and other affected emergency-service agencies within the county. The membership and duties of the committee shall be established by an agreement for the joint exercise of powers under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(3) Notwithstanding subdivision (1) of this section, authority for the management of the scene of a medical emergency shall be vested in the appropriate public safety agency having primary investigative authority. The scene of a medical emergency shall be managed in a manner designed to minimize the risk of death or health impairment to the patient and to other persons who may be exposed to the risks

as a result of the emergency condition, and priority shall be placed upon the interests of those persons exposed to the more serious and immediate risks to life and health. Public safety officials shall consult emergency medical services personnel or other authoritative health care professionals at the scene in the determination of relevant risks.

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 325

An act to amend Section 46010 of, and to add Section 46010.5 to, the Education Code, relating to school attendance.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 46010 of the Education Code is amended to read:

46010. (a) The total days of attendance of a pupil upon the schools and classes maintained by a school district, or schools or classes maintained by the county superintendent of schools during the fiscal year shall be the number of days school was actually taught for not less than the minimum schooldays during the fiscal year less the sum of his absences.

(b) The absence of a pupil from school or class shall not be deemed an absence in computing the attendance of a pupil if such absence was:

(1) Due to his illness, or

(2) Due to quarantine under the direction of a county or city health officer, or

(3) For the purpose of having medical, dental, optometrical, or chiropractic services rendered, or

(4) For the purpose of attending the funeral services of a member of his immediate family, so long as such absence is not more than one day if the service is conducted in California and not more than three days if the service is conducted outside California, or

(5) For the purpose of jury duty in the manner provided for by law

(6) Due to exclusion from school pursuant to Section 3381 of the Health and Safety Code, so long as such absence is not more than five schooldays pursuant to Section 46010.5.

"Immediate family," as used in this subdivision, has the same meaning as that set forth in the last sentence of Section 45194 except

that references therein to "employee" shall be deemed to be references to "pupil."

The provisions of this subdivision shall not apply in the case of pupils attending summer school, adult schools, and classes, or regional occupational centers and programs other than pupils concurrently enrolled in a regular high school program and a regional occupational center or program.

SEC. 2. Section 46010.5 is added to the Education Code, to read:

46010.5. The governing board of the district of attendance shall exclude any pupil of the district who has not been immunized properly pursuant to Chapter 7 (commencing with Section 3380) of Division 4 of the Health and Safety Code, for up to five days in order to obtain such immunization, and such exclusion shall not be deemed an absence in computing average daily attendance if the following conditions are complied with:

(a) The governing board of the district notifies the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil has been properly immunized, or that the pupil is exempted from the immunization requirement pursuant to Section 3385 or Section 3386 of the Health and Safety Code.

(b) The governing board of the district, in such notice, refers the parent or guardian of the pupil to the pupil's usual source of medical care to obtain such immunization, or if no usual source exists, either refers the parent or guardian to the county health department, or notifies the parent that the immunizations will be administered at a school of the district.

CHAPTER 326

An act to amend Sections 4453, and 4454 of the Government Code, relating to physically handicapped persons.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978.]

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

SECTION 1. Section 4453 of the Government Code is amended to read:

4453. The responsibility for enforcement of this chapter shall be as follows:

(a) By the Director of the Department of General Services where state funds are utilized for any project or where funds of counties, municipalities, or other political subdivisions are utilized for the construction of elementary, secondary, or community college projects.

(b) By the governing bodies thereof where funds of counties, municipalities, or other political subdivisions are utilized except as

otherwise provided in (a) above.

SEC. 2. Section 4454 of the Government Code is amended to read:

4454. Where state funds are utilized for any building or facility subject to this chapter, or where funds of counties, municipalities, or other political subdivisions are utilized for the construction of elementary, secondary, or community college buildings and facilities subject to this chapter, no contract shall be awarded until the Department of General Services has issued written approval stating that the plans and specifications comply with the intent of this chapter.

In each case the application for approval shall be accompanied by the plans and full, complete, and accurate specifications, which shall comply in every respect with any and all requirements prescribed by the Department of General Services.

The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services. All such fees shall be deposited into the Access for Handicapped Account, which account is hereby created in the General Fund. Such account is available without regard to fiscal years for the use of the Department of General Services in carrying out its responsibilities under this chapter.

The Department of General Services shall consult with the Department of Rehabilitation in identifying the requirements necessary to comply with this chapter.

CHAPTER 327

An act to amend Sections 8388 and 8388.7 of, to amend and renumber Sections 8388.3 and 8388.5 of, and to add and repeal Sections 8388.5 and 8388.6 of, the Fish and Game Code, relating to fish, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978.]

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

SECTION 1. Section 8388 of the Fish and Game Code is amended to read:

8388. Except as provided in Section 8388.2, Pacific mackerel may not be taken or possessed at any time for any purpose except loads or lots of fish may contain 18 percent or less by weight of Pacific mackerel taken incidentally to other fishing operations. Such Pacific mackerel, incidentally taken, may be used for any purpose.

This section shall not be operative until January 1, 1981.

SEC. 2. Section 8388.3 of the Fish and Game Code is amended and renumbered to read:

8388.1. It is the intent of the Legislature that the Pacific mackerel resource be enhanced. During this process a fishery shall be allowed once the Pacific mackerel spawning population, in waters north of Punta Eugenia, Baja California, Mexico, has reached 10,000 tons as determined by the department. Such determination shall be made public in an annual report to the Legislature no later than July 31 of each year. It is also the intent that as the spawning population increases, in excess of 20,000 tons, the seasonal quota also be increased but at such a rate as to allow the continued increase in the Pacific mackerel population. This process should continue with the objective of maximizing the sustained harvest.

This section shall not be operative until January 1, 1981.

SEC. 3. Section 8388.5 of the Fish and Game Code is amended and renumbered to read:

8388.2. Section 8388 shall remain in effect until the department determines that the estimated Pacific mackerel spawning population, in waters north of Punta Eugenia, Baja California, Mexico, exceeds 10,000 tons. When the department makes this determination, a season harvest quota equal to 20 percent of the amount of Pacific mackerel in excess of 10,000 tons spawning population, as determined by the department, shall be permitted under permits issued by the department.

When the department determines that the spawning population exceeds 20,000 tons, the harvest quota shall be increased to 30 percent of the excess over 20,000 tons.

The department shall keep records of the catch of Pacific mackerel and when it appears that the season quota will be reached, it shall notify all permitholders of the date when such limit will be reached and therefore the season closed, and shall notify, by certified mail, all permitholders of such closure.

This section shall not be operative until January 1, 1981.

SEC. 4. Section 8388.5 is added to the Fish and Game Code, to read:

8388.5. It is the intent of the Legislature that the Pacific mackerel resource be enhanced. The department shall make an annual report to the Legislature, no later than July 31, on the status of the resource.

A season allowable catch equal to 20 percent of the amount of Pacific mackerel in excess of 20,000 tons total population, as determined by the department, shall be established by the director. The allowable catch may be taken mixed or unmixed with other species, under revocable permits issued by the department to boat owners or operators, under conditions prescribed by the department, to ensure that the total harvest between October 1 and September 30 does not exceed the allowable catch.

Total population means Pacific mackerel age one and over as of October 1 of each year.

The department shall keep records of the catch of Pacific mackerel, including all Pacific mackerel taken incidentally with other species of fish. The department shall estimate from the current

trend of catches the date on which the allowable catch will be reached and shall publicly announce that date as the closing date of the season at least 48 hours prior thereto. After the season is declared closed, the allowable tolerance of Pacific mackerel taken with other species is 18 percent by number.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed.

SEC. 5. Section 8388.6 is added to the Fish and Game Code, to read:

8388.6. During the course of the season, to ensure that the total season's harvest does not exceed the catch allowed under Section 8388.5, and to allow fishing for other species, the director may:

(a) Adjust a figure previously determined to represent the season allowable catch for the taking of Pacific mackerel, if additional biological data becomes available which would indicate that an earlier determined total population needs to be revised.

(b) Set an allowable tolerance for the taking of Pacific mackerel incidental to the fishing of other species of fish, taking into consideration the mixing ratios of Pacific mackerel with other species. The allowable tolerance for Pacific mackerel mixing with jack mackerel shall not be greater than 50 percent Pacific mackerel by number determined in a manner prescribed by the director, nor less than 18 percent by number. The allowable tolerance for Pacific mackerel mixing with other species of fish, shall not be greater than 50 percent Pacific mackerel by number determined in a manner prescribed by the director.

(c) Allow any load of fish weighing three tons or less to contain any amount of Pacific mackerel, without regard to the established tolerance for the taking of Pacific mackerel incidental to the fishing of any other species of fish.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed.

SEC. 6. Section 8388.7 of the Fish and Game Code is amended to read:

8388.7. Subject to the provisions of Sections 8388, 8388.2, 8388.5, and 8388.6, Pacific mackerel season is from October 1 through September 30.

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 preserve the Pacific mackerel resource it is necessary that this act take effect immediately.

CHAPTER 328

An act to amend Sections 20 and 22 of Chapter 1654 of the Statutes of 1961, relating to parks.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 20 of Chapter 1654 of the Statutes of 1961 is amended to read:

Sec. 20. The district board is the governing body of the district and shall consist of five members until January 1, 1979, at which time the board membership shall be increased to seven members. Each member of the board shall be appointed by the appointing authority and shall be a voter in the district.

SEC. 2. Section 22 of Chapter 1654 of the Statutes of 1961 is amended to read:

Sec. 22. The election at which this act is submitted to the voters of the district for ratification shall be conducted, as nearly as may be practicable, in accordance with the provisions of Article 5 (commencing with Section 58130) and Article 6 (commencing with Section 58160), Chapter 1, Division 1, Title 6 of the Government Code. Upon the appointment of the first district board, three members shall be appointed to terms expiring on January 1, 1965. Two members shall be appointed to terms expiring on January 1, 1963. The two members appointed on January 1, 1979, shall be appointed to terms expiring on January 1, 1982. All subsequent appointments shall be for four-year terms.

CHAPTER 329

An act to amend Sections 1170.2 and 3041 of, and to repeal and add Section 3041.7 of, the Penal Code, relating to prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 1170.2 of the Penal Code is amended to read:

1170.2. (a) In the case of any inmate who committed a felony prior to July 1, 1977, who would have been sentenced under Section 1170 if he had committed it after July 1, 1977, 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 term of imprisonment of which the prisoner was convicted increased by any enhancements justified by matters found to be true and which were imposed by the court at the time of sentencing for such felony. Such matters include: being armed with a deadly or dangerous weapon as specified in Section 211a, 460, 3024, or 12022 prior to July 1, 1977, which may result in a one-year enhancement pursuant to the provisions of Section 12022; using a firearm as specified in Section 12022.5 prior to July 1, 1977, which may result in a two-year enhancement pursuant to the provisions of Section 12022.5; infliction of great bodily injury as specified in Section 213, 264, or 461 prior to July 1, 1977, which may result in a three-year enhancement pursuant to the provisions of Section 12022.7; any prior felony conviction as specified in any statute prior to July 1, 1977, which prior felony conviction is the equivalent of a prior prison term as defined in Section 667.5, which may result in the appropriate enhancement pursuant to the provisions of Section 667.5; and any consecutive sentence.

(b) If the calculation required under subdivision (a) is less than the time to be served prior to a release date set prior to July 1, 1977, or if a release date had not been set, the Community Release Board shall establish the prisoner's parole date, subject to subdivision (d), on the date calculated under subdivision (a) unless at least two of the members of the Community Release Board after reviewing the prisoner's file, determine that due to the number of crimes of which the prisoner was convicted, or due to the number of prior convictions suffered by the prisoner, 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 before a panel consisting of at least two members of the Community Release Board as provided for in Section 3041.5. The Community Release Board shall notify each prisoner who is scheduled for such a hearing within 90 days of July 1, 1977, or within 90 days of the date the prisoner is received by or returned to the custody of the Department of Corrections, whichever is later. The hearing shall be held before October 1, 1978, or within 120 days of receipt of the prisoner, whichever is later. It is the intent of the Legislature that the hearings provided for in this subdivision shall be accomplished in the most expeditious manner possible. At such hearing the prisoner shall be entitled to be represented by legal counsel, a release date shall be set, 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. The Attorney General or the district attorney of the county from which the prisoner was committed shall be entitled to

be present at and to participate in such hearings. In fixing a term under this section the board shall be guided by, but not limited to, the term which reasonably could be imposed on a person who committed a similar offense under similar circumstances on or after July 1, 1977, and further, 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 extraordinary crimes of violence against the person is the paramount consideration.

(c) 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 July 1, 1977. Nothing in this section shall be deemed to require the release of an inmate sentenced to consecutive sentences under the provisions of law applicable to him prior to July 1, 1977, earlier than if he had been sentenced to concurrent sentences.

(d) In the case of any prisoner who committed a felony prior to July 1, 1977, who would have been sentenced under Section 1170 if the felony was committed on or after July 1, 1977, 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 July 1, 1977, and thereafter.

(e) In the case of any inmate who committed a felony prior to July 1, 1977, who would have been sentenced under Section 1168 if the felony was committed on or after July 1, 1977, the Community Release Board shall provide for release from prison as provided for by this code.

(f) In the case of any inmate who committed a felony prior to July 1, 1977, the length, conditions, revocation, and other incidents of parole shall be the same as if the prisoner had been sentenced for an offense committed on or after July 1, 1977.

(g) Nothing in this chapter shall affect the eligibility for parole under Article 3 (commencing with Section 3040) of Chapter 8 of Title 1 of Part 3 of an inmate sentenced pursuant to Section 1168 as operative prior to July 1, 1977, for a period of parole as specified in subdivision (b) of Section 3000.

SEC. 2. Section 1170.2 of the Penal Code is amended to read:

1170.2. (a) In the case of any inmate who committed a felony prior to July 1, 1977, who would have been sentenced under Section 1170 if he had committed it after July 1, 1977, 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 term of imprisonment of which the prisoner was convicted increased by any enhancements justified by matters found to be true and which were imposed by the court at the time of sentencing for such felony. Such matters include: being armed with a deadly or dangerous weapon as specified in Section 211a, 460, 3024, or 12022 prior to July 1, 1977, which may result in a one-year

enhancement pursuant to the provisions of Section 12022; using a firearm as specified in Section 12022.5 prior to July 1, 1977, which may result in a two-year enhancement pursuant to the provisions of Section 12022.5; infliction of great bodily injury as specified in Section 213, 264, or 461 prior to July 1, 1977, which may result in a three-year enhancement pursuant to the provisions of Section 12022.7; any prior felony conviction as specified in any statute prior to July 1, 1977, which prior felony conviction is the equivalent of a prior prison term as defined in Section 667.5, which may result in the appropriate enhancement pursuant to the provisions of Section 667.5; and any consecutive sentence.

(b) If the calculation required under subdivision (a) is less than the time to be served prior to a release date set prior to July 1, 1977, or if a release date had not been set, the Community Release Board shall establish the prisoner's parole date, subject to subdivision (d), on the date calculated under subdivision (a) unless at least two of the members of the Community Release Board after reviewing the prisoner's file, determine that due to the number of crimes of which the prisoner was convicted, or due to the number of prior convictions suffered by the prisoner, 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 before a panel consisting of at least two members of the Community Release Board as provided for in Section 3041.5. The Community Release Board shall notify each prisoner who is scheduled for such a hearing within 90 days of July 1, 1977, or within 90 days of the date the prisoner is received by or returned to the custody of the Department of Corrections, whichever is later. The hearing shall be held before October 1, 1978, or within 120 days of receipt of the prisoner, whichever is later. It is the intent of the Legislature that the hearings provided for in this subdivision shall be accomplished in the most expeditious manner possible. At such hearing the prisoner shall be entitled to be represented by legal counsel, a release date shall be set, 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. The Attorney General or the district attorney of the county from which the prisoner was committed shall be entitled to be present at and to participate in such hearings. In fixing a term under this section the board shall be guided by, but not limited to, the term which reasonably could be imposed on a person who committed a similar offense under similar circumstances on or after July 1, 1977, and further, 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 extraordinary crimes of violence against the person is the paramount consideration.

(c) 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 July 1, 1977. Nothing in this section shall be deemed to require the release of an inmate sentenced to consecutive sentences under the provisions of law applicable to him prior to July 1, 1977, earlier than if he had been sentenced to concurrent sentences.

(d) In the case of any prisoner who committed a felony prior to July 1, 1977, who would have been sentenced under Section 1170 if the felony was committed on or after July 1, 1977, 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 July 1, 1977, and thereafter.

(e) In the case of any inmate who committed a felony prior to July 1, 1977, who would have been sentenced under Section 1168 if the felony was committed on or after July 1, 1977, the Community Release Board shall provide for release from prison as provided for by this code.

(f) In the case of any inmate who committed a felony prior to July 1, 1977, the length, conditions, revocation, and other incidents of parole shall be the same as if the prisoner had been sentenced for an offense committed on or after July 1, 1977.

(g) Nothing in this chapter shall affect the eligibility for parole under Article 3 (commencing with Section 3040) of Chapter 8 of Title 1 of Part 3 of an inmate sentenced pursuant to Section 1168 as operative prior to July 1, 1977, for a period of parole as specified in subdivision (b) of Section 3000.

(h) In fixing a term under this section, the Community Release Board shall utilize the terms of imprisonment as provided in Chapter 1139 of the Statutes of 1976 and Chapter 165 of the Statutes of 1977.

SEC. 3. 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 within the first year of incarceration solely 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 panel consisting of at least two members of the Community Release Board shall again meet with the inmate and shall normally set a parole release date as provided in Section 3041.5. The release date shall be set in a manner that will provide uniform terms for offenses of similar gravity and magnitude in respect to their threat to the public, and that will comply with the sentencing rules that the Judicial Council may issue and any sentencing information relevant to the setting of parole release dates. 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, unless it is not feasible to do so or where the last preceding meeting was the initial meeting. Any person on the hearing panel may request review of any decision regarding parole to the full board for an en banc hearing. In case of such a review, a majority vote of the full Community Release Board in favor of parole is required to grant parole to any prisoner.

(b) The panel or board shall set a release date unless it determines 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.

(c) For the purpose of reviewing the suitability for parole of those prisoners eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each such prisoner until such time as the person is released pursuant to such proceedings or reaches the expiration of his term as calculated under Section 1170.2.

SEC. 4. Section 3041.7 of the Penal Code is repealed.

SEC. 5. Section 3041.7 is added to the Penal Code, to read:

3041.7. At any hearing for the purpose of setting, advancing, postponing, or rescinding a parole release date of a prisoner under a life sentence, such prisoner shall be entitled to be represented by counsel and the provisions of Section 3041.5 shall apply. The Community Release Board shall provide by rule for the invitation of the prosecutor of the county from which the prisoner was committed, or his representative, to represent the interests of the people at any such hearing. The Community Release Board shall notify the prosecutor at least 30 days prior to the date of the hearing.

Notwithstanding Section 12550 of the Government Code, the prosecutor of the county from which the prisoner was committed, or his representative, who shall not be the Attorney General, shall be the sole representative of the interests of the people.

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill No. 709 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 1170.2 of the Penal Code, and this bill is chaptered after Senate Bill No. 709, that Section 1170.2 of the Penal Code, as amended by Section 1 of this act, shall remain operative until the effective date of Senate Bill No. 709, and that on the effective date of Senate Bill No. 709, Section 1170.2 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 1170.2 proposed by Senate Bill No. 709. Therefore, if this bill and Senate Bill No. 709 are both chaptered and become effective on or before January 1, 1979, and Senate Bill No. 709 is chaptered before this bill and amends Section 1170.2, Section 2 of this act shall become operative on the effective date of Senate Bill No. 709.

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 Uniform Determinate Sentencing Act of 1976 and the statutory amendments to it require the Community Release Board to hold a substantial number of hearings to implement these new statutes. The requirement that a panel conducting hearings pursuant to Section 3041 of the Penal Code on behalf of the Community Release Board be comprised solely of members of the board has proven impossible to implement in view of the large number of hearings which must be conducted. So that the Community Release Board can comply with the statutory deadlines for holding these hearings, this act reduces the number of board members who are required to participate in a single proceeding under Section 3041 and must take effect immediately.

The requirement that the hearings held pursuant to subdivision (b) of Section 1170.2 be completed prior to April 1, 1978, cannot be met due to the substantial number of hearings which still must be conducted. So that the hearings can be completed, this act extends the time for conducting such hearings and must take effect immediately.

CHAPTER 330

An act to add Sections 1232.5, 1232.6, and 1232.7 to the Government Code, relating to continuation of state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978.]

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

SECTION 1. Section 1232.5 is added to the Government Code, to read:

1232.5. On or after June 30, 1978, no state officer or employee shall be deemed to have a break in service or to have terminated his employment, for any purpose, nor to have incurred any change in his authority, status, or jurisdiction or in his salary or other conditions of employment, solely because of the failure to enact a Budget Bill for the 1978–79 fiscal year prior to the end of the preceding fiscal year.

Every person who entered state service between June 30, 1978, and the effective date of the Budget Bill for the 1978–79 fiscal year shall be deemed a state officer or employee, as the case may be, from the time he entered state service until that date, notwithstanding the failure to enact a Budget Bill for the 1978–79 fiscal year prior to his entry into service.

SEC. 2. Section 1232.6 is added to the Government Code, to read:

1232.6. Funds from each appropriation made in the Budget Act of 1978 may be expended to pay such salary adjustments as are authorized by salary-fixing authorities to provide an increase in the compensation for officers and employees during the month of July 1978 to provide compensation equivalent to that which they would have otherwise received had the Budget Act of 1978 been adopted prior to July 1, 1978.

SEC. 3. Section 1232.7 is added to the Government Code, to read:

1232.7. Funds from each appropriation made in the Budget Act of 1978 may be expended to pay any obligation incurred between the commencement of the 1978–79 fiscal year and the effective date of the Budget Act of 1978, which would otherwise have been authorized by the Budget Act of 1978, had that act been adopted prior to July 1978 subject to the same limitations, conditions, and requirements.

SEC. 4. Sections 1, 2, and 3 of this act do not provide a cost of living salary increase for state employees for purposes of Chapter 4 (commencing with Section 16280) of Part 1.5 of Division 4 of Title 2 of the Government Code.

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 failure to enact prior to July 1, 1978, a Budget Bill for the 1978–79 fiscal year has created serious questions regarding the continuity of employment of state personnel, as well as other fiscal matters, and it is therefore essential that this act take immediate effect.

CHAPTER 331

An act to amend Section 18724 of, and to add Sections 18767 and 19174.5 to, the Education Code, relating to public libraries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978 Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 18767 is added to the Education Code, to read:

18767. The state board shall establish and maintain a computerized data base of bibliographic records and locations of all materials acquired by public libraries in this state, for the purpose of carrying out the legislative policy of enabling libraries to share resources efficiently

SEC. 2. Section 18724 of the Education Code is amended to read:

18724. The duties of the state board shall be to adopt rules, regulations, and general policies for the implementation of this chapter. In addition, the state board, consistent with the terms and provisions of this chapter, shall have the following powers and duties:

(a) To direct the State Librarian in the administration of this chapter.

(b) To review for its approval all annual proposals submitted under this chapter.

(c) To annually submit budget proposals as part of the annual budget of the Department of Education.

(d) To expend the funds appropriated for the purpose of implementing the provisions of this chapter.

(e) To require, beginning with the 1979–80 fiscal year and each year thereafter, as a condition of participation in programs under Article 4 (commencing with Section 18730) and Article 5 (commencing with Section 18740) of this chapter that each participating public library have available from local sources for expenditure for operating purposes during each fiscal year an amount no less than that amount expended from such local sources in the 1978–79 fiscal year.

(f) To require participating libraries and systems to prepare and submit any reports and information which are necessary to carry out the provisions of this chapter, and to prescribe the form and manner for providing such reports and information.

(g) To develop formulas for the equitable allocation of reimbursements under Sections 18731, 18743, 18744, and 18765. Such formulas shall be submitted to the Department of Finance for approval.

(h) To require that any public library participating in programs authorized by this chapter provide access to its bibliographic records and materials location information consistent with the legislative policy of encouraging the sharing of resources between libraries.

SEC. 3. Section 19174.5 is added to the Education Code, to read:

19174.5. Notwithstanding any other provision of law, funds from the county general fund may be used to support the county free library.

SEC. 4. The addition of Section 19174.5 to the Education Code made by Section 3 of this act does not constitute a change in, but is declaratory of, the existing law.

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 clarify existing law and in order to permit the California Library Services Board to expend the funds appropriated in Chapter 1255 of the Statutes of 1977 under the tax limitation-initiative constitutional amendment approved by the electorate on June 6, 1978, it is necessary that this act go into effect immediately.

CHAPTER 332

An act to amend Section 84904 of the Education Code, to amend Sections 16115, 16250, 16260, 16271, 16272, 16272.3, 16272.5, 16272.7, 16275, 16280, 16281, 16285, 16494.7, 16499, and 26912 of, and to add Sections 16251, 16261, 16279, 16280.5, 16282 and 26912.1 to, the Government Code, to amend Section 110.1 of, to amend and renumber Section 2235 of, and to amend and repeal Section 110.6 of, the Revenue and Taxation Code, to amend Section 5705 of the Welfare and Institutions Code, and to amend Sections 1, 2, 5, 6, 9, 20, 34, and 38 of, Chapter 292 of the Statutes of 1978, relating to implementing Article XIII A of the Constitution of the State of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1978. Filed with Secretary of State June 30, 1978]

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

SECTION 1. Section 1 of Chapter 292 of the Statutes of 1978 is amended to read:

Section 1. In lieu of the amounts which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1978–79 fiscal year pursuant to Section 14002, Section 14006, and Section 41304 of the Education Code, there is hereby appropriated for transfer by the State Controller during the 1978–79 fiscal year from the General Fund in the State Treasury to Section A of the State School Fund, such sums as needed, in addition to the sums accruing to Section A of the State School Fund from other sources, as shall provide in Section A of the State School Fund for apportionment pursuant to Sections 2 and 6 of this act during the 1978–79 fiscal year an amount not to exceed four billion six hundred fifty-one million seven hundred seventy-one thousand fifty dollars ($4,651,771,050) to be allocated as follows:

(a) For the purposes of Section 2 of this act	$4,205,700,000
(b) For the purposes of Section 6 of this act	108,407,500
(c) For all apportionments pursuant to Article 11 (commencing with Section 41880) and Section 56039 of the Education Code	243,801,000
(d) For the purposes of Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code.....	13,373,550
(e) For the purposes of Article 12 (commencing with Section 41900) of Chapter 5 of Part 24 of the Education Code.....	19,800,000
(f) For the purposes of Article 10 (commencing	

with Section 41850) of Chapter 5 of Part 24 of the Education Code..... 60,689,000

SEC. 2. Section 2 of Chapter 292 of the Statutes of 1978 is amended to read:

Sec. 2. (a) The county superintendent of schools shall determine for each school district in the county the sum of the following items:

(1) Using the average daily attendance of pupils during the 1978–79 school year, exclusive of summer school programs, plus the actual average daily attendance for summer programs in the 1977–78 school year, the school district's total revenue limit for the 1978–79 fiscal year pursuant to Sections 42212, 42238, 42239, 42241, 42241.3, 42241.7, 42243.5, 42243.6, the 1977–78 levied portion of 42244 or an authorized levy pursuant to Section 42244 which was not authorized to be levied prior to the 1978–79 fiscal year, 42245, 42950, and 46605 of the Education Code.

(2) Using the 1977–78 school year adult average daily attendance, the school district's total adult revenue limit for the 1978–79 school year pursuant to Sections 43001, 42241.7, 42243.6, 42244, 42245, and 46605 of the Education Code.

(3) The amount of property taxes levied in 1977–78 pursuant to Sections 4147, 8329, 16196, 16214, 42200, 46617, 49502, 52317, and 56811 of the Education Code and 5302.5 of the Streets and Highways Code.

(b) The county superintendent shall compute a factor for each school district as follows: Divide the sum of the amounts determined in paragraphs (1) and (3) of subdivision (a) by the total of the regular average daily attendance for the 1978–79 school year, exclusive of summer programs, plus the 1977–78 summer school average daily attendance. The resulting amount shall then be divided by $1,241 for elementary school districts, $1,427 for high school districts, and $1,322 for unified school districts. The resulting quotient is the adjustment factor of the school district.

(c) If the factor of a school district, as computed pursuant to subdivision (b), is 1.1 or less, the amount determined for the district pursuant to subdivision (a) shall be reduced by 9 percent.

(d) If the factor for a school district, as computed pursuant to subdivision (b), is 1.5 or more, the amount determined for the district pursuant to subdivision (a) shall be reduced by 15 percent.

(e) (1) If the factor for a school district, as computed pursuant to subdivision (b), is more than 1.1 but less than 1.5, the county superintendent of schools shall compute a percentage as follows:

He or she shall subtract 1.1 from the factor, divide the remainder by 0.4, multiply the quotient by 6 percent, and add the product to 9 percent.

(2) The amount determined for the district pursuant to subdivision (a) shall be reduced by the percentage computed pursuant to paragraph (1) of this subdivision.

(f) In lieu of the foundation program aid computed pursuant to

the Education Code, for the 1978–79 fiscal year, the Superintendent of Public Instruction shall apportion to each school district the difference between its 1978–79 property tax revenue computed pursuant to Section 26912 of the Government Code and the amount determined pursuant to subdivision (a) of this section, as reduced pursuant to subdivisions (c), (d), and (e) of this section.

In no event shall more than four billion two hundred five million seven hundred thousand dollars ($4,205,700,000) be apportioned pursuant to this section.

SEC. 3. Section 5 of Chapter 292 of the Statutes of 1978 is amended to read:

Sec. 5. The aid provided in Section 2 of this act shall be reduced by one-third of the amount by which a school district's general fund and special reserve fund ending balances exceed five percent of the district's general fund total revenue as adjusted at the end of the 1977–78 fiscal year, or fifty thousand dollars ($50,000), whichever is greater.

For purposes of this section, general fund and special reserves shall not include:

(a) Noncash assets, such as stores, inventory, property and buildings, or other investments purchased prior to June 6, 1978.

(b) Any amounts for self-insurance, contractual obligations, or reserves established by law or a governing board policy adopted prior to June 6, 1978.

(c) Any amounts restricted by law or court order.

(d) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the governing board of the district.

SEC. 4. Section 6 of Chapter 292 of the Statutes of 1978 is amended to read:

Sec. 6. (a) Notwithstanding any other provision of law, the Superintendent of Public Instruction shall apportion state aid to county offices of education pursuant to the provisions of this section.

(b) The Superintendent of Public Instruction shall determine the estimated budget of each county office of education for the 1978–79 fiscal year. Such estimated budget shall include:

(1) The estimated revenue limit for the 1978–79 fiscal year for programs operated pursuant to Section 2500, Section 2502 as it relates to regional occupational centers and programs, and Section 56364 of the Education Code.

(2) Revenues received in the 1977–78 fiscal year by the county superintendent of schools from taxes levied pursuant to Sections 1510, 2501, 2502, 2503, 2504, 2505, 2506, 2520, and 8330 of the Education Code multiplied by 1.068.

(c) The Superintendent of Public Instruction shall multiply this estimated 1978–79 fiscal year budget by 0.90 and subtract from the product the sum of (1) the property tax revenues received in the 1978–79 fiscal year from the county property tax pursuant to Section 26912 of the Government Code, (2) state and federal categorical aid, (3) the local foundation program contribution of districts pursuant

to Section 1705 of the Education Code, and (4) contributions or payments made pursuant to Sections 52321 and 56364 of the Education Code.

(d) The remainder computed pursuant to subdivision (c) shall be distributed as state aid in a manner consistent with state aid to school districts under this act, provided that no more than one hundred eight million four hundred seven thousand five hundred dollars ($108,407,500) shall be disbursed pursuant to this section.

(e) The state aid prescribed by subdivision (d) of this section shall be reduced by an amount equal to one-third of the amount by which the county superintendent of school's general fund reserves exceed 5 percent of the county superintendent's general fund total revenue as adjusted at the end of the 1977–78 fiscal year, or fifty thousand dollars ($50,000), whichever is the greater.

For purposes of this subdivision, general fund reserves shall not include:

(1) Noncash assets, such as stores, inventory, property and buildings, or other investments purchased prior to June 6, 1978.

(2) Any amounts for self-insurance for contractual obligations, or reserves established by law or a governing board policy adopted prior to June 6, 1978.

(3) Any amounts restricted by law or court order.

(4) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the governing board of the district.

SEC. 5. Section 9 of Chapter 292 of the Statutes of 1978 is amended to read:

Sec. 9. The county superintendent of schools shall not be required to pay to any school district or another county superintendent of schools an amount in excess of the amount received for Sections 2501, 2505, and 56364 of the Education Code.

SEC. 6. Section 84904 of the Education Code is amended to read:

84904. (a) The Chancellor shall distribute the amount appropriated by subdivision (b) of Section 84902 so that each district receives the same percentage of its target budget after deducting the sum of (1) the apportionment made pursuant to Section 84903 (exclusive of the special apportionment for handicapped), (2) available local property tax revenues, and (3) available district reserves.

(b) "Target budget," for purposes of this section, means the product of 1.068 times the sum of the revenue received for the 1977–78 fiscal year pursuant to Sections 2102, 8329, 8382, 23401, 56810, 56811, 56815, 76482, 81338, 81341, 81342.5, 84006, 84203, 84812, 84870, 85100, 85110, 85132, and 85133.1 and (for the second principal apportionment) Article 5 (commencing with Section 84762) of Chapter 5 of this part of the Education Code, Sections 218, 219, 988, and 992 of the Revenue and Taxation Code, and Section 5302.5 of the Streets and Highways Code.

(c) "Available district reserves", for purposes of this section, means one-third of the unrestricted general fund balance held on

June 30, 1978, in excess of five percent of a district's general fund total income for the 1977–78 fiscal year. As used in this section, the "unrestricted general fund balance" shall not include any of the following:

(1) Reserves committed prior to June 6, 1978, for contractual obligations.

(2) Reserves restricted by district board action taken prior to June 6, 1978, or by law, or by court order.

(3) Reserves committed prior to June 6, 1978, to a district self-insurance fund.

(4) Reserves committed prior to June 6, 1978, to a capital outlay obligation.

(5) Non-cash assets, such as stores, inventory, property and buildings, or other investment purchased prior to June 6, 1978.

SEC. 6.5. Notwithstanding any other provision of law, if a school district or community college district levied and used revenue from a child development permissive tax during 1977–78, then such district shall make available to its child development program for the 1978–79 fiscal year an amount of revenue which is equal to the same percentage of its 1977–78 funding level that the total funding level of the district in 1978–79 bears to the district's 1977–78 total funding level. With such funds, each such district shall maintain at least the proportionate level of service for child development programs as the total percentage the district's 1978–79 funding level bears to its 1977–78 funding level. By March 1, each school district with a child development program shall submit a plan to the Superintendent of Public Instruction to lower the costs of its child development program in the 1979–80 fiscal year and each year thereafter to the average statewide cost per child for such program.

If a school district in 1977–78 received funds from the state for adult education and such funds were used for parent cooperative pre-schools, then such district shall make available to its parent cooperative pre-schools at least the same percentage of its 1977–78 funding that the total funding level of the district in 1978–79 bears to the 1977–78 total funding level.

SEC. 7. Section 16115 of the Government Code is amended to read:

16115. (a) Out of the amount appropriated by Section 16100, the Controller shall pay on or before September 15th of each year to each county auditor the amount claimed under subdivision (a) of Section 16113.

(b) Out of the amount appropriated by Section 16100, the Controller shall pay on or before December 30th of each year to the county auditor one-half of the amount claimed under subdivision (b) of Section 16113 and shall pay the other one-half so claimed on or before April 30th.

(c) Prior to paying any claim pursuant to subdivisions (a) and (b), the Controller shall reduce the amount of the counties' share by an amount equal to the amount of excess transfer as determined

pursuant to paragraph (3) of subdivision (b) of Section 16172.

(d) "Excess transfer" means that the amount of money subtracted pursuant to paragraphs (2) and (3) of subdivision (b) of Section 16172 which is larger than the amount in paragraph (1) of such subdivision.

(e) The amount subtracted pursuant to subdivision (d) shall serve to reduce the county amount only and not any amount for any school district, community college district, county superintendent of schools, or other local agency, other than the county.

SEC. 8. Section 16250, as added to the Government Code by Chapter 292 of the Statutes of 1978, is amended to read:

16250. (a) Out of the amount appropriated by Section 16100, there shall be allocated to the cities in this state, for the 1978–79 fiscal year only, two hundred fifty million dollars ($250,000,000) to be distributed as provided in subdivisions (b), (c), and (d) of this section.

(b) (1) For each city the amount of property taxes collected plus the amount of homeowners' and business inventory reimbursement in 1977–78 shall be determined by the Controller.

(2) From the amount determined pursuant to paragraph (1), there shall be subtracted the amount allocated to each city in 1978–79 pursuant to Section 26912.1.

(3) The remainder determined pursuant to paragraph (2) shall be aggregated for all cities in the state.

(4) The Controller shall then determine what the percentage computed for each city pursuant to paragraph (2) is of the total statewide amount computed pursuant to paragraph (3).

(5) The percentage determined pursuant to paragraph (4) shall be applied to the two hundred fifty million dollars ($250,000,000) to determine each city's dollar share of the surplus allocation.

(c) From each city's dollar share of the total allocation, there shall be subtracted an amount equal to one-third of the amount by which the city's general fund reserve balance on July 1, 1978, as defined in subdivision (e), exceeds of 5 percent of the city's 1977–78 total revenues.

(d) The remainder determined in subdivision (b) minus the amount determined in subdivision (c) shall be distributed to each city by the Controller in accordance with the following schedule:

33 percent—on August 31, 1978, or a subsequent date if the information needed by the Controller is not available by this date.

33 percent—on December 10, 1978

34 percent—on May 10, 1979

(e) For the purposes of this section, "general fund reserves" shall not include:

(1) Noncash assets such as stores, inventory, property and buildings, or other investments purchased prior to June 6, 1978.

(2) Any amounts for self-insurance, for contractual obligations, or for reserves established by law or a governing board policy adopted prior to June 6, 1978.

(3) Any amounts restricted by law or court order.

(4) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the city council.

(f) For the purpose of this subdivision, the amount of property tax collected pursuant to existing law for the purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, shall be excluded from all calculations.

(g) Funds distributed under this section shall be distributed first for police and fire protection programs in order not to jeopardize the health and safety of the community. The legislative body shall ensure that the level of police and fire protection programs actually provided in the 1977–78 fiscal year shall be continued in the 1978–79 fiscal year.

Nothing in this section shall prevent the legislative body from reviewing and establishing its police and fire protection program in the 1978–79 fiscal year in a manner which will make such program more efficient and effective.

Any determination by a city council implementing this section is hereby declared to be a legislative act.

(h) The Controller shall determine the actual amounts and make a reconciliation with the April 10, 1979, distribution.

SEC. 8.5. Section 16251 is added to the Government Code, to read:

16251. No action or proceeding shall be commenced to contest any determination of the governing body pursuant to this chapter, unless such action or proceeding shall have been brought within 90 days after the governing body's determination.

SEC. 9. Section 16260, as added to the Government Code by Chapter 292 of the Statutes of 1978, is amended to read:

16260. (a) Except as provided in subdivision (x), out of the amount appropriated by Section 16100, there shall be allocated for counties and cities and counties, for the 1978–79 fiscal year only four hundred thirty-six million dollars ($436,000,000) to be distributed as provided in subdivisions (b), (c), (d), and (e):

(b) (1) For each county and city and county, the amount of property taxes collected, plus the amount of homeowner and business inventory exemption reimbursements, for the 1977–78 fiscal year shall be computed by the Controller.

(2) From the amount determined pursuant to paragraph (1), there shall be subtracted the amount allocated to each county and city and county in 1978–79 pursuant to Section 26912.1.

(3) From the remainder determined pursuant to paragraph (2), there shall be subtracted the dollar amount of a county's obligation in 1978–79 relieved by Sections 33 and 34 of the bill.

(4) The amount determined pursuant to paragraph (3) shall be aggregated for counties and cities and counties in the state.

(5) The Controller shall then determine what the percentage computed for each county and city and county pursuant to

paragraph (3) is of the total statewide computed pursuant to paragraph (4).

(6) The percentage determined pursuant to paragraph (5) shall be applied to the amount described in subdivision (a), modified by subdivision (x) if applicable, to determine the dollar share of the surplus allocation for each county and city and county.

(c) From each county's or city and county's surplus allocation, there shall be subtracted an amount equal to one-third of the amount by which the county's or city and county's general fund reserve balance on July 1, 1978, as defined in subdivision (e), exceeds of 5 percent of the county's of the county's or city and county's total 1977–78 revenues.

(d) The remainder determined in subdivision (b) minus the amount determined in subdivision (c), if positive, shall be distributed to each county and city and county by the Controller in accordance with the following schedule:

33 percent—on August 31, 1978, or a subsequent date if the information needed by the Controller is not available by this date.

33 percent—on December 10, 1978

34 percent—on May 10, 1979

(e) As used in this section "general fund reserves" includes reserves as of July 1, 1978, that are not legally obligated. "General fund reserves" shall not include:

(1) Noncash assets such as stores, inventory, property and buildings, or other investments purchased prior to June 6, 1978.

(2) Any amounts for self-insurance, for contractual obligations, or for reserves established by law or a governing board policy adopted prior to June 6, 1978.

(3) Any amounts restricted by law or court order.

(4) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the board of supervisors.

(f) For the purpose of this subdivision, the amount of property tax collections pursuant to existing law for the purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, shall be excluded from all calculations.

(g) Funds distributed for this section shall be given first for police, sheriff, and fire programs in order not to jeopardize the health and safety of the community. The legislative body shall ensure that the level of police, sheriff, and fire protection programs actually provided in the 1977–78 fiscal year shall be continued in 1978–79.

Nothing in this section shall prevent the legislative body from reviewing and establishing its police, sheriff, and fire protection program in the 1978–79 fiscal year in a manner which will make such program more efficient and effective.

Any determination by the legislative body implementing this section is hereby declared to be a legislative act.

(h) The Controller shall estimate the amounts required to be determined pursuant to subdivision (b) (3).

The Controller shall determine the actual amounts and make a reconciliation with the April 10, 1979, distribution.

(x) The amount allocated in subdivision (a) shall be reduced by an amount equal to the county share derived pursuant to Welfare and Institutions Code Sections 11403, 11450(b) and 15200 the dollar amount of any cost-of-living increase in aid payments under the Aid to Families with Dependent Children program, as provided in Section 35 of this bill.

SEC. 9.5. Section 16261 is added to the Government Code, to read:

16261. No action or proceeding shall be commenced to contest any determination of the governing body pursuant to this chapter, unless such action or proceeding shall have been brought within 90 days after the governing body's determination.

SEC. 10. Section 16271, as added to the Government Code by Chapter 292 of the Statutes of 1978, is amended to read:

16271. As used in this chapter:

(a) "Governing body" means the board of supervisors except that in the case of a subsidiary district "governing body" means the city council, and in the case of a multi-county district "governing body" means the governing body of the multi-county district itself.

(b) "Local fiscal officer" means the county auditor for all special districts within the county, except that in the case of a subsidiary district "local fiscal officer" means the city treasurer; and in the case of a multi-county district "local fiscal officer" means the treasurer of the district.

(c) "Multi-county district" means any special district which includes territory in more than one county.

(d) "Special district" means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Special district" includes 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 benefitting that area.

County free libraries established pursuant to Chapter 2 (commencing with Section 27151) of Division 20 of the Education Code; areas receiving county fire protection services pursuant to Section 25643 of the Government Code; and county road districts established pursuant to Chapter 7 (commencing with Section 550) of Division 2 of the Streets and Highways Code, shall be considered "special districts" for all purposes of this chapter.

"Special district" does not include a city, a county, a school district or a community college district. "Special district" does not include any agency which is not authorized to levy a property tax rate, except the Bay Area Pollution Control District.

(e) "Subsidiary district" means a special district in which the city council of a city has been empowered to act as ex officio members of the board of directors of such district and either:

(1) The entire territory of such district is included within the boundaries of a city, or

(2) A portion or portions of the territory of such district is included within the boundaries of a city and such portion or portions:

(i) Represent 70 percent or more of the area of taxable or assessable land within such district, as shown on the last equalized assessment roll; and

(ii) Contains 70 percent or more of the number of registered voters who reside within the district as shown on the voters' registrar in the office of the county clerk or registrar of voters.

(f) "General fund reserves" means the general fund reserve balance as of July 1, 1978, that is not legally obligated. General fund reserves shall not include:

(1) Noncash assets such as stores, inventory, property and buildings, or other investments purchased prior to June 6, 1978.

(2) Any amounts for self-insurance, for contractual obligations, or for reserves established by law or a legislative body of the county, city, or special district, as the case may be.

(3) Any amounts restricted by law or court order.

(4) Any amounts committed to a capital outlay project approved prior to June 6, 1978, by the governing body.

(g) For the purpose of this chapter, the amount of property tax levied pursuant to existing law, for the purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, shall be excluded from all calculations.

SEC. 11. Section 16272, as added to the Government Code by Chapter 292 of the Statutes of 1978, is amended to read:

16272. Out of the amount appropriated by Section 16100, there shall be allocated among the governing bodies, for the 1978–79 fiscal year only, one hundred and twenty-five million dollars ($125,000,000) to be distributed as provided in this article.

SEC. 12. Section 16272.3, as added to the Government Code by Chapter 292 of the Statutes of 1978, is amended to read:

16272.3. Each fiscal officer shall report to the State Controller, on or before July 15, 1978, the amount of the ad valorem property taxes levied by the special districts for which he serves as fiscal officer, for fiscal year 1977–78 minus the amount allocated to each special district for 1978–79 pursuant to Section 26912.1.

SEC. 12.5. Section 16272.5, as added to the Government Code by Chapter 292 of the Statutes of 1978, is amended to read:

16272.5. The State Controller, shall total the amounts determined pursuant to Section 16272.3, and shall determine the proportion which the amounts submitted by each governing body bears to the total amount of the property taxes reported by all such governing bodies The percentage determined for each governing body shall be applied to the one hundred and twenty-five million dollars ($125,000,000) to determine the dollar share of the surplus allocation for each governing body. The Controller shall then notify in writing

each fiscal officer of the allocation which will be made for the 1978–79 fiscal year, on or before July 20, 1978.

SEC. 13. Section 16272.7, as added to the Government Code by Chapter 292 of the Statutes of 1978, is amended to read:

16272.7. The allocation for each governing body as determined in Section 16272.5 shall be distributed to each governing body by the Controller as follows:

33 percent—on August 31, 1978, or a subsequent date if the information needed by the Controller is not available by this date.

33 percent—on December 10, 1978

34 percent—on May 10, 1979

SEC. 14. Section 16275, as added to the Government Code by Chapter 292 of the Statutes of 1978, is amended to read:

16275. Following the close of the public hearing, the governing body shall distribute the funds in accordance with the following criteria:

(a) Public Safety Services:

(1) In distributing funds to districts which provide fire protection services, and any police protection district, county service area, or community services district which provides police protection services, exclusively, the governing body shall provide an amount sufficient to ensure that each district maintains the same level of protection as was actually provided during 1977–78.

(b) Other special district services:

(1) Districts with general fund reserves, as defined in Section 16271, of 5 percent or less of their total 1977–78 revenues shall be given priority over districts with general fund reserves in excess of 5 percent of their total 1977–78 revenues.

(2) Districts which have relied most heavily upon revenues derived from property taxation to finance the provision of a service shall be given priority over those districts which are less dependent upon revenues derived from property taxation.

(3) Districts which are not authorized to utilize nonproperty tax revenue sources, including but not limited to fees, rates and tolls to finance the provision of a service shall be given priority over districts which are authorized to utilize such nonproperty tax sources.

(4) In distributing funds to districts which provide more than one service, exclusive of fire and police protection services which are funded under the public safety services category, the board shall apply the criteria of paragraphs (1), (2), and (3) of this subdivision to each such service and shall make a distribution of funds to the district for each such service.

(5) Any distribution made pursuant to this section shall be reduced by one-third of the amount by which the district's general fund reserves exceeds 5 percent of the district's total 1977–78 revenues.

SEC 15. Section 16279 is added to the Government Code, to read:

16279. No action or proceeding shall be commenced to contest any determination of the governing body pursuant to this chapter,

unless such action or proceeding shall have been brought within 90 days after the governing body's determination.

SEC. 16. Section 16280 of the Government Code, as added by Chapter 292 of the Statutes of 1978, is amended to read:

16280. No state funds from the state surplus or state loan funds shall be available to any local public agency which provides a cost of living wage or salary increase in the 1978–79 fiscal year for local public agency employees or cost of living increases for any other individuals, including AFDC and other welfare recipients, if such increase is in excess of the cost of living salary increase provided for state employees. The cost of living salary increase provided for state employees shall be determined by dividing the total amount made available by the Legislature for salary increases to state employees by the total salaries paid to state employees. If the Legislature limits the cost of living salary increase for state employees on the basis of salary range, the local public agency shall likewise limit any cost of living increase for local public agency employees and other individuals on the same basis.

Any provision of a contract, agreement, or memorandum of understanding between a local public agency and an employee organization or an individual employee which provides for a cost of living wage or salary increase to local public agency employees in excess of such increase provided for state employees is null and void to the extent of such excess.

This section shall not preclude regular merit increases, established prior to June 6, 1978, longevity or educational increments, promotions, or transfers, but shall preclude the transfer of employees to new positions created with higher pay schedules for the purpose of circumventing this chapter.

As used in this section, the terms "salary" and "wage or salary" shall not include any compensation other than wages or salaries, such as health benefits, retirement benefits, life insurance, vacation time, sick leave, perequisites of all kinds, and reimbursement of expenses.

The amendment of this section made by the provisions of S.B. 2212 of the 1977–78 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 17. Section 16280.5 is added to the Government Code, to read:

16280.5. No state funds from the state surplus or state loan funds shall be available to any local public agency which provides an increase in salary in the 1978–79 fiscal year to any elected or appointed noncivil service officer of the local public agency.

Any provision of a contract or agreement between a local public agency and an elected or appointed noncivil service officer of the local public agency which provides for an increase in salary is null and void.

As used in this section, the term "salary" shall not include any compensation other than wages or salaries, such as health benefits, retirement benefits, life insurance, vacation time, sick leave,

perquisites of all kind, and reimbursement of expenses.

SEC. 18. Section 16281 of the Government Code, as added by Chapter 292 of the Statutes of 1978, is amended to read:

16281. It is the intent of the Legislature in enacting this chapter to alleviate the current fiscal crisis created by the passage of Proposition 13 (Article XIII A of the California Constitution), and to provide for maintaining essential services which would otherwise be lost.

The Legislature finds and declares that limiting increases in wages or salaries for local public agency officers and employees and cost of living increases for other individuals will allow essential local government services to be maintained at a higher level than would otherwise be the case, and will promote full employment and prevent layoffs.

The Legislature further finds and declares that this chapter constitutes a matter of statewide concern, and shall apply to charter counties and charter cities. The provisions of this chapter shall supersede any inconsistent provisions in the charter of any county or city.

SEC. 19. Section 16282 is added to the Government Code, to read:

16282. For the purpose of this chapter "local public agency" means a city, county, city and county, special district, school district, county board of education, or community college district.

SEC. 20. Section 16285 of the Government Code is amended to read:

16285. Each city, county, and city and county, and special district, shall report to the Department of Finance by November 1, 1978, the following:

(a) Its 1977–78 expenditures by category of service and revenues by source;

(b) Its 1978–79 projected expenditures by category of service and revenues by source.

(c) Any adjustments in fees, charges, and any taxes levied after June 6, 1978, and an estimate of revenues generated from those adjustments in the 1978–79 fiscal year.

The counties, cities, and cities and counties, shall report this data to the Department of Finance in a form and manner determined by the Department of Finance.

The Department of Education shall transmit school district information to the Department of Finance for inclusion in the report submitted to the Governor and the Legislature.

The Department of Finance and the Legislative Analyst shall report to the Governor and the Legislature by February 1, 1979, on the following:

(a) A summary of the expenditure and revenue data received from counties, cities, a city and county and school districts;

(b) A determination of the extent to which reductions in expenditures have been made in each category of service;

(c) An analysis of the impact of such reductions in expenditures

on the maintenance and accessibility of each category of service.

SEC. 21. Section 16494.7 of the Government Code is amended to read:

16494.7. Notwithstanding any other provision of law, any local agency may apply to the board, by no later than August 21, 1978, for a loan pursuant to this article after the adoption by the local agency's governing body of a resolution containing all of the following:

(a) A statement that the local agency is authorized to issue revenue or tax anticipation notes;

(b) A statement indicating the local agency's property tax revenues for the 1977–78 fiscal year, including state property tax subvention. With respect to a local agency formed during the 1977–78 fiscal year and authorized to levy a property tax, but did not do so, a statement estimating the amount such agency could have levied if it had levied such a tax;

(c) A finding based on substantial evidence that the agency's cash flow is not sufficient to meet current obligations for the operation of vital services and that all unrestricted reserves except for a prudent surplus have been exhausted or will be exhausted at the time the loan is made;

(d) A statement that taxes, revenues, and other income not obligated by law for a specific purpose and anticipated to be received during the 1978–79 fiscal year, will be available to repay the principal and interest on such loan before May 31, 1979;

(e) A statement that revenue and tax anticipation notes are not currently being purchased from the local agency by private lenders; and

(f) Evidence that the local agency is unable to use interfund transfers to meet its short-term cash obligations.

SEC. 22. Section 16499 of the Government Code is amended to read:

16499. The board shall make a loan to a local agency applying for such loan in order to prevent an imminent default on the bonds of such local agency. All loans shall bear the same interest rate as loans from the Local Agency Emergency Loan Fund. The interest on such loans shall accrue until final payment. All loans shall have a maximum repayment period of three years from the date of approval of the loan. The board may make such loan only after a finding that:

(a) The local agency has insufficient funds to make principal and interest payments during the 1978–79 fiscal year; and

(b) Where bonds have been issued which are secured by tax increment, evidence that the taxes allocated under subdivision (b) of Section 33670 of the Health and Safety Code are inadequate to make the principal and interest payments on bonds due during the 1978–79 fiscal year.

SEC. 23. Section 20 of Chapter 292 of the Statutes of 1978 is amended to read:

Sec. 20. (a) It is the intent of the Legislature to maintain essential county health services and to ensure that reductions in

county health services are not disproportionate to reductions in county property tax revenues as offset by allocations of funds from this act.

(b) As used in this section:

(1) "County health services" means public health services, outpatient health services and inpatient health services provided directly by the county or financed or purchased by the county through grants, contracts, or agreements, but shall not include services provided pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code or Division 10.5 (commencing with Section 11750) of the Health and Safety Code.

(2) "Net county costs for health services" means expenditures for county health services, less revenues received for county health services, plus Federal Revenue Sharing funds budgeted or expended for health services.

(3) A reduction in net county costs for health services shall be deemed to be disproportionate when the ratio, determined by dividing net county costs for health services budgeted in the 1978–79 fiscal year by the net county costs for health services provided in the 1977–78 fiscal year, is less that the ratio determined by dividing the sum of (a) county property tax revenues for the 1978–79 tax year as calculated in Section 26912 of the Government Code, (b) the dollar amount of a county's obligations relieved pursuant to Sections 33 and 34 of this act during the 1978–79 fiscal year, and (c) the dollar amount of funds allocated to the county by this act as calculated in subdivision (d) of Section 16260 of the Government Code and appropriated in Section 16100 of the Government Code, by the sum of county revenues derived from property taxation during the 1977–78 fiscal year, including state reimbursements for homeowners' and business inventory exemptions.

(c) The provisions of Sections 1442 and 1442.5 of the Health and Safety Code shall not be operative from and after the effective date of this act until July 1, 1979.

(d) A county shall not make a disproportionate reduction in net county costs for health services in public health services, outpatient health services or inpatient health services, including services provided under contract by cities, which will be detrimental to the health needs of the public in the case of public health services or the health care needs of the indigent in the case of outpatient or inpatient health services.

(e) Notwithstanding the provisions of any other law, when any county which receives funds from the State Controller pursuant to this act makes a disproportionate reduction in net county costs for public health services, outpatient health services or inpatient health services, including such services provided under contract by cities, and the State Director of Health Services finds as provided in this section that the impact of such reductions will be detrimental to the health needs of the public in the case of public health services or the health care needs of the indigent in the case of outpatient or

inpatient health services, the State Director of Health Services shall notify the State Controller of this finding and the State Controller shall reduce any allocation of funds under this act by an amount equal to the disproportionate reduction in net county costs for health services.

(f) Each county shall on or before August 15, 1978, submit to the State Director of Health Services the county budget for health services proposed for the 1978–79 fiscal year. Such budgets shall specify and include estimated revenues and net costs for public health services, outpatient health services, and inpatient health services, including such services provided under contract by cities. Each county shall, on or before September 15, 1978, submit to the State Director of Health Services the county's actual expenditures, revenues and net costs for public health services, outpatient services, and inpatient services provided during the 1977–78 fiscal year, including such services provided under contract by cities.

(g) The State Director of Health Services shall review all such actual or estimated expenditures, revenues, and net costs and determine for each county whether the 1978–79 county health services budget provides for a disproportionate reduction in net county costs for health services in each of the areas of public health services, inpatient health services, or outpatient health services, including such services provided under contract by cities. On or before October 15, 1978, the State Director of Health Services shall notify any county found to have a disproportionate reduction in any of such areas.

(h) Upon receipt of such notice, the board shall provide public notice that a public hearing will be held. The county board of supervisors shall within 15 days of receiving such notice hold a public hearing to determine whether the amount of such reduction which is disproportionate will be detrimental to the health needs of the public in the case of public health services or detrimental to the health care needs of the indigent of the county in the case of outpatient or inpatient health services. The county board or supervisors shall make a finding based on the public hearings that the reductions are or are not detrimental. On or before November 15, 1978, the county shall transmit to the State Director of Health Services a copy of the finding, together with the written evidence on which the finding was based.

(i) If it is the finding of the board of supervisors that the reductions are detrimental, the State Director of Health Services shall notify the State Controller by December 15, 1978, to reduce the amount of the funds otherwise allowable to the county under this act by an amount equal to the disproportionate reduction in net county costs for health services If it is the finding of the board of supervisors that the reductions are not detrimental, the State Director of Health Services shall review the finding and the evidence upon which the finding is based and shall either approve or disapprove the finding of the county board of supervisors. If the director disapproves the

finding, the director shall notify the State Controller by December 15, 1978, to reduce the county's allocation of funds from this act by an amount equal to the disproportionate reduction in net county costs for health services.

(j) Counties shall make reports relative to the administration of this section to the State Department of Health Services in a form and manner determined by the State Director of Health Services.

(k) The State Department of Health Services may adopt any regulations necessary to implement this section. The department may adopt such regulations on an emergency basis pursuant to Article 4 (commencing with Section 11420) of Chapter 4.5 of Division 3 of Title 2 of the Government Code, based on the finding by the department that such regulations are necessary to resolve the financial crisis created by the adoption of Proposition 13 on the June 6, 1978, ballot. Such a finding shall meet the requirements of Section 11421 of the Government Code.

SEC. 24. Section 26912 as added to the Government Code by Chapter 292 of the Statutes of 1978, is amended to read:

26912. (a) For the purposes of this section, a local agency includes a city, county, city and county, and special district, as such terms are defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, if such local agency levied a property tax during the 1977–78 fiscal year or if a property tax was levied for such local agency for such fiscal year, except that the Bay Area Pollution Control District shall be considered a local agency.

(b) For the 1978–79 fiscal year only, the amount of revenue derived from levying a tax pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code shall be allocated by the county auditor, subject to the allocation and payment of funds, as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each local agency, school district, county superintendent of schools, and community college district in the following manner:

(1) (A) The auditor shall determine the local agency share of 1978–79 property tax revenue by dividing the amount of property tax revenue received by all local agencies in 1977–78 by the total amount of property tax revenue received by all local agencies, school districts, community college districts and county superintendents of schools in the 1977–78 fiscal year, and multiplying the quotient by the total amount of revenue generated pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code.

(B) For each local agency, the county auditor shall compute a factor equal to the average amount of property tax revenue received in the three fiscal years prior to the 1978–79 fiscal year by each local agency within the county, divided by the average amount of property tax revenue received by all such agencies during the three fiscal years prior to the 1978–79 fiscal year. The county auditor shall multiply the factor for each local agency by the amount of revenue determined pursuant to subparagraph (A).

(C) Notwithstanding subparagraph (B), in each case where a local agency has been formed in the past three years and has assumed the duties of another local agency, it shall be entitled to the average amount of revenue for the prior three years of the local agency from whom it assumed its duties.

(D) For the purpose of subparagraph (A) and (B) local agency shall not include a local agency formed after January 1, 1976.

(2) (A) The county auditor shall determine the school share of the 1978–79 fiscal year property tax revenue by subtracting the local agency share, as determined under subparagraph (A) of paragraph (1) of this subdivision, from the total amount of revenue generated pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code.

(B) For each school district, county superintendent of schools, and community college district, the county auditor shall compute a factor equal to the amount of property tax revenue received in the 1977–78 fiscal year by such district and the county superintendent of schools within the county divided by the total amount of property tax revenue received by all such districts and the county board of education in the 1977–78 fiscal year. The county auditor shall multiply the factor for each school district, county superintendent of schools, and community college district by the amount of revenue determined pursuant to subparagraph (A). For the purpose of this paragraph, local agencies formed after January 1, 1976, shall be considered school districts.

(3) For the purpose of this subdivision, the amount of property tax levied for the purpose of making annual payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, including tax rates levied pursuant to Part 10 (commencing with Section 15000) of Division 1 of Sections 39308, 39311, 81338, and 81341 of the Education Code, shall be excluded from all calculations.

(4) The amounts computed under this subdivision shall be the amount of property tax revenue to be allocated to each local agency for the 1978–79 fiscal year.

(5) As used in this section, "property tax revenue" includes the amount of state reimbursement for homeowners' and business inventory exemption.

(c) For the 1978–79 fiscal year only, the amount of state reimbursement to each county with respect to property tax losses pursuant to the homeowners exemption under Section 5523 of the Revenue and Taxation Code, the business inventory exemption under Section 988 of the Revenue and Taxation Code, and the special treatment accorded livestock, motion pictures and wine and brandy under Section 922 of the Revenue and Taxation Code, shall be allocated by each county auditor, subject to the allocation and payment of funds, as provided in subdivision (b) of Section 33670 of the Health and Safety Code, to local agencies, school districts, county superintendents of school, and community college districts within

the county pursuant to the proportions established in subdivision (b). This subdivision shall not apply to reimbursements with respect to tax rates levied to pay the interest or principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978.

(d) For local agencies, school districts, and community college districts located in more than one county, the county auditor of each county in which such local agency or district is located shall, for the purposes of computing the amount for such local agency or district pursuant to paragraphs (1) and (2) of subdivision (b), treat the portion of the local agency or district located within that county as a local agency or district.

SEC. 24.5. Section 26912.1 is added to the Government Code, to read:

26912.1. (a) For the 1978–79 fiscal year only, an amount shall be computed for each local agency, as defined in subdivision (a) of Section 26912, and for each school district, community college district and county superintendent of schools, equal to the sum of the amounts computed pursuant to subdivision (b) of this section. This amount shall be used for the computation of the amount of state assistance to be allocated to local jurisdictions for the 1978–79 fiscal year.

(b) (1) The county auditor shall determine an amount equal to the amount which would be generated by applying a tax rate of four dollars ($4) per hundred dollars ($100) of assessed valuation to the total amount of taxable assessed valuation within the county for 1977–78. For purposes of this computation, "taxable assessed valuation" shall be determined as though the homeowners' and business inventory exemptions did not exist.

(2) The amount computed for each local agency, school district, community college district and county superintendent of schools within the county shall be equal to the amount which each such local jurisdiction would receive if the amount computed pursuant to paragraph (1) were allocated, subject to the allocation and payment of funds as provided in subdivision (b) of Section 33760 of the Health and Safety Code, pursuant to the proportions established in subdivision (b) of Section 26912.

SEC. 25. Section 110.1 as added to the Revenue and Taxation Code by Chapter 292 of the Statutes of 1978, is amended to read:

110.1. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property means the full cash value of property as determined pursuant to Section 110 for either:

(1) The lien date in 1975; or

(2) The date the property is purchased, newly constructed, or when a change in ownership has occurred, after the 1975 lien date, which shall be enrolled on the lien date next succeeding the date when real property, or a portion thereof, is purchased, newly constructed, or when a change of ownership has occurred.

(b) The value determined pursuant to subdivision (a) shall be the "base year value." If property has not been appraised pursuant to Section 405.5 to its appropriate base year value, "full cash value" means the reappraised value of such property as of the base year lien date. Such reappraisals may be made at any time, notwithstanding the provisions of Section 405.6.

(c) For each lien date after the lien date in which the full cash value is determined pursuant to subdivision (a) and (b), the full cash value of real property shall reflect the percentage change in cost of living, as defined in Section 2212; provided, that such value shall not reflect an increase in excess of 2 percent of the full cash value of the preceding lien date.

SEC. 26. Section 110.6 as added to the Revenue and Taxation Code by Chapter 292 of the Statutes of 1978, is amended to read:

110.6. The Legislature finds and declares that a change in ownership of real property means all recorded and unrecorded transfers of legal or equitable title, except the transfer of bare legal title, whether by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other change in the method of holding title, whether by voluntary or involuntary transfer or by operation of law. The term shall also include, but is not limited to, the transfer of stock of a corporation vested with legal title which conveys to the transferee the exclusive right to occupancy and possession of the real property, or a portion thereof, and the creation of a leasehold or taxable possessory interest, or the sublease or assignment thereof, for a term in excess of 10 years.

The board shall prescribe rules and regulations to govern assessors when determining when a change in ownership of real property occurs.

"Change of ownership," as used in this section, shall exclude any of the following:

(1) Any transfer to an existing assessee for the purpose of perfecting title to the property;

(2) The creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession, or profits;

(3) Any interspousal transfer to create or terminate a community property interest or joint tenancy interest;

(4) Substitution of a trustee under the terms of a security or trust instrument;

(5) Any termination of a joint tenancy interest; or

(6) Any transfer of a share of stock in a cooperative housing corporation, as defined in Section 17265, coupled with a possessory interest in a cooperative apartment unit thereof; provided however, that proportion of the value of the cooperative housing corporation attributable to the possessory interest shall be included.

The provisions of this section cease to be operative on July 1, 1979, and as of such date are repealed.

SEC. 27. Section 2235, as added to the Revenue and Taxation

Code by Chapter 292 of the Statutes of 1978, is amended and renumbered to read:

2237. (a) Notwithstanding any other provision of law, except as provided in subdivision (b), no local agency, school district, county superintendent of schools, or community college district shall levy an ad valorem property tax, other than that amount which is equal to the amount needed to make annual payments for the interest and principal on general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978 or the amount levied pursuant to Part 10 (commencing with Section 15000) of Division 1 and Sections 39308, 39311, 81338, and 81341 of the Education Code.

(b) A county shall levy an ad valorem property tax on taxable assessed value at a rate equal to four dollars ($4) per one hundred dollars ($100) of assessed value. The revenue from such tax shall be distributed, subject to the allocation and payment as provided in subdivision (d) of Section 33675 of the Health and Safety Code, to local agencies, school districts, county superintendents of schools, and community college districts in accordance with the provisions of Section 26912 of the Government Code.

SEC. 28. Section 34 of Chapter 292 of the Statutes of 1978 is amended to read:

Sec. 34. (a) Notwithstanding the provisions of subdivisions (b) of both Sections 15200.1 and 15200.2 of the Welfare and Institutions Code, the percentage of that portion of amounts received from or collected from noncustodial parents and to be paid to counties and other states pursuant to those subdivisions shall be 15 percent, instead of 27.75 percent, for the period July 1, 1978, to June 30, 1979.

(b) Notwithstanding the provisions of Section 15204.2 of the Welfare and Institutions Code, for the period July 1, 1978, to June 30, 1979, the state shall pay the nonfederal share of costs for activities required of counties by Section 11475.1 of the Welfare and Institutions Code, which relate to the collection of support from noncustodial parents and the determination of paternity in the case of a child born out of wedlock.

SEC. 29. Section 38 of Chapter 292 of the Statutes of 1978 is amended to read:

Sec. 38. (a) The sum of one hundred sixty-seven million five hundred seventy-five thousand four hundred dollars ($167,575,400) is hereby appropriated from the General Fund to the State Department of Social Services for each county's share toward the cost of state supplementary payments.

(b) The sum of four hundred eighteen million dollars ($418,000,000) is hereby appropriated from the General Fund to the State Department of Health Services, for each county's share toward the cost of health care provided pursuant to the Medi-Cal Program.

(c) There is hereby appropriated from the General Fund to the State Department of Social Services, sufficient funds, as necessary for each county's share of costs specified in subdivision (a) of Section 11450 of the Welfare and Institutions Code for the Aid to Families

with Dependent Children Program, provided that if the Director of Finance determines that the estimate of expenditures will exceed two hundred fifty-seven million dollars ($257,000,000), he shall so report to the Legislature. At such time as the report is made the amount shall be increased by the amount of such excess unless and until otherwise provided by law.

(d) There is hereby appropriated from the General Fund to the State Department of Social Services sufficient funds as necessary for county costs incurred for foster care, for children eligible for aid under Section 11403 and subdivision (b) of Section 11450 of the Welfare and Institutions Code; provided, that no county will be reimbursed for any rate increases negotiated with any boarding home or institution subsequent to June 1, 1978, unless so authorized by the Director of the State Department of Social Services upon his or her determination that such rate increases are necessary and fiscally prudent; provided, that if the Director of Finance determines that the estimate of expenditures will exceed ninety-two million three hundred four thousand dollars ($92,304,000) he shall so report to the Legislature. At such time as the report is made, the amount shall be increased by the amount of such excess unless and until otherwise provided by law.

(e) The sum of twenty-four million four hundred fifty thousand eight hundred dollars ($24,450,800) is hereby appropriated from the General Fund to the State Department of Social Services for each county's cost for administration of the Child Support Enforcement Program.

(f) The sum of sixty-three million two hundred thirty-nine thousand, three hundred dollars ($63,239,300) is hereby appropriated from the General Fund to the State Department of Social Services for each county's share of the costs for administration of the Aid to Families with Dependent Children program subject to the restrictions imposed by the Budget Act of 1978.

(g) The sum of twenty-one million four hundred sixty-six thousand dollars ($21,466,000) is hereby appropriated from the General Fund to the State Department of Social Services for each county's share of the cost of administering the federal Food Stamp Program, subject to the administrative cost control plan of the State Department of Social Services subject to the requirements of the Budget Act of 1978.

SEC. 29.5. On the effective date of this act, or not sooner than the effective date of the Budget Act of 1978, the unexpended balance of Items 244 and 245 of the Budget Act of 1977 shall be reappropriated to, and in augmentation of, Item 262 of the Budget Act of 1978. Such funds shall be administered separately from other subsections of Item 262 and shall be expended for the purpose of establishing or continuing such community-based services as are deemed necessary by the Director of Mental Health to reduce admissions to state hospitals and local hospital-based mental health services.

Notwithstanding any other provisions of law, a county may not

reallocate the state share of the approved county Short-Doyle program without the prior approval of the Director of Mental Health.

SEC. 30. Section 5705 of the Welfare and Institutions Code, as amended by Chapter 292 of the Statutes of 1978, is amended to read:

5705. To continue the approximate 1968–1969 ratio of state-county mental health expenditures, the net cost of all services specified in the approved County Short-Doyle Plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the County Short-Doyle Plan. The cost of the services shall be the actual cost as determined in accordance with standard accounting practices or a negotiated net amount or rate approved by the Director of Mental Health.

(b) Negotiated net amounts or rates may be used as the cost of services only in accordance with the following paragraphs:

(1) Negotiated net amounts may be used as the cost of services in a contract which provides for the delivery of 75 percent or more of the total county Short-Doyle annual plan for each fiscal year. The negotiated net amount shall be approved by the Department of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the Department of Mental Health and the local mental health program cost accounting and any other information required by the Department of Mental Health in accordance with procedures established by the Director of Mental Health emphasizing success in program outcome versus providers' expenditures. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle Plan. For the purposes of this paragraph, the cost-sharing formula of such contracts shall be 85 percent state funds, 5 percent county funds, and 10 percent funding from the contracting organization which shall not include state or federal funds directly allocated to contracting organizations.

(2) Negotiated rates may be used as the cost of services in contracts with providers whose gross Short-Doyle contract with a county is not more than one hundred fifty thousand dollars ($150,000) per annum. The negotiated rate shall be approved by the Department of Mental Health prior to commencing services for reimbursement. Providers under this paragraph shall report to the Department of Mental Health and the local mental health program cost accounting and any other information required by the Department of Mental Health in accordance with procedures established by the Director of Mental Health.

During the 1978–79 fiscal year the requirement for local financial participation in the net cost of services provided under this part shall be waived.

This section shall remain in effect only until July 1, 1981, and on that date is repealed, unless a later enacted statute, which is

chaptered before January 1, 1981, deletes or extends such date.

SEC. 31. Section 5705 is added to the Welfare and Institutions Code, to read·

5705. To continue the approximate 1968-1969 ratio of state-county mental health expenditures, the net cost of all services specified in the approved county Short-Doyle Plans shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as indicated in the county Short-Doyle Plan This section becomes operative July 1, 1981.

SEC. 32. It is the intent of the Legislature that the amendments to Section 5705 of the Welfare and Institutions Code which are made by Section 30 of this act shall remain in effect only until July 1, 1981, and on that date, Section 31 of this act shall become operative to restore Section 5705 to the form in which it read immediately prior to the effective date of this act.

SEC. 33. If any section, part, clause or phrase of this act is for any reason held to be invalid or unconstitutional, the remainder of the act shall not be affected but will remain in full force and effect.

SEC. 34. Notwithstanding any other provision of law for the 1978–79 fiscal year, any local agency required by law to adopt a budget shall adopt a budget no later than September 30, 1978. Any other deadlines required for the development of the budget may be delayed 30 days.

SEC. 34.5. The payments determined by Sections 35 and 36 of Chapter 292 of the Statutes of 1978 may be further increased by the federal funds provided to match an increase in state funds paid pursuant to subdivision (a) of Section 11450 of the Welfare and Institutions Code and/or the amount of the increase in monthly federal payments under Part A of Title XVI of the Social Security Act effective July 1, 1978, in the case of payments made pursuant to Section 12200; provided that such increases would not exceed the increases that would apply pursuant to state law in effect June 1, 1978.

SEC. 35. Any exclusions from the phrase "change in ownership" as defined by Section 110.6 of the Revenue and Taxation Code, whether enacted by this act or by any subsequent statute shall be valid and shall apply retrospectively to any transfer which is covered by such exclusions and which occurred on or after March 1, 1975.

The Legislature finds and declares that the time constraints imposed for implementation of Article XIII A of the California Constitution necessitated the provisions of the preceding paragraph.

SEC. 35.5. (a) Notwithstanding any other provision of law, there is hereby appropriated from the General Fund thirty-seven million dollars ($37,000,000) to the Department of Finance for allocation to special districts in accordance with the following provisions:

(1) The Department of Finance must find that there are unmet needs of special districts

(2) The criteria for distribution of these funds shall follow criteria

established for allocation pursuant to Chapter 3 of Part 1.5 of Division 4 of Title 2 of the Government Code.

(3) No district shall receive any funds which would cause the total amount of special district revenues received pursuant to this section, Chapter 3 of Part 1.5 of Division 4 of Title 2 of the Government Code, and Section 26912 of the Government Code in 1978–79 to exceed 90 percent of the total property tax revenue the district would have received in 1978–79, had its 1977–78 property tax revenues grown by seven percent.

(b) The Director of Finance shall report to the Joint Legislative Budget Committee the amount and detail of any funds allocated to special districts pursuant to this section, as well as the requests for funds that were denied, with the rationale therefore.

(c) All other provisions of this act which control the allocation of funds to special districts shall also apply to this allocation.

SEC. 36. 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, which would provide for a more orderly implementation of the mandate of Article XIII A of the California Constitution, as added pursuant to the passage of Proposition 13 of the 1978 Direct Primary Election, may be effective during the 1978–79 fiscal year, it is necessary that this act take effect immediately.

SEC. 37. For the purposes of Section 16280.5 of the Government Code, an elected or appointed non-civil service officer may be granted a salary increase as long as it is not in excess of the cost of living salary increase provided for state employees.

CHAPTER 333

An act to amend Section 54307.1 of the Government Code, relating to revenue bonds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1978. Filed with Secretary of State July 4, 1978.]

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

SECTION 1. Section 54307.1 of the Government Code is amended to read:

54307.1. "Local agency" also means any entity or agency created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 for the purpose of acquiring, constructing, maintaining, or operating an enterprise for the collection, treatment, or disposal of sewage, waste, or storm water.

(a) Any proposition submitted to an election held within such local agency or entity for the purpose of authorizing bonds shall be deemed adopted if it receives the affirmative vote of a majority of all the voters voting on the proposition. Such election shall be held within the combined territory of all agencies which, pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, have jointly created such local agency or entity; provided that if a public agency has entered into an agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 on behalf of a county service area, improvement zone, improvement district, maintenance district, or other zone or area, only the territory of such county service area, improvement zone, maintenance district, improvement district, or other zone or area shall be included in the combined territory in which the election shall be held.

(b) If compliance with a water quality control plan, adopted pursuant to Division 7 (commencing with Section 13000) of the Water Code, requires the construction of facilities for the collection, treatment, or disposal of sewage, waste, or storm water, and if the appropriate regional water quality control board, in a cease and desist order or by other action of the board, finds or determines that immediate action for the planning and construction of such facilities is urgently needed for the compliance with such plan and the prevention of pollution, the election procedures of Article 3 (commencing with Section 54380) of this chapter shall not be applicable, but undertaking the improvement shall be subject to referendum on the issuance of bonds. The resolution of the local agency or entity authorizing the issuance of bonds pursuant to this chapter shall be subject to referendum within the combined territory of all the agencies which, pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, have created such local agency or entity. Referendum procedures shall, as nearly as practicable, be those specified in Section 6547.2.

For the purposes of Section 6547.2, however, "local agency" shall mean the local agency or entity authorizing the issuance of bonds. The electors of such local agency for the purposes of such section shall be the electors residing within the boundaries of the local agency or entity who would be qualified to vote for candidates for Governor; provided that, should all of the parties to the agreement be "landowner-voter districts" as defined in Section 56048, the agreement shall provide which principal district act shall apply for the purpose of determining voter qualifications, manner of voting, and number of votes each voter is entitled to cast. A majority vote against the issuance of bonds shall have the effect of rescinding the resolution authorizing the issuance of bonds.

In the event that all parties to the agreement are "landowner-voter districts" as defined in Section 56048, and the agreement fails to specify which principal act shall apply for the purposes of determining voter qualifications, voting shall occur in the manner specified in Division 13 (commencing with Section

34000) of the Water Code.

(c) Such local agency or entity shall have the power to utilize any part of its waste or storm water or any parts of the enterprise acquired or constructed through the issuance of bonds of the local agency or entity to provide, generate, and deliver hydroelectric power, and may acquire, construct, operate, and maintain any and all works, facilities, improvements, and property necessary or convenient for such utilization.

(d) Such local agency or entity shall have the power (1) pursuant to contract, to provide, sell, and deliver hydroelectric power to the federal government or to any board, department, or agency thereof, to the State of California for purposes of the State Water Resources Development System, and to any public agency, private corporation, or any other person or entity, or any combination thereof, engaged in the sale of electric power at retail; or (2) to use all or any part of such hydroelectric power directly, or indirectly through exchange, in exercising any other power of such local agency or entity.

(e) Such local agency or entity shall have the power to acquire, construct, maintain, and operate works, facilities, improvements, and property necessary for the provision, generation, and delivery of hydroelectric power pursuant to subdivisions (c) and (d) of 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:

The present critical energy situation has focused public attention on energy uses, resources, and the prospects for meeting both existing and future energy demands. It is necessary to resolve uncertainties as to the legal power of local agencies or entities created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purpose of acquiring, constructing, maintaining, or operating an enterprise for the collection, treatment or disposal of sewage, waste, or storm water to utilize such waste or storm water and such an enterprise to provide, generate, and deliver hydroelectric power and to acquire, construct, operate, and maintain works, facilities, improvements, and property necessary or convenient for such utilization wherever it is determined to be feasible to do so, and thus contribute to the energy supply of the state and the nation, electric power that otherwise would not exist. In order that this new source of electric power can be provided at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 334

An act relating to school district governing boards.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. (a) The governing board of the Santa Monica Unified School District may:

(1) By resolution, have placed on the ballot of the April 10, 1979, regular election, the question of whether a new separate governing board for the community college district shall be established, effective April 14, 1981, in the manner provided for by subdivision (b) of this section, which shall be an integral part of the ballot measure. If a majority of all votes cast are cast in favor of the question, the question carries, and the provisions of subdivision (b) of this section shall apply.

(b) Except as otherwise provided in this act, the new community college district governing board shall be elected, organized, and otherwise governed in accordance with the statutory law. The governing board of the unified school district shall continue in existence and be subject to the provisions of the city charter pertaining to its organization and composition as heretofore provided. Each member of the governing board of the unified school district shall choose irrevocably, on or before December 31, 1980, at a public meeting of the board, upon which of the two boards the member shall serve. The community college district governing board so created shall be composed of the same number of members as the governing board of the unified school district.

SEC. 2. (a) If an individual serving on the governing board of such unified school district chooses to serve on the new community college district governing board, such choice shall be deemed to have created a vacancy in such individual's membership on the governing board of the unified school district, effective on the second Tuesday in April, 1981, except in any instance where the term would otherwise expire on that date. Such vacancy shall be filled in the manner prescribed by the city charter of the city in which the unified district is located, in whole or in part.

(b) If an individual serving on the governing board of the unified school district whose term expires in April of 1981 chooses to serve on the new community college district governing board, then the term of office on the community college board shall be deemed to commence on the second Tuesday in April 1981, and if an individual serving on the governing board of the unified school district whose term expires in April of 1983 chooses to serve on the new community college district governing board, then the term of office on the community college board shall be deemed to expire on the second

Tuesday in April, 1983.

(c) If an individual serving on the governing board of the unified school district chooses to continue to serve as a member of the governing board of the unified school district, the member shall nevertheless serve also on the community college district governing board but only until the member's successor on such college board is elected at the election for members of the community college district governing board provided for herein and has assumed office.

On the second Tuesday in April 1981, an election shall be held in the community college district to elect members to the community college district governing board to fill the positions of the governing board members whose terms pursuant to the city charter are scheduled to expire in April of 1981, and other governing board members, if any, whose terms pursuant to the city charter are scheduled to expire in April of 1983, and who have chosen, pursuant to this section to serve as members of the governing board of the unified school district only, thus leaving vacancies in community college governing board positions.

(d) If the term of office of an individual who chooses to serve on the governing board of the unified school district expires in April 1981, in accordance with the terms of the city charter mentioned in subdivision (a), then the term of office on the community college district board shall be deemed to commence at that time. The member's successor on the community college district board, elected at the April 1981 election, shall be elected to serve for a term of four years.

(e) If the term of office of an individual choosing to serve on the governing board of the unified school district expires in April 1983, in accordance with the terms of the city charter mentioned in subdivision (a), then the terms of office in the community college district board shall be deemed to expire at that time, and the member's choice to continue to serve on the governing board of the unified school district shall be deemed to have created a vacancy in the member's membership on the community college district board commencing on the second Tuesday in April, 1981. The member's successor to the community college district board, elected at the April 1981 election as provided herein, shall serve the remainder of such unexpired term ending on the second Tuesday in April, 1983.

(f) It is the intent of the Legislature that the terms of office of the members of the new community college district governing board be staggered as regards expirations so that some thereof shall expire in April of each odd-numbered year. If any question should arise in April 1981 concerning whether a member of the new community college governing board is to serve for a four-year term or for the remaining two years of a term, the matter shall be resolved by assigning the four-year terms to the four members receiving the greatest numbers of votes. The county superintendent of schools shall make any determinations and assignments necessary for these purposes.

(g) Following the first election of members to the newly created community college district board, all subsequent regular elections for members of the community college district governing board may be held on the same date upon which the election for members of the governing board of the unified school district is held pursuant to city charter and Article 3 (commencing with Section 5340) of Chapter 3 of Part 4 of the Education Code.

CHAPTER 335

An act to amend Section 66449 of the Government Code, relating to the Subdivision Map Act.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 66449 of the Government Code is amended to read:

66449. The following certificates shall appear on a parcel map:

(a) Engineer's (surveyor's) certificate:

This map was prepared by me or under my direction (and was compiled from record data) (and is based upon a field survey) in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of (name of person authorizing map) on (date). I hereby state that this parcel map substantially conforms to the approved or conditionally approved tentative map, if any.

(Signed) _____

R.C.E. (or L.S.) No. _____

(b) Recorder's certificate.

Filed this _____ day of _____, 19__, at __m. in Book _____ of _____, at page _____, at the request of _____.

Signed _____

County Recorder

CHAPTER 336

An act to amend Section 23428.9 of the Business and Professions Code, relating to alcoholic beverages

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 23428.9 of the Business and Professions Code is amended to read:

23428.9. For the purpose of this article "club" also means any nonprofit social club which serves daily meals to its members and guests, owns or leases, operates and maintains a club room or rooms for its membership and has operated the club room or rooms for a period of not less than two years and has regular membership dues of not less than fifty dollars ($50) per year per member.

CHAPTER 337

An act to amend Section 25209.6 of the Government Code, relating to counties.

[Approved by Governor July 4, 1978. Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 25209.6 of the Government Code is amended to read:

25209.6. The board of supervisors may contract on behalf of the county to participate as a health maintenance organization in Section 1876 of the Social Security Act (Public Law 92-603, Section 226), or Section 300(e) of Title 42 of the United States Code, or any other health maintenance organization provision under Title 18 or 19 of the Social Security Act, or any or all of such provisions, and to provide to its enrollees services in addition to those described in subsection (c), as provided in subsection (g) of Section 1876, including the authorization of the expenditure by the county of whatever funds may be required therefor.

This section shall remain in effect until July 1, 1984, and as of such date is repealed unless a later enacted statute which is chaptered on or before that date deletes or extends such date.

CHAPTER 338

An act to add Section 66456.1 to the Government Code, relating to the Subdivision Map Act.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 66456.1 is added to the Government Code, to read:

66456.1. Multiple final maps relating to an approved or conditionally approved tentative map may be filed prior to the expiration of the tentative map; provided, however, that the subdivider, at the time the tentative map is filed, informs the advisory agency of the local agency of the subdivider's intention to file multiple final maps on such tentative map. In providing such notice, the subdivider shall not be required to define the number or configuration of the proposed multiple final maps. The filing of a final map on a portion of an approved or conditionally approved tentative map shall not invalidate any part of such tentative map. The right of the subdivider to file multiple final maps shall not detract from the authority of the local agency to impose reasonable conditions relating to the filing of multiple final maps.

SEC. 2. The Legislature finds and declares that the authorization to file multiple final maps relating to an approved or conditionally approved tentative map prior to the expiration of such tentative map, specified in Section 66456.1 of the Government Code, as enacted by Section 1 of this act, is declaratory of existing law.

CHAPTER 339

An act to amend Sections 35013, 35014, 35061, 35065, 35066, 35067, 35069, 35071, 35150, 35203, 35223, 35224.5, 35228, 35229, 35229.5, 35232, 35234, 35257, 35307, 35308, 35309, and 35442 of, and to add Section 35357 to, the Government Code, relating to cities.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 35013 of the Government Code is amended to read:

35013. If authorized by the commission pursuant to subdivision (f) of Section 35150, the conducting authority, unless it terminates the proceedings as provided by Section 35224.5, shall order the annexation of the territory without an election.

SEC. 2. Section 35014 of the Government Code is amended to read:

35014. The authority to initiate, conduct, and complete any proceeding pursuant to Section 35013 shall not apply to any territory which, after the effective date of this part, became surrounded or substantially surrounded by the city to which annexation is proposed. The authority to initiate, conduct, and complete any proceeding pursuant to Section 35013 shall expire three years after January 1, 1978. The three-year time limit specified in this section shall not

include any period of time during which, in an action pending in any court, a local agency is enjoined from conducting proceedings pursuant to Section 35013. Upon final disposition of such case, the previously enjoined local agency shall be authorized to initiate, conduct and complete proceedings pursuant to Section 35013 for the same period of time as was remaining under the three-year limit at the time the injunction commenced. However, if the remaining time is less than six months, such authority shall continue for six months following final disposition of the action.

SEC. 3. Section 35061 of the Government Code is amended to read:

35061. Any resolution adopted pursuant to this part which orders the incorporation of a city, a change of organization or a municipal reorganization subject to confirmation by the voters upon the question thereof shall:

(a) Call, provide for, and give notice of a special election or elections upon such question;

(b) Designate the affected territory within which such special election or elections shall be held;

(c) Fix a date of election;

(d) Provide for the question or questions to be submitted to the voters;

(e) Designate precincts and polling places;

(f) Specify any terms or conditions provided for in the incorporation or change of organization or municipal reorganization;

(g) State the vote required for confirmation of incorporation or change of organization or municipal reorganization; and

(h) Contain such other matters as may be necessary to call, provide for, and give notice of such special election or elections and to provide for the conduct thereof and the canvass of returns thereof.

SEC. 4. Section 35065 of the Government Code is amended to read:

35065. Within five days after a special election is called pursuant to this part, the conducting authority which has called the election shall transmit, by registered mail, a written notification of the election call to the executive officer of the local agency formation commission of the county in which the affected territory is located. Such written notice shall include a description of the boundaries of the affected territory as assigned by the commission. Written notice required by this section may be made in the form of a certified copy of the resolution adopted by the legislative body calling the election.

The executive officer shall submit to the commission, for its approval or modification, an impartial analysis of the proposed incorporation or change of organization.

The impartial analysis shall not exceed 400 words in length in addition to a general description of the boundaries of the territory affected.

The local agency formation commission shall approve or modify the analysis and submit it to the clerk of the legislative body

conducting the election no later than the last day for submission of rebuttal arguments.

SEC. 5. Section 35066 of the Government Code is amended to read:

35066. The conducting authority, or any member or members of the conducting authority authorized by it, or any individual voter or bona fide association of citizens entitled to vote on the incorporation, change of organization, or municipal reorganization, or any combination of such voters and bona fide association of citizens may file a written argument for, or a written argument against, the question to be submitted to the voters.

Arguments shall not exceed 300 words in length and shall be filed with the clerk of the conducting authority no later than the last day for submission of rebuttal arguments.

SEC. 6. Section 35067 of the Government Code is amended to read:

35067. On the basis of the time reasonably necessary to prepare and print the arguments, analysis, and sample ballots for the election, the clerk of the conducting authority shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters. Notice of the date fixed shall be published in accordance with Section 6061 in a newspaper of general circulation which is circulated in the affected territory. Arguments may be changed until and including the date fixed by the clerk.

The notice shall contain the following:

(a) A statement of the proposition to be voted on and a general description of the boundaries of the affected territory;

(b) An invitation to any registered voter or bona fide association of citizens entitled to vote on the proposal to submit and file with the clerk for printing and distribution in the ballot pamphlet, within 54 days of the election, an argument for or an argument against the proposal;

(c) The date of the election;

(d) A statement that only one argument for and one argument against shall be selected and printed in the ballot pamphlet; and

(e) A statement that arguments shall not exceed 300 words in length and shall be accompanied by not more than three signatures.

SEC. 7. Section 35069 of the Government Code is amended to read:

35069. The provisions of Section 3787 of the Elections Code shall apply with regard to the preparation and submittal of rebuttal arguments.

SEC. 8. Section 35071 of the Government Code is amended to read·

35071. The canvass of ballots cast at any election held pursuant to this part shall be conducted pursuant to Sections 17080 to 17089, inclusive, of the Elections Code

SEC. 9 Section 35150 of the Government Code is amended to

read:

35150. The commission shall have the powers and duties set forth in Chapter 6.6 (commencing with Section 54773) of Part 1, Division 2, Title 5, and such additional powers and duties as are specified in this part, including the following:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for the incorporation of cities, for changes of organization of cities, and municipal reorganizations.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city, or with regard to a proposal for municipal reorganization which includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or municipal reorganization, is inhabited or uninhabited. Such determination shall be based on the definitions of "inhabited territory" contained in Section 35038.

(c) With regard to a proposal for consolidation of two or more cities, to determine which city shall be the consolidated, successor city.

(d) To adopt standards and procedures for the evaluation of plans for providing municipal services submitted pursuant to Section 35102.

(e) To waive the restrictions of Section 35010, if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed as a result of incorporation or annexation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(f) To approve the annexation after notice and hearing, and authorize the conducting authority to order annexation of the territory without an election if the commission finds that the territory contained in an annexation proposal:

(1) Does not exceed 100 acres in area and such area constitutes the entire island;

(2) (A) Is surrounded or substantially surrounded by the city to which annexation is proposed or by such city and a county boundary or the Pacific Ocean; or

(B) Is surrounded by a city and adjacent cities;

(3) Is substantially developed or developing;

(4) Is not prime agricultural land as defined in Section 35046; and

(5) Will benefit from such annexation or is receiving benefits from the annexing city.

The finding required pursuant to paragraph (3) of this subdivision shall be based upon one or more factors, including, but not limited to:

(i) The availability of public utility services.

(ii) The presence of public improvements.

(iii) The presence of physical improvements upon the parcel or

parcels within such area.

(g) To approve the annexation of unincorporated, noncontiguous territory not exceeding 100 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the conducting authority to annex such territory without notice or hearing.

(h) Subject to the provisions of Section 35031, to designate in the resolution making determinations the conducting authority for proceedings.

(i) When a municipal reorganization includes the annexation of inhabited territory to a city and the assessed value of land within such territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within such territory equals one-half or more of the number of registered voters residing within the city, to determine as a condition of the reorganization that the reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.

(j) With respect to the incorporation of a new city, to determine the number of inhabitants or the number of registered voters residing within the proposed city.

Except as otherwise provided in this part, such powers and duties shall be exercised in accordance with the provisions of Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5. To the extent of any inconsistency between Chapter 6.6 and this part, the provisions of this part shall control.

SEC. 10. Section 35203 of the Government Code is amended to read:

35203. At any time after the adoption of a resolution of certification pursuant to Section 35202, the board of supervisors shall assume jurisdiction to initiate, conduct, and complete any proceedings for the change of organization or municipal reorganization and to enforce compliance with any terms or conditions thereto referred to in such resolution. Upon the assumption of such jurisdiction, the board of supervisors and the clerk and other officers of the county shall have exclusive jurisdiction with respect thereto and shall exercise all powers and duties vested in the conducting authority and the clerk or other officers of such authority. Any jurisdiction assumed and exercised by the board of supervisors and the clerk or other officers of the county pursuant to this section shall be given the same force and effect as if taken by the conducting authority and the clerk or officers thereof.

SEC. 11. Section 35223 of the Government Code is amended to read:

35223. The clerk of the conducting authority shall also give mailed notice of the hearing as required by Section 35055 to:

(a) Any person who has filed his name and address with the clerk and has requested such mailed notice;

(b) The chief petitioners, if any, as indicated in the petition initiating proceedings pursuant to this part;

(c) To each affected city, county, and district; and

(d) To the executive officer of the local agency formation commission.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35220, except that if annexation is approved and authorized pursuant to subdivision (f) of Section 35150, the notice shall not contain the statements specified by subdivisions (g) and (h) of Section 35220.

SEC. 12. Section 35224.5 of the Government Code is amended to read:

35224.5. When approved and authorized by the commission pursuant to the provisions of subdivision (f) of Section 35150, the conducting authority shall, upon conclusion of the hearing, adopt a resolution ordering the annexation without an election or shall by resolution, terminate proceedings. The provisions of Sections 35225, 35226, 35227, 35228, and 35229 shall not apply to any annexation subject to the provisions of this section.

SEC. 13. Section 35228 of the Government Code is amended to read:

35228. When the territory proposed to be annexed or detached is inhabited, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory annexed or detached subject to the confirmation by the voters on the question, and call a special election and submit to the voters residing within the affected territory the question of whether it shall be annexed to or detached from the city, if written protests have been filed and not withdrawn by either 25 percent or more of the registered voters within the territory, or owners of land, who also own not less than 25 percent of the total assessed value of land within the territory.

(c) Order the territory annexed or detached without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters within the territory and less than 25 percent of the owners of land who own less than 25 percent of the total assessed value of land within the territory.

SEC. 14. Section 35229 of the Government Code is amended to read:

35229. When the territory proposed to be annexed or detached is uninhabited, the conducting authority, not more than 30 days after conclusion of the hearing on protests, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by the owners of land and improvements who own not less than 50 percent of the total assessed value of land and improvements within the territory.

(b) Order the territory annexed or detached if written protests have been filed and not withdrawn by owners of land and improvements who own less than 50 percent of the total assessed value of land and improvements within the territory.

The value of improvements represented by such protest shall be determined in the same manner as the value of land is determined.

SEC. 15. Section 35229.5 of the Government Code is amended to read:

35229.5. (a) Notwithstanding the provisions of Sections 35228 and 35229 the conducting authority, not more than 30 days after conclusion of a hearing to detach inhabited or uninhabited territory, may by resolution, terminate such proceedings to detach territory.

(b) Notwithstanding the provisions of Sections 35307 and 35308, the conducting authority, not more than 30 days after conclusion of a hearing on a proposed inhabited or uninhabited municipal reorganization which includes the detachment of territory from any city, shall terminate the proceedings for the proposed municipal reorganization if a resolution or written protest against the proposed municipal reorganization is filed prior to the conclusion of such hearing by any city from which any portion of the territory of the city would be detached or otherwise removed pursuant to the proposed municipal reorganization.

(c) The provisions of subdivision (b) of this section shall not apply to any proceedings initiated by petition for which the executive officer of the commission, on or before May 1, 1978, has issued a certificate of sufficiency pursuant to Section 35118.

SEC. 16. Section 35232 of the Government Code is amended to read:

35232. The clerk of the conducting authority shall cause notice of the election to be given as prescribed in Section 35055.

SEC. 17. Section 35234 of the Government Code is amended to read:

35234. When approved and authorized by the commission pursuant to the provisions of subdivision (g) of Section 35150 or Section 35151, the conducting authority may adopt a resolution ordering an annexation or detachment: (i) without notice and hearing by the conducting authority, (ii) without an election, or (iii) both (i) and (ii).

SEC. 18. Section 35257 of the Government Code is amended to read:

35257. Not more than 30 days after conclusion of the hearing, the conducting authority shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions.

(a) Terminate proceedings, if written protests have been filed

and not withdrawn by 50 percent or more of the registered voters residing within the territory. A certified copy of the resolution shall be filed with the executive officer of the commission.

(b) Order the affected territory incorporated subject to the confirmation of the voters therein on the question, and call a special election and submit to the voters residing within the affected territory the question of whether such territory shall be incorporated, if written protests have been filed and not withdrawn by less than 50 percent of the registered voters residing within the affected territory.

SEC. 19. Section 35307 of the Government Code is amended to read:

35307. Where a proposed inhabited municipal reorganization consists solely of annexations or detachments, or both, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory reorganized subject to the confirmation by the voters on the question and call a special election and submit to the voters residing within the affected territory the question of whether it shall be reorganized, if written protests have been filed and not withdrawn by either 25 percent or more of the registered voters within the territory or 25 percent or more of the number of owners of land who also own not less than 25 percent of the total assessed value of land within the territory.

(c) Order the territory reorganized without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters within the territory and less than 25 percent of the number of owners of land who also own less than 25 percent of the total assessed value of land and improvements within the territory.

SEC. 20. Section 35308 of the Government Code is amended to read:

35308. Where a proposed uninhabited municipal reorganization consists solely of annexations or detachment, or both, the conducting authority not more than 30 days after conclusion of the hearing shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by the owners of land and improvements who own not less than 50 percent of the total assessed value of land and improvements within the territory.

(b) Order the territory reorganized if written protests have been filed and not withdrawn by owners of land who own less than 50

percent of the total assessed value of land and improvements within the territory.

The value of improvements represented by such protest shall be determined in the same manner as the value of land is determined.

SEC. 21. Section 35309 of the Government Code is amended to read:

35309. Where a proposed municipal reorganization does not consist solely of annexations or detachments or both, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters residing within the territory.

(b) Order the affected territory reorganized subject to the confirmation of the voters therein on the question and call a special election and submit to the voters residing within the affected territory the question of whether such territory shall be reorganized if written protests have been filed and not withdrawn by less than 50 percent of the registered voters residing within the affected territory.

SEC. 22 Section 35357 is added to the Government Code, to read:

35357. (a) The executive officer shall, within 30 days after the recordation of the certificate of completion with the county recorder, file a notice with the Secretary of State briefly describing the incorporation, change of organization, or municipal reorganization.

(b) The failure to file the notice within the time required by this section shall not affect any determination as to the completion of the proceedings or the effective date thereof.

SEC. 23. Section 35442 of the Government Code is amended to read:

35442 Officers, except members of the city council, shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified. Of the five elected members of the city council, the three receiving the lowest number of votes shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office until the second succeeding general municipal election held in the city and until their successors are elected and qualified If two or more members of the city council are elected by the same number of votes, the terms of each shall be determined by lot The members of the city council elected to succeed the members elected at the incorporation election shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

SEC 24 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 340

An act to amend Section 66464 of the Government Code, relating to subdivisions.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 66464 of the Government Code is amended to read:

66464. (a) After the approval by the city of a final map of a subdivision, the city clerk shall transmit the map to the clerk of the county board of supervisors for ultimate transmittal to the county recorder. The city clerk shall transmit parcel maps approved by the city directly to the county recorder.

(b) After the approval by the county of a final or parcel map of a subdivision within unincorporated territory, the map shall be transmitted ultimately to the county recorder.

(c) When all certificates and security required under the provisions of Sections 66492 and 66493 of this division have been filed and deposited with the clerk of the board of supervisors and approved by the county, the clerk of the board of supervisors shall certify that such certificates have been filed and deposits have been made and shall transmit the final map to the county recorder.

CHAPTER 341

An act to add Sections 12162.5 and 12162.6 to the Insurance Code, relating to insurance.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 12162.5 is added to the Insurance Code, to read:

12162.5. All motor clubs applying for a certificate of authority to act as a motor club in this state shall demonstrate to the satisfaction of the commissioner that such club has a net worth of not less than

one hundred fifty thousand dollars ($150,000). Such net worth shall be maintained at all times as a condition for the continuance of its certificate of authority to act as a motor club in this state.

SEC. 2. Section 12162.6 is added to the Insurance Code, to read:

12162.6. A motor club holding a certificate of authority to act as a motor club granted prior to January 1, 1979, may continue to retain such certificate until July 1, 1983, without complying with the minimum net worth requirement of Section 12162.5.

For the purposes of Sections 12162.5 and 12162.6, "net worth" means the excess of admitted assets over all liabilities and required reserves.

CHAPTER 342

An act to amend Section 1258.260 of the Code of Civil Procedure, relating to condemnation.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 1258.260 of the Code of Civil Procedure is amended to read:

1258.260. (a) The statement of valuation data shall give the name and business or residence address of the witness and shall include a statement whether the witness will testify to an opinion as to any of the matters listed in Section 1258.250 and, as to each such matter upon which he will give an opinion, what that opinion is and the following items to the extent that the opinion on such matter is based thereon:

(1) The interest being valued.

(2) The date of valuation used by the witness.

(3) The highest and best use of the property.

(4) The applicable zoning and the opinion of the witness as to the probability of any change in such zoning.

(5) The sales, contracts to sell and purchase, and leases supporting the opinion.

(6) The cost of reproduction or replacement of the existing improvements on the property, the depreciation or obsolescence the improvements have suffered, and the method of calculation used to determine depreciation.

(7) The gross income from the property, the deductions from gross income, and the resulting net income; the reasonable net rental value attributable to the land and existing improvements thereon, and the estimated gross rental income and deductions therefrom upon which such reasonable net rental value is computed; the rate of capitalization used; and the value indicated by such capitalization.

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(8) If the property is a portion of a larger parcel, a description of the larger parcel and its value.

(b) With respect to each sale, contract, or lease listed under paragraph (5) of subdivision (a), the statement of valuation data shall give:

(1) The names and business or residence addresses, if known, of the parties to the transaction.

(2) The location of the property subject to the transaction.

(3) The date of the transaction.

(4) If recorded, the date of recording and the volume and page or other identification of the record of the transaction.

(5) The price and other terms and circumstances of the transaction. In lieu of stating the terms contained in any contract, lease, or other document, the statement may, if the document is available for inspection by the adverse party, state the place where and the times when it is available for inspection.

(6) The total area and shape of the property subject to the transaction.

(c) If any opinion referred to in Section 1258.250 is based in whole or in substantial part upon the opinion of another person, the statement of valuation data shall include the name and business or residence address of such other person, his business, occupation, or profession, and a statement as to the subject matter to which his opinion relates.

(d) Except when an appraisal report is used as a statement of valuation data as permitted by subdivision (e), the statement of valuation data shall include a statement, signed by the witness, that the witness has read the statement of valuation data and that it fairly and correctly states his opinions and knowledge as to the matters therein stated.

(e) An appraisal report that has been prepared by the witness which includes the information required to be included in a statement of valuation data may be used as a statement of valuation data under this article.

CHAPTER 343

An act to amend Section 8624 of the Business and Professions Code, relating to structural pest control operators.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 8624 of the Business and Professions Code is amended to read·

8624. If the board suspends or revokes an operator's license and

one or more branch office is registered under the name of such operator, the suspension or revocation may be applied to each such branch office.

The performance by any partnership, corporation, firm or association of any act or omission constituting a cause for disciplinary action, likewise constitutes a cause for disciplinary action against any licensee who at the time such act or omission occurred was the responsible managing employee, qualifying partner, responsible managing officer, or qualifying member of such individual, partnership, corporation, firm or association, whether or not he had knowledge of or participated in the prohibited act or omission.

CHAPTER 344

An act to repeal Sections 992 and 11007.8 of the Government Code, to repeal Section 674 of, and add Section 674 to, the Insurance Code, relating to insurance.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 674 of the Insurance Code is repealed.

SEC. 2. Section 674 is added to the Insurance Code, to read:

674. A policy of liability insurance issued to a local public entity or state agency as a named insured shall not be canceled or renewal of such a policy declined for reasons other than nonpayment of premium unless notice is mailed to the named insured at least 45 days prior to the effective date of nonrenewal or at least 60 days prior to the effective date of cancellation. Such notice need not be sent if a renewal notice stating a premium for an additional period of coverage has been sent the named insured at least 45 days before cancellation or expiration of an existing policy and such premium has not been tendered the insurer before such cancellation or expiration. This section shall not require that notice of cancellation or nonrenewal be given an additional insured added by way of endorsement or certificate of insurance.

SEC 3. Section 992 of the Government Code is repealed.

SEC. 4. Section 11007.8 of the Government Code is repealed.

CHAPTER 345

An act to amend Section 53069.7 of the Government Code, relating to rewards.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 53069.7 of the Government Code is amended to read:

53069.7. A local agency, as defined in Section 54951, may offer and pay a reward, the amount thereof to be determined by the local agency, to any person who comes to the aid of any peace officer of the local agency or who furnishes information leading to the arrest and conviction of any person or persons killing or assaulting with a deadly weapon or inflicting serious bodily harm upon a peace officer of the local agency while such officer is acting in the line of duty.

CHAPTER 346

An act to amend Section 527 of the Code of Civil Procedure, relating to temporary restraining orders.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 527 of the Code of Civil Procedures is amended to read:

527. (a) An injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor. A copy of the complaint or of the affidavits, upon which the injunction was granted, must, if not previously served, be served therewith.

No preliminary injunction shall be granted without notice to the opposite party; nor shall any temporary restraining order be granted without notice to the opposite party, unless it shall appear from facts shown by affidavit or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice and, except when applying for an order under Sections 4357 or 4359 of the Civil Code, the applicant or the applicant's attorney certifies to the court under oath (i) that within a reasonable time prior to the application he informed the opposing party or his attorney at what time and where the application would

be made; (ii) that he in good faith attempted to inform the opposing party and his attorney but was unable to so inform the opposing party or his attorney, specifying the efforts made to contact them; or (iii) that for reasons specified he should not be required to so inform the opposing party or his attorney. In case a temporary restraining order shall be granted without notice, in the contingency above specified, the matter shall be made returnable on an order requiring cause to be shown why the injunction should not be granted, on the earliest day that the business of the court will admit of, but not later than 15 days or, if good cause appears to the court, 20 days from the date of such order. When the matter first comes up for hearing the party who obtained the temporary restraining order must be ready to proceed and must have served upon the opposite party at least two days prior to such hearing, a copy of the complaint and of all affidavits to be used in such application and a copy of his points and authorities in support of such application; if he be not ready, or if he shall fail to serve a copy of his complaint, affidavits and points and authorities, as herein required, the court shall dissolve the temporary restraining order. The defendant, however, shall be entitled, as of course, to one continuance for a reasonable period, if he desires it, to enable him to meet the application for the preliminary injunction. The defendant may, in response to such order to show cause, present affidavits relating to the granting of the preliminary injunction, and if such affidavits are served on the applicant at least two days prior to the hearing, the applicant shall not be entitled to any continuance on account thereof. On the day upon which such order is made returnable, such hearing shall take precedence of all other matters on the calendar of said day, except older matters of the same character, and matters to which special precedence may be given by law. When the cause is at issue it 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) A temporary restraining order may be granted with or without notice to restrain any person upon an affidavit which, to the satisfaction of a court, shows reasonable proof of a past act or acts of actual violence resulting in physical injury for the purpose of preventing a recurrence of actual domestic violence and assuring a period of separation of the parties involved. A temporary restraining order may be granted pursuant to this subdivision to any person who, prior to or at the time such order is granted, was actually residing with the person or persons at whom such order is directed, and, in the case of a marital relationship, notwithstanding that a petition for legal separation or annulment or dissolution of marriage has not been filed.

A temporary restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed 30 days, unless otherwise terminated by the court

In case a temporary restraining order is granted without notice,

the matter shall be made returnable on an order requiring cause to be shown why the order should not be dissolved, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted.

Any willful disobedience of any temporary restraining order granted pursuant to this subdivision shall be a misdemeanor.

The county clerk shall transmit a copy of each temporary restraining order, or extension, modification or termination thereof, granted pursuant to this subdivision, by the close of the business day on which such order was granted, to the local law enforcement agency with jurisdiction over the residence of the party which obtained the restraining order or the residence at which the recurrence of actual domestic violence is the subject of the temporary restraining order, if requested by an attorney of record or a person who acted in propria persona and approved by the court. Each appropriate law enforcement agency may make available, through an existing system for verification, information as to the existence and current status of any temporary restraining order issued pursuant to this subdivision to any law enforcement officer responding to the scene of reported domestic violence.

CHAPTER 347

An act to add Sections 11301.3 and 11301.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 11301.3 is added to the Vehicle Code, to read:

11301.3. An applicant may, in lieu of and subject to the same conditions as the bond required by Section 11301, deposit with the department cash, in the sum of five thousand dollars ($5,000), evidence, together with an assignment to the director, of deposit of said sum in banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or investment certificates or share accounts in the amount of five thousand dollars ($5,000) issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation.

SEC. 2. Section 11301.5 is added to the Vehicle Code, to read:

11301.5. The Director of Motor Vehicles may order the refund of a cash deposit filed with the department pursuant to Section 11301.3 three years from the date a vehicle verifier has ceased to be licensed,

if the director is satisfied that there are no outstanding claims against the funds deposited or assigned. A judge of a municipal or superior court may order the return of a cash deposit filed with the department prior to the expiration of three years from the date a vehicle verifier has ceased to be licensed if there is evidence satisfactory to the court that there are no outstanding claims against the security deposited by the vehicle verifier.

If either the director, department, or state is a defendant in any action instituted to recover all or any part of such deposited cash, or any action is instituted by the director, department, or state to determine those entitled to any part of such funds, the director, department, or state shall be paid reasonable attorney fees and costs from such funds. Costs shall include those administrative costs incurred in processing claims against the security posted in lieu of bond pursuant to Section 11301.3.

CHAPTER 348

An act to amend Section 18272 of, and to add Section 18013 to, the Financial Code, relating to loans.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 18013 is added to the Financial Code, to read:

18013. "Outstanding loans and obligations," as used in this division, means total outstanding loans and obligations less unearned interest or charges, unearned discount, reserve or allowance for losses, and other applicable allowances or deductions as determined by regulation of the commissioner.

SEC. 2. Section 18272 of the Financial Code is amended to read:

18272. (a) The secured or unsecured loans or obligations which exceed ten thousand dollars ($10,000) in principal amount made or held by an industrial loan company that has investment certificates outstanding shall not exceed in the aggregate 40 percent of the company's outstanding loans and obligations, except as provided in subdivision (b). The unsecured loans and obligations which exceed ten thousand dollars ($10,000) in principal amount shall in no event exceed in the aggregate 20 percent of the company's outstanding loans and obligations.

(b) Subject to the written consent of the commissioner and pursuant to rules and regulations which the department may adopt in carrying out the purposes of this subdivision, an industrial loan company that has investment certificates outstanding may, upon application to the commissioner, increase its loans or other

obligations, whether secured or unsecured, which exceed ten thousand dollars ($10,000) to a percentage in excess of 40 percent as specified by the commissioner but in no event shall such loans exceed in the aggregate 50 percent of the company's net outstanding loans and obligations.

CHAPTER 349

An act to amend Sections 827, 1152, 1735, 5053, 7040, 7046, 10441, 11529, and 12389 of, and to repeal Section 735.5 of, the Insurance Code, relating to insurance.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 735.5 of the Insurance Code is repealed.

SEC. 1.5. Section 827 of the Insurance Code is amended to read:

827. An insurer shall not sell in this state, except upon a sale for delinquent assessment made in accordance with the provisions of Section 423 of the Corporations Code, or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it shall have first applied for and secured from the commissioner a permit authorizing it so to do.

SEC. 2. Section 1152 of the Insurance Code is amended to read:

1152. Domestic incorporated stock insurers, except those governed by Sections 3016, 10530, 12373, 12465 and 12640.06 of this code, shall be governed exclusively by the provisions of this section as to payment or distribution of dividends to stockholders. Such insurers may make dividends only from the surplus of admitted assets in excess of the aggregate of the following:

(a) The aggregate par value of the entire issued or subscribed shares;

(b) A surplus equal to fifty (50) per centum of the aggregate par value of the entire issued or subscribed shares;

(c) A premium reserve on policies in force at least equal to the unearned portions of the gross premiums charged for covering the risks computed by such method as is provided in this code, prescribed by the commissioner in absence of such provision, or on a pro rata basis in the absence of such provision or prescription;

(d) Proper reserves for expenses, taxes, and outstanding losses computed as set forth in this code,

(e) Proper reserves for all other liabilities.

No dividends shall be declared out of such surplus derived from the mere appreciation in the value of assets not yet realized, nor shall any dividends be declared from any part of such surplus derived from an exchange or assets, unless and until such profits have been

realized or unless the assets received are currently realizable in cash.

SEC. 3. Section 1735 of the Insurance Code is amended to read:

1735. As used in this section a managing general agent is a licensed insurance agent who, (1) has a written management contract with one or more admitted insurers covering business transacted by the insurer in a substantial portion of the State of California; (2) under such contract manages the transaction of either all or one or more of the classes of insurance written by such insurers in that territory or the transactions therein by such insurers under a specified fictitious underwriter's name; (3) has the power to appoint, supervise and terminate the appointment of local agents in such territory; (4) has the power to accept or decline risks; and (5) collects premium moneys from producing agents and brokers and remits such moneys to such insurers pursuant to the account current system.

Any such managing general agent shall, with respect to any principals for whom fiduciary funds are held, comply with Section 1734.

SEC. 4. Section 5053 of the Insurance Code is amended to read:

5053. The duly executed articles of incorporation and a copy, certified by the county clerk, of the certificate of the commissioner shall be filed with the Secretary of State in conformity with Section 200 of the Corporations Code. Upon organizing under such articles of incorporation and obtaining from the commissioner a certificate of authority, such county mutual fire insurer may carry on a fire insurance business as provided by this chapter. The term and nature of such certificate of authority, annual renewal fee therefor, the due date and delinquent date of such fee shall be the same as prescribed by Article 3, Chapter 1, Part 2, Division 1, of this code for stock and mutual insurers governed by said article.

SEC. 5. Section 7040 of the Insurance Code is amended to read:

7040. Notwithstanding the provisions of Section 900 of the Corporations Code, any two or more of such insurers may merge. The plan and agreement by which any such merger is to be effected shall be submitted to the commissioner who shall examine the same and may require such provisions to be inserted in the agreement and such actions to be taken in connection with the merger (including but not limited to· (1) the terms of the merger, (2) the terms of the notice of the vote by the members of each such insurer on the merger, and (3) the manner and form of voting thereon by the members of each such insurer) as he may deem necessary in order that the transaction shall be mutually fair and equitable between the respective members and policyholders of the companies parties to the merger. The commissioner shall not approve any such plan and agreement if the bylaws of any insurer party to the merger have been amended within one year prior to the date of filing of such plan and agreement with the commissioner.

SEC. 6. Section 7046 of the Insurance Code is amended to read:

7046. After the commissioner has granted tentative approval of

any such application, a county mutual fire insurer that shall meet the financial requirements applicable to other insurers under Article 3 (commencing with Section 699), Chapter 1, Part 2, Division 1, may by the majority vote of those of its policyholders voting at a meeting duly called for the purpose, elect to transform itself into a general mutual insurer as defined in Chapter 4 (commencing with Section 4010) of Part 1, Division 2 and amend its articles of incorporation and bylaws to conform to, cover, and enjoy any or all of the provisions, powers, rights, and privileges of such a mutual insurer, notwithstanding the restrictions or limitations of any other provision of law, including, but not limited to, Section 900 of the Corporations Code. No such transformed county mutual fire insurer may engage in the business of life, title, mortgage, or mortgage guarantee insurance.

SEC. 7. Section 10441 of the Insurance Code is amended to read:

10441. The provisions of Section 10440 shall not apply to any of the transactions, meetings, or votes described in Sections 1001, 1103, and 1900 of the Corporations Code.

SEC. 8. Section 11529 of the Insurance Code is amended to read:

11529. In carrying out any such plan, the insurer may acquire any shares of its own stock by gift, bequest or purchase. Any shares so acquired shall, unless as a result of such acquisition all of the shares of the insurer shall have been acquired, be acquired in trust for the policyholders of the class or classes for whose benefit the plan provides that the stock of the insurer shall be acquired as hereinafter provided. Such shares shall be assigned and transferred on the books of such insurer to three or more trustees appointed by the insurer and approved by the commissioner under a trust agreement approved by the commissioner. Such trustees shall hold such stock in trust until all of the outstanding shares of capital stock of such insurer have been acquired, but for not longer than 30 years with such extensions of not more than five years each as may be granted by the commissioner. Such extensions may be granted by the commissioner if the plan so provides and if in his opinion the plan of acquisition of all of such stock can be completed within a reasonable period. Such trustees shall vote such stock at all corporate meetings at which stockholders have the right to vote. When all of the outstanding shares of capital stock of such insurer have been acquired, all said shares shall be canceled, the certificate of amendment of the insurer's articles of incorporation giving effect thereto shall be filed in accordance with the provisions of Chapter 9 (commencing with Section 1300) of Division 1 of Title 1, of the Corporations Code, and the insurer shall become a nonstock corporation for the profit of its members and such trust shall thereupon terminate. Thereafter such corporation shall be conducted for the mutual benefit, ratably, of its policyholders of the class or classes for whose benefit the stock was acquired and shall have power to issue nonassessable policies on a reserve basis subject to all provisions of law applicable to incorporated life insurers or life and disability insurers, as the case

may be, issuing nonassessable policies on a reserve basis. Policies so issued may be upon the basis of full or partial participation therein as agreed between the insurer and the insured.

Upon the termination of any such voting trusts, either in accordance with its terms or as hereinabove provided, such plan of mutualization shall terminate, unless theretofore completed. Upon such termination, unless the plan of mutualization provides for the disposition of the shares acquired by the insurer under such plan or for the disposition of the proceeds thereof, the shares held by such trustees shall be disposed of in accordance with an order of the superior court of the county in which is located the principal office of such insurer, made upon a verified application of the commissioner.

SEC. 9. 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 paid-in capital.

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).

In the commissioner's sole discretion, he may accept a cash deposit in an amount not to exceed two hundred thousand dollars ($200,000) in lieu of the bond otherwise required by this paragraph. In the event such a deposit is accepted by the commissioner, he shall make a special deposit thereof in the State Treasury and so long as the

depositor continues to be solvent, the depositor shall annually receive the interest accruing on the assets in the deposit.

(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.

CHAPTER 350

An act to repeal Section 2 of Chapter 456 of the Statutes of 1976, relating to irrigation consultants.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 2 of Chapter 456 of the Statutes of 1976 is repealed.

CHAPTER 351

An act to add Article 9 (commencing with Section 1337) to Chapter 2 of Division 2 of, and to repeal Sections 1439.1, 1439.2, 1439.3, 1439.4, 1439.5, 1439.6, 1439.7 and 1439.8 of, the Health and Safety Code, relating to health care facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1978. Filed with Secretary of State July 4, 1978]

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

SECTION 1. Article 9 (commencing with Section 1337) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 9. Training Programs in Skilled Nursing and Intermediate Care Facilities

1337. (a) The Legislature finds that the quality of patient care in skilled nursing and intermediate care facilities is dependent upon the competence of the personnel who staff its facilities. The Legislature further finds that direct patient care in skilled nursing and intermediate care facilities is currently rendered largely by persons without adequate training. To assure the availability of trained personnel in skilled nursing and intermediate care facilities, the Legislature intends that all such facilities in this state participate in approved training programs established under this article. This article shall not apply to general acute care hospitals, acute psychiatric hospitals, or special hospitals.

(b) For the purpose of this article:

(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 skilled nursing or intermediate care facility.

(2) "Approved training program" means a program for the training of nurse assistants which meets the criteria established by Section 1337.1.

(3) "Certified nurse assistant" means a nurse assistant who is certified as having completed the requirements of Section 1337.3.

1337.1. A skilled nursing or intermediate 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 skilled nursing or intermediate 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 a nurse assistant under the supervision of either the director of nurse training or a licensed nurse. The 50 classroom hours of training may be conducted within a skilled nursing or intermediate care facility or in an educational institution. In such a precertification training program, credit shall be given for the training received in an approved precertification training program adopted by another skilled nursing or intermediate care facility.

(c) Continuing in-service training to assure continuing competency in existing and new nursing skills.

1337.3. (a) A nurse assistant shall be certified by the state department if the nurse assistant satisfies any one of the following conditions:

(1) Completes the precertification training program specified in subdivision (b) of Section 1337.1.

(2) Has been employed as a nurse assistant by a skilled nursing or intermediate care facility or facilities for a period of two years or more prior to July 1, 1978, and has completed at least six hours of training concerning social and psychological problems of patients, and passes an examination approved by the state department to demonstrate competence.

(3) Has completed a preemployment training program, which is substantially equivalent to the requirements for the precertification training program specified in subdivision (b) of Section 1337.1, and is approved by the state department.

(4) Has completed courses in a school for registered nurses, approved by the Board of Registered Nursing, or in a school for licensed vocational nurses, approved by the Board of Vocational Nurse and Psychiatric Technician Examiners, which are substantially equivalent to the precertification training program specified in subdivision (b) of Section 1337.1, as determined by the state department.

(5) Has completed a training program which is substantially equivalent to the precertification training program specified in subdivision (b) of Section 1337.1, as determined by the state department.

(b) The certificate issued pursuant to this section shall be valid for life and need not be renewed.

(c) The state department may revoke the certificate of a nurse assistant convicted of a crime which the state department determines is substantially related to the practice of a nurse assistant, including any such conviction based upon a plea of nolo contendere. Additionally, the state department may revoke the certificate of a nurse assistant upon a finding of gross incompetence or gross negligence.

1337.5. Every skilled nursing or intermediate 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.

1337.7. 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.

The state department shall use such standards in approving programs.

1337.9. 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 September 1, 1978, only the following persons may be employed by a skilled nursing facility or intermediate care facility as a nurse assistant:

(a) A certified nurse assistant; or

(b) A nurse assistant hired on a temporary basis who has been employed less than a maximum total of three months in skilled nursing facilities or intermediate care facilities, including the current period of employment; or

(c) A nurse assistant who, within three months of the date of employment, is enrolled in an approved precertification training program which requires completion not more than six months from the date of employment; provided, that the employing facility may apply to the state department for an extension of the deadline under this subdivision for enrollment in a precertification training program if (1) the facility has a contract to obtain the training from an educational institution, approved by the facility, which operates on a semester basis and cannot enroll nursing assistant students except at semester intervals, and (2) the delayed enrollment will not postpone completion of precertification training beyond nine months from the date of employment.

(d) A nurse assistant who on September 1, 1978, is enrolled in an approved precertification program. The nurse assistant shall complete the program within six months of the date of enrollment; provided, that an extension of the time for completion may be granted as specified in subdivision (c).

1338. (a) The state department shall, through the Medi-Cal program, provide rate adjustments to skilled nursing or intermediate care facilities for the portion of additional costs attributable to the requirements of Sections 1337.1, 1337.3, and 1337.5 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 1337.3 and a continuing wage differential between certified and uncertified nurse assistants thereafter.

(b) On and after September 1, 1978, the rate adjustments specified in subdivision (a) shall not be paid to any skilled nursing facility or intermediate care facility which has not received approval of the state department for an approved training program that meets the standards and requirements of Section 1337.1, unless the facility has had an application for such approval on file with the state department on or before August 1, 1978, which has not been approved or rejected. However, payment of such rate adjustments to facilities with applications on file with the state department on or before August 1, 1978, which have not received action by the state department, shall cease upon rejection of the application.

Within one week after the effective date of this article the state department shall notify all skilled nursing facilities or intermediate care facilities, which have not filed an application with the state department for approval of an approved training program, of the requirements of this subdivision.

(c) Facilities granted an exemption by the state department prior to the effective date of this section pursuant to subsection (i) of Section 51510 or subsection (h) of Section 51511 of Title 22 of the California Administrative Code shall be entitled to continuance of such exemption unless and until the facility ceases to meet any of the eligibility criteria which are specified in such regulations on the effective date of this section.

1338.1. The state department shall assign sufficient qualified employees to supervise and evaluate training programs required by this article.

1338.3. The state department shall report to the Legislature on or before July 1, 1980, with respect to the implementation of the program for the certification of nurse assistants.

SEC. 2. Section 1439.1 of the Health and Safety Code is repealed.

SEC. 3. Section 1439.2 of the Health and Safety Code is repealed.

SEC. 4. Section 1439.3 of the Health and Safety Code is repealed.

SEC. 5. Section 1439.4 of the Health and Safety Code is repealed.

SEC. 6. Section 1439.5 of the Health and Safety Code is repealed.

SEC. 7. Section 1439.6 of the Health and Safety Code is repealed.

SEC. 8. Section 1439.7 of the Health and Safety Code is repealed.

SEC. 9. Section 1439.8 of the Health and Safety Code is repealed.

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:

Existing law contains provisions requiring nurse assistants to meet certain certification requirements by July 1, 1978. In order to prevent substantial hardship to nurse assistants and long-term health care facilities by revising such requirements in the manner prescribed by this act, and to revise and clarify current requirements with respect to approved training programs, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 352

An act to amend Sections 53109, 53112, 53113, and 53115 of, and to add Sections 53115.3 and 53115.4 to, the Government Code, and to amend Sections 41020, 41030, and 41137.1 of the Revenue and Taxation Code, relating to telephone communications, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978]

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

SECTION 1. Section 53109 of the Government Code is amended to read:

53109. Every local public agency within its respective jurisdiction shall establish and have in operation by December 31, 1985, a basic system as provided in this article, or be part of such a system.

The establishment of such systems shall be centralized to the extent feasible. Nothing in this article shall be construed to prohibit or discourage in any way the formation of multijurisdictional or regional systems, and any system established pursuant to this article may include the territory of more than one public agency or may include a segment of the territory of a public agency.

SEC. 2. Section 53112 of the Government Code is amended to read:

53112. All systems shall be designed to meet the specific requirements of each community and public agency served by the system. Every system, whether basic or sophisticated, shall be designed to have the capability of utilizing at least three of the methods specified in Sections 53103 to 53106, inclusive, in response to emergency calls. The Legislature finds and declares that the most critical aspect of the design of any system is the procedure established for handling a telephone request for emergency services.

In addition, to maximize efficiency and utilization of the system, all pay telephones within each system shall, by December 31, 1985, enable a caller to dial "911" for emergency services, and to reach an operator by dialing "0", without the necessity of inserting a coin. At those "911" public safety answering points serving an area where 5 percent or more of the population, in accordance with the latest United States census information, speak a specific primary language other than English, operators who speak each such other language, in addition to English, shall be on duty or available through interagency telephone conference procedures at all times for "911" emergency services.

SEC. 3. Section 53113 of the Government Code is amended to read:

53113. The Legislature finds that, because of overlapping jurisdiction of public agencies, public safety agencies, and telephone

service areas, a general overview or plan should be developed prior to the establishment of any system. In order to insure that proper preparation and implementation of such systems is accomplished by all public agencies by December 31, 1985, the Communications Division, with the advice and assistance of the Attorney General, shall secure compliance by public agencies as provided in this article.

SEC. 4. Section 53115 of the Government Code is amended to read:

53115. (a) On or before January 31, 1975, all public agencies shall submit tentative plans for the establishment of a system required by this article to the public utility or utilities providing public telephone service within the respective jurisdiction of each public agency. A copy of each such plan shall be filed with the Communications Division.

(b) On or before October 1, 1978, all public agencies shall submit final plans to the Communications Division for approval. The final plan shall identify all planning, implementation, installation, and operating costs the local agency feels necessary to implement the system required by this article. On or before July 1, 1981, all public agencies shall place a firm order as approved by the Communications Division to the utility or utilities providing telephone service to the public agency, and shall make arrangements with such utilities for the implementation of the planned emergency telephone system no later than December 31, 1985. If the Legislature fails to take action as specified in Section 41030 of the Revenue and Taxation Code prior to January 1, 1981, then the dates specified for ordering and implementation of a system shall be respectively postponed by the number of years elapsing between 1981 and the year in which the Legislature acts.

(c) If any public agency has implemented or is a part of a system required by this article on a deadline specified in subdivision (a) or (b), such public agency shall submit in lieu of the tentative or final plan a report describing the system and stating its operational date.

(d) Plans filed pursuant to subdivisions (a) and (b) shall conform to minimum standards established pursuant to Section 53114.2.

(e) The Communications Division shall monitor all emergency telephone systems to ensure they comply with minimal operational and technical standards as established by the division. If any system does not comply the Communications Division shall notify in writing the public agency or agencies operating the system of its deficiencies. The public agency shall bring the system into compliance with the operational and technical standards within 60 days of notice by the division. Failure to comply within such time shall subject the public agency to action by the Attorney General pursuant to Section 53116.

SEC. 5. Section 53115.3 is added to the Government Code, to read:

53115.3 When proposed implementation of the 911 system by a single public agency within its jurisdiction may adversely affect the implementation of the system by a neighboring public agency or

agencies, such neighboring public agency may request that the Communications Division evaluate the impact of implementation by the proposing public agency and evaluate and weigh that impact in its decision to approve or disapprove the proposing public agency's final plan pursuant to Section 53115. In order to effectuate this process, each city shall file a notice of filing of its final plan with each adjacent city and with the county in which the proposing public agency is located at the same time such final plan is filed with the Communications Division and each county shall file a notice of filing of its final plan with each city within the county and each adjacent county at the time such final plan is filed with the Communications Division. Any public agency wishing to request review pursuant to this section shall file its request with the division within 30 days of filing of the final plan for which review is sought.

SEC. 5.3. Section 53115.4 is added to the Government Code, to read:

53115.4. The Legislative Analyst shall prepare a report to be presented to the Legislature in April, 1979. The report shall include the following:

(a) An evaluation of the cost of final plans submitted to the Department of General Services for approval and reimbursement.

(b) An evaluation and recommendation on disputes between local agencies and the state concerning state reimbursement of incremental costs.

(c) An evaluation and recommendation as to: (1) the feasibility of adjusting the maximum surcharge rate to a level that will produce sufficient revenue to fully fund all actual costs of establishing and operating the system based on the review and evaluation of system costs submitted by local agencies, and (2) alternative, equitable, and workable methods for distributing revenues to fully reimburse local agencies.

(d) An evaluation in general of the cost/benefit effects of the 911 system, to include, but not be limited to, comparisons of costs and benefits in relation to number of persons to be served, effectiveness of response times, information on other state and local experience, and general estimates of long-range costs and telephone surcharge requirements.

SEC. 5.5. Section 41020 of the Revenue and Taxation Code is amended to read:

41020. A surcharge is hereby imposed on amounts paid by every person in the state for intrastate telephone communication services in this state commencing on July 1, 1977.

The surcharge imposed shall be at the rate of one-half of 1 percent of the charges made for such services to and including November 1, 1979, at such a rate as shall be fixed pursuant to Article 2 of this chapter thereafter.

The surcharge shall be paid by the service user as hereinafter provided.

SEC. 6. Section 41030 of the Revenue and Taxation Code is

amended to read:

41030. Following approval of the Budget Act each year, beginning with the Budget Act for the 1979–80 fiscal year, the board shall determine, on the basis of expenditures authorized in the Budget Act to be made from the "State Emergency Telephone Number Account" in the General Fund and its estimate of the charges for intrastate telephone communications services to which the surcharge will apply, a surcharge rate that it estimates will produce sufficient revenues to fund the expenditures authorized. Such rate shall not exceed three-quarters of 1 percent.

SEC. 7. Section 41137.1 of the Revenue and Taxation Code is amended to read:

41137.1. The Department of General Services shall pay, from funds appropriated from the State Emergency Telephone Number Account by the Legislature, as provided in Section 41138, claims submitted by local agencies for approved incremental costs and for the cost of preparation of final plans submitted to the Communications Division for approval on or before October 1, 1978, as provided in Section 53115 of the Government Code.

SEC. 8. It is the intent of the Legislature in enacting this bill to delay the mandated ordering of equipment and implementation of the 911 emergency telephone system for one year in order for the Legislature to determine the anticipated telephone and incremental costs to the state of implementing the system. This delay will enable the Legislature to identify which programs and systems will be reimbursed by the state as basic 911 systems. The information obtained, including a report to the Legislature by the Legislative Analyst, will enable the Legislature to decide, in 1979 or 1980, whether to continue the 911 system as planned or to repeal the program and its mandates. If the Legislature proceeds with the 911 emergency telephone system, the projected costs determined by the Legislative Analyst pursuant to 53115.4 of the Government Code shall be the basis for adjustment of the surcharge rate to fund the full costs of the 911 emergency telephone system.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of 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 surcharge collected during the 1977–78 fiscal year be available to fund expenditures in the subsequent fiscal year, it is necessary that this act go into immediate effect. In addition, local agencies must be given sufficient notice so that they may proceed with their plans for the 911 system. Thus, it is necessary that this act go into immediate effect.

CHAPTER 353

An act to amend and repeal Section 1603 of, and to add Sections 155.2, 155.3, 532.3, and 4843 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 4, 1978 Filed with Secretary of State July 4, 1978.]

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

SECTION 1. Section 155.2 is added to the Revenue and Taxation Code, to read:

155.2. For the 1978–79 fiscal year only, the time fixed for the performance of any act by the assessor relating to the preparation of the 1978–79 fiscal year assessment roll shall be not later than August 21, 1978.

SEC. 2. Section 155.3 is added to the Revenue and Taxation Code, to read:

155.3. Notwithstanding any other provisions of this division, for the 1978–79 fiscal year only, the mandatory duties imposed by Sections 469, 671, and 1610.2 shall be suspended in counties of more than 4,000,000 population, as determined by the January 1, 1978, Department of Finance revised estimate.

SEC. 3. Section 532.3 is added to the Revenue and Taxation Code, to read:

532.3. Notwithstanding the provisions of Section 532, any property which escaped taxation or was underassessed for the 1975–76 fiscal year may be assessed; provided, such assessment is made on or before June 30, 1980.

SEC. 4. Section 1603 of the Revenue and Taxation Code is amended to read:

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for such application shall be prescribed by the State Board of Equalization.

(b) In the case of a county of the first class, the application shall be filed between the third Monday in July and September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed between the third Monday in July and September 15. For the 1978–79 fiscal year only, the September 15 deadline shall be extended to September 30.

(c) In the case of a county of the second to ninth class, inclusive, the application shall be filed within the time period beginning July 2 and continuing through and including September 15. An application that is mailed and postmarked September 15 or earlier

within such period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15. For the 1978–79 fiscal year only, the September 15 deadline shall be extended to September 30.

(d) In all other counties, the application shall be filed between July 2 and August 26. An application that is mailed and postmarked August 26 or earlier within such period shall be deemed to have been filed between July 2 and August 26. For the 1978–79 fiscal year only, the August 26 deadline shall be extended to September 30.

(e) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to such written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

(f) This section shall remain in effect only until July 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1979, deletes or extends such date.

SEC. 4.1. Section 1603 of the Revenue and Taxation Code is amended to read:

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for such application shall be prescribed by the State Board of Equalization.

(b) The application shall be filed within the time period beginning July 2 and continuing through and including September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15.

(c) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to such written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

SEC. 5. Section 4843 is added to the Revenue and Taxation Code, to read:

4843. For the 1978–79 fiscal year only, notwithstanding any other provisions of this division, the assessor may make corrections to the 1978–79 roll during such fiscal year without a prior hearing by, or the prior approval of, the board of supervisors. If the assessment change results in a reduction of taxes which have been paid, the amount of the overpayment resulting from such reduction of taxes may be refunded to the current assessee whether or not a refund claim has

been filed by the person who paid the taxes.

SEC. 6. Notwithstanding any other provisions of law to the contrary, the following dates established for the performance of duties imposed on local agencies shall be revised, for the 1978–79 fiscal year only, as follows:

(a) The county auditor shall send a statement of property valuations pursuant to Section 51510 of the Government Code on or before August 28, 1978.

(b) The auditor shall send valuations pursuant to Section 305 of the Metropolitan Water District Act on or before August 28, 1978.

(c) The auditor shall send the statement of land values to irrigation districts pursuant to Section 26627 of the Water Code on or before August 28, 1978.

(d) The county auditor shall send a written statement of valuations to each county water district pursuant to Section 31702.2 of the Water Code on or before August 28, 1978.

(e) The Antelope Valley—East Kern Water Agency shall fix and transmit property tax rates pursuant to Section 79 of the Antelope Valley—East Kern Water Agency Law (Chapter 2146, Statutes of 1959) on or before August 28, 1978.

(f) The auditor shall transmit property valuations to the Castaic Lake Water Agency pursuant to Section 47(b) of the Castaic Lake Water Agency Law (Chapter 28, Statutes of the 1962 1st Extraordinary Session) on or before August 28, 1978.

SEC. 7. Section 4.1 of this act shall become operative July 1, 1979.

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 to apply the provisions of this act to the assessment of property and preparation of the property tax assessment roll for the 1978–79 fiscal year, this act must go into effect immediately.

CHAPTER 354

An act to amend Sections 11003.3 and 11005 of the Revenue and Taxation Code, relating to vehicle license fees.

[Approved by Governor July 5, 1978 Filed with Secretary of State July 5, 1978]

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

SECTION 1. Section 11003.3 of the Revenue and Taxation Code is amended to read:

11003.3. (a) Upon receiving the report from the Department of Motor Vehicles the Controller shall, on a monthly basis, after deducting from the amount reported the proportionate amount

transferred pursuant to Section 11003, transfer the remainder of the amount reported to the credit of a special account in the General Fund. The money in such special account is hereby appropriated to the Controller who shall disburse to the auditor of each county the net amount of money shown by the report to have been collected under this part on trailer coaches having situs within the county.

(b) Monthly allocations made in accordance with subdivision (a) shall be deducted from the amounts payable indicated on the semiannual reports required by Section 11003.1.

(c) The money disbursed to the auditor and distributed by him to the county or a city pursuant to Section 11003.4 may be used for county or city purposes, and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

SEC. 2. Section 11005 of the Revenue and Taxation Code is amended to read:

11005. After payment of refunds therefrom and after making the deductions authorized by Section 11003 and reserving such amount as is determined by the Pooled Money Investment Board to be necessary to meet the transfers ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, and after transferring 2.5 percent of the remaining revenue to the Motor Vehicle Account in the Transportation Tax Fund, 100 percent of the balance of all motor vehicle license fees and any other money appropriated by law for expenditure pursuant to this section and deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and remaining unexpended therein at the close of business on the last day of the calendar month shall be allocated by the Controller by the 10th day of the following month in the following manner:

(a) Fifty percent thereof shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each city or city and county is that determined by the last federal decennial or special census, or a subsequent census validated by the population research unit of the Department of Finance or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of a city incorporated subsequent to the last federal census, or census validated by the population research unit of the Department of Finance, or in the case of an inhabited unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the Controller shall ascertain the population of the city, or the annexed territory, by multiplying the number of registered electors therein by three. In the case of uninhabited unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the

population research unit of the Department of Finance, the Controller shall ascertain the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code, or, if no such other estimate or census was made, by multiplying the number of registered electors therein by three two years after the completion of annexation proceedings or at such earlier time as the legislative body may request. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the population of the consolidated city, for the purpose of this subdivision, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit of the Department of Finance.

(b) Fifty percent thereof shall be paid to the counties and cities and counties of the state in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit of the Department of Finance, or as determined by Section 11005.6.

(c) Money disbursed by the Controller pursuant to this section may be used for county or city purposes and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

Population changes based on a federal special census or a subsequent census validated by the Department of Finance shall be accepted by the Controller only if certified to him at the request of the city, city and county, or county for which the census was made and shall become effective on the first day of the month following receipt of such certification.

CHAPTER 355

An act to amend Section 72246 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 1978 Filed with Secretary of State July 5, 1978]

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

SECTION 1. Section 72246 of the Education Code is amended to read:

72246. (a) The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than ten dollars ($10) for the regular school year for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both.

(b) If pursuant to this section a fee is required, the governing board of a district shall decide the amount of the fee, if any, that a part-time student is required to pay. The governing board shall likewise decide the amount of the fee, if any, to be required of summer session students. Such fee may be in addition to the ten dollars ($10) maximum amount which may be charged during the regular school year, but shall not exceed the amount charged per semester or quarter during the regular school year.

(c) The governing board of a district maintaining a community college shall adopt rules and regulations that either exempt low-income students from any fee required pursuant to subdivision (a) or provide for the payment of the fee from other sources.

(d) The governing board of a district maintaining a community college shall adopt rules and regulations that exempt students who depend exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization and students who are attending a community college under an approved apprenticeship training program from any fee required pursuant to subdivision (a).

(e) All of such fees shall be deposited in a special community college health fee fund of the district. All moneys in the special fund shall be expended only for the purposes for which such fees were collected.

Authorized expenditures shall not include, among other things, athletic trainers' salaries, athletic insurance, medical supplies for athletics, physical examinations for intercollegiate athletics, ambulance services and the salaries of health professionals for athletic events, any deductible portion of accident claims filed for athletic team members, or any other expense that is not available to all students. No student shall be denied a service supported by student health fees on account of participation in athletic programs.

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 college health fees are expended only for the purposes for which they were intended and not for the support of community college athletic programs, and that the clarification of the law made by this act may take effect at the earliest possible time, it is essential that this act take immediate effect.

CHAPTER 356

An act to amend Section 21080 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 5, 1978 Filed with Secretary of State July 5, 1978]

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

SECTION 1. 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.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the purchase of equipment, fuel, steam, or power for such a powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for such Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects, necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain such intra-city transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to August 31, 1979, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Such actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(c) In the event that a lead 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 lead agency shall adopt a negative declaration to that effect.

SEC. 1.5. The Legislature acknowledges that a question exists whether a court of final jurisdiction has determined that the establishment, modification, or approval of rates, tolls, fares or other charges by any public utility subject to the jurisdiction of the Public Utilities Commission are, or are not, subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code. Moreover, the Legislature declares that by adding paragraph 8 to subdivision (b) of Section 21080 of the Public Resources Code, as provided by Section 8 of this act, it does not intend to resolve this question by indirection or implication. Consequently, the Legislature hereby declares that the provisions of paragraph 8 are not intended and shall not be construed as indicating any determination by the Legislature that any rates, tolls, fares or other charges other than those specifically enumerated in paragraph 8 are, or are not, subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

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

Assertions of the applicability of the California Environmental Quality Act to the establishment, modification, elimination or approval of rates, tolls, fares, and other charges are causing a serious

interference with the ability of public agencies to comply with fiscal responsibilities imposed upon them by law, all to the detriment and expense of the people of this state. In order, therefore, to stop such practices at the earliest opportunity, to insure the timely and orderly implementation of Article XIII A of the Constitution, it is necessary that this act go into immediate effect.

CHAPTER 357

An act to amend Section 65860 of the Government Code, relating to zoning.

[Approved by Governor July 5, 1978 Filed with Secretary of State July 5, 1978.]

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

SECTION 1. Section 65860 of the Government Code is amended to read:

65860. (a) County or city zoning ordinances shall be consistent with the general plan of the county or city by January 1, 1974. A zoning ordinance shall be consistent with a city or county general plan only if:

(i) The city or county has officially adopted such a plan, and

(ii) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in such a plan.

(b) Any resident or property owner within a city or a county, as the case may be, may bring an action in the superior court to enforce compliance with the provisions of subdivision (a). Any such action or proceedings shall be governed by Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure. Any action or proceedings taken pursuant to the provisions of this subdivision shall be taken within 90 days of the enactment of any new zoning ordinance or the amendment of any existing zoning ordinance as to said amendment or amendments.

(c) In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to such a plan, or to any element of such a plan, such zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.

(d) Notwithstanding Section 65803, this section shall apply in charter cities of 2,000,000 or more population to a zoning ordinance adopted prior to January 1, 1979, which zoning ordinance shall be consistent with the general plan of any such city by January 1, 1981.

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 358

An act to amend Section 41915 of the Education Code, relating to driver education.

[Became law without Governor's signature July 6, 1978 Filed with Secretary of State July 6, 1978]

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

SECTION 1. Section 41915 of the Education Code is amended to read:

41915. Any contract entered into and approved in the manner provided pursuant to Section 41913 may entitle the approved driver training school to payment by the school district of the sum of not more than 150 percent of the amount reimbursable to the school district as "excess cost" provided pursuant to Sections 41306, 41900, and 41903. In the event that a student who has commenced the driver training for which the district has contracted pursuant to Section 41913 and the student does not complete the driver training for any reason, the approved private driver training school may be paid a portion of the contract price which is proportionate to the amount in "excess cost," if any, received by the school district for such student, compared to the amount the district would have received had the student completed the training.

CHAPTER 359

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 6, 1978. Filed with Secretary of State July 6, 1978.]

I object to the following appropriations contained in Assembly Bill No 2190·

Item 47—For support of the State Controller's Office, I reduce this item from $26,680,945 to $26,449,716 by reducing (a) Personal services from $20,924,135 to $20,504,572, (b) Operating expenses and equipment from $10,745,962 to $10,737,325 and (d) Reimbursements from −$3,248,215 to −$3,051,244.

I am eliminating the $231,229 augmentation for 19 positions provided by the Legislature for the audit of the Medi-Cal program

I am providing 20 positions for the Controller to audit non-institutional providers of services under the Medi-Cal program which will be funded by a Title II grant

Item 107 1—For support of Department of General Services. I eliminate this item.

I am eliminating this item because the programming unit should be funded from the Architecture Revolving Fund and organizationally placed in the Office of the State Architect.

Item 107 2—For transfer to the Service Revolving Fund. I eliminate this item

I am not convinced that the need to accelerate the office copier purchase program has been demonstrated beyond the current $1,000,000 revolving loan which is available until 1986

Item 114—For support of Department of General Services I reduce this item by reducing (a) Personal services from $68,841,084 to $68,672,082, (b) Operating expenses and equipment from $101,627,004 to $99,584,554, and amount payable from the General Fund (Item 107 1) from —$211,452 to -0- and amount payable from the General Fund (Item 107 2) from the —$2,000,000 to -0-.

I am reducing these subitems to correspond with action taken in regard to Items 107 1 and 107 2.

Item 135 1—For support of State Banking Department I eliminate this item.

I am eliminating this item to conform to the legislative action to terminate the term loan program in the Department of Banking.

Item 136—For support of State Banking Department I eliminate this item

I am eliminating this item to conform to the legislative action to terminate the term loan program in the Department of Banking

Item 147—For support, California Transportation Commission I reduce this item from $799,439 to $742,759.

I am eliminating a portion of the augmentation sought by the Commission. The remaining funds will provide adequate support for the Commission during its first full year of operation

Item 148 1—For support of the Department of Transportation for augmentation of a contract relating to the development of an external combustion engine I eliminate this item

Although this project has worthwhile potential, it too must be deferred because of the constraints of Proposition 13

Item 151 1—For support of Highway Transportation Program in augmentation of Items 151, 156 and 447 I eliminate this item

The Budget will be more than adequate to meet the projected highway needs for the next fiscal year

Item 151 2—For support, Department of Transportation I reduce this item from $45,000,000 to $10,000,000

I am reducing the transfer of Motor Vehicle Account reserves to the State Highway Account The balance will be more than adequate to meet projected highway needs for the next fiscal year

Item 157—For support of Department of California Highway Patrol I reduce this item from $223,036,743 to $222,615,611 by reducing (b) Operating expenses and equipment from $46,397,602 to $45,976,470

I reduce $421,132 from the Management Information System to provide for the lease of the System, rather than purchase, during a trial period

Item 160—For support of Department of Motor Vehicles I reduce this item from $697,170 to $297,170

I am eliminating this augmentation of $400,000 because the General Fund should not be utilized to fund motor vehicle-related functions.

Item 161—For support of Department of Motor Vehicles I reduce this item by reducing (a) Personal services from $119,659,863 to $119,259,863, (e) Account payable from the General Fund (Item 160) from —$697,170 to —$297,170.

I am reducing these subitems to correspond to Item 160

Item 170 2—For local assistance, to Resources Agency for subventions to the Tahoe Area Regional Transit System. I eliminate this item.

I am eliminating this item because gas tax revenues available for local transit districts are a more appropriate source of support for this activity than General Funds

Item 173—For support, State Energy Resources Conservation and Development Commission I reduce this item from $20,284,636 to $19,284,636 by eliminating (c) Repayment of General Fund loan ($1,000,000)

I am reducing this item by eliminating the partial repayment of the General Fund loan because the Energy Commission did not utilize the $2,000,000 allocation in Item

180 of the Budget Act of 1977 This action will result in a special fund savings of $1,000,000 in 1978–79.

Item 183—For local assistance to counties in the operation of local air pollution control districts. I reduce this item from $4,700,000 to $3,700,000.

I am reducing this item because I believe that the 67 percent increase proposed by the Legislature is not appropriate. I am leaving funds sufficient to augment the program by 32 percent which is sufficient to meet the current demands

Item 196—For support of the Seismic Safety Commission. I reduce this item from $507,088 to $470,413 by reducing (a) Personal services from $253,042 to $219,882 and (b) Operating expenses and equipment from $254,046 to $250,531.

I am reducing this item by eliminating the proposed new position to assist the Executive Director with supervisorial, administrative and managerial duties because these responsibilities for this commission can be delegated among existing professional staff.

Item 208.5—For support of Department of Navigation and Ocean Development. I eliminate this item.

I am eliminating this item because the department may conduct the study within existing resources.

Item 211—For local assistance, Department of Navigation and Ocean Development. I reduce this item from $1,760,000 to $1,672,000 by reducing (h) Ramp repairs and extensions statewide from $100,000 to $12,000

I am reducing the amount available for launching ramp extensions because inland water levels have returned to normal with the end of the drought and ramp extensions should not be necessary

Item 217—For support of the Department of Parks and Recreation. I reduce this item from $53,652,411 to $53,621,482 by reducing (a) Personal services from $45,819,917 to $45,803,167 and (b) Operating expenses and equipment from $20,018,814 to $20,004,635.

I am eliminating the augmentation for additional patrol staff for the Little River area. Patrol needs for resource protection will be met by redirecting authorized staff resources from lower priority functions.

Item 218.5—For support of the Department of Parks and Recreation. I eliminate this item

I am eliminating this item for the preparation of teachers' guides to state parks in favor of a review of expenditures by the Department of Education for similar activities from the $330,870 provided in Item 304.

Item 222.1—For local assistance to local jurisdictions for the operation of state owned beaches I eliminate this item

I believe it is inappropriate to provide a subvention program for the operation of beaches as provided for in this item.

Item 240—For local assistance, Department of Alcohol and Drug Abuse. I reduce this item from $31,961,159 to $30,175,159 by reducing (a) County-based programs from $35,770,444 to $33,984,444

I am reducing this item $1,536,000 to conform with legislative intent The budget bill erroneously included cost of living increases in the item for county based programs.

In addition, I am reducing the $250,000 added to raise minimum alcoholism allocations to certain counties. Given the present fiscal situation, it would be inappropriate for the State to expand its efforts in this area.

Item 244—For support of Department of Health Services. I reduce this item from $49,123,408 to $49,067,065 by reducing (a) Personal services from $74,560,502 to $74,538,446, (b) Operating exp. & equip from $37,365,036 to $37,314,690, (c) For transfer to the Health Care Deposit Fund from $21,396,195 to $21,379,852 and (k) Amount payable from Health Care Deposit Fund from −$48,904,097 to −$48,871,695.

I am eliminating the $40,000 added by the Legislature for the preservation of occupational data on death certificates Before we initiate the collection of these data, the Director of Health Services and others concerned with occupational health should develop and recommend a carefully designed program.

I am eliminating the $16,343 and 1 position legislative augmentation of the obstetrical access pilot project. The project level proposed in the budget provides sufficient staff support for this program

Item 251—For local assistance, for transfer to Item 248 for State's share of rate increases for county hospital outpatient service, community clinics and community free clinics. I reduce this item from $25,000,000 to $16,700,000 by eliminating the funding provided for increased reimbursement rates for hospital outpatient services provided in county and county contract hospitals.

I am reducing this item by $8,300,000. Funding remains ($13,700,000) for equalizing the reimbursement rates for hospital outpatient services between facilities which contract for physician services and those which employ physicians. Three million dollars of the augmentation is maintained to meet fiscal needs of free clinics and community clinics. I am instructing the Director of Health Services to develop the means of reimbursing clinics on a cost related basis that will restrain the rate of cost increase and be consistent with Federal legislation.

Item 252—For local assistance, Department of Health Services. I reduce this item from $42,128,290 to $42,081,067 by reducing (J) Child Health Disability Prevention from $12,478,252 to $12,431,029.

I am eliminating the $47,223 General Fund augmentation to the Child Health and Disability Prevention Program I am requesting the Department of Health Services to work with the Conference of Local Health Officers in developing a new allocation formula which would promote equity in program allocations to the counties.

Item 258—For local assistance for the developmental disabilities program, Department of Developmental Services. I reduce this item from $359,100,588 to $356,600,588 by eliminating (j) Workshop activity center (unfunded and partially funded clients) ($2,500,000), and the following related appropriation language

"Provided further, that allocation made pursuant to category (j) of this item shall be limited to the annual cost, or such lesser proportional amount as the director may determine, such that an equal distribution of the appropriated funds shall be available to reimburse the total number of unfunded and partially funded developmentally disabled persons who are enrolled in workshops on July 1, 1978, as determined by the Department of Rehabilitation, incurred by such workshops and centers with respect to each eligible person."

"Provided further, that funds in category (j) shall be limited to the total number of clients who are enrolled in workshops on July 1, 1978, as determined by the Department of Rehabilitation "

I am eliminating category (j) and related language for workshop activity center (unfunded and partially funded clients), although I support the need for providing assistance to maintain and strengthen the workshop activity centers Consistent with that, I have approved the legislative augmentation of $500,200 for increased reimbursement rates for sheltered workshops. This will supply assistance for those programs in meeting costs for current public supported clients. However, category (j) and the related language would authorize a new program without appropriate program criteria and reasonable constraints on funding. The definition of the types and numbers of clients to be supported is also unclear. I will support legislation which provides appropriate program controls and a General Fund appropriation not to exceed the amount I have eliminated

Item 274—For local assistance, Special Social Service Programs, Department of Social Services. I reduce this item from $118,846,017 to $118,511,795 by reducing (i) Demonstration Programs from $5,882,773 to $5,548,551

I am eliminating the $334,222 augmentation for a demonstration program in Santa Clara County dealing with sexual abuse of children I am supportive of this program, and have directed the Department of Social Services to apply available Federal funds to support this program in lieu of the General Fund appropriation

Item 286—For support of Department of the Youth Authority I reduce this item from $109,899,166 to $109,799,166 by reducing (a) I Community services from $3,727,881 to $3,627,881

I am eliminating $100,000 which was added to provide initial State funding of the

Volunteers in Parole Program. I am supportive of volunteer efforts such as this, but given the present fiscal situation, it would be inappropriate to add new State funds to the Department for this purpose I am directing the Department to assist this program through the use of existing resources.

Item 294.1—For support of the California Health Facilities Commission. I eliminate this item.

I am eliminating this item because it would provide General Fund support for activities normally funded solely through a special assessment on the affected industry. I believe that health facility cost containment and disclosure activities should continue to be funded through special funds

Item 295—For support of the Department of Education I reduce this item from $20,725,179 to $20,597,318 by reducing (a) Personal services from $37,678,515 to $37,587,003 and (b) Operating expenses and equipment from $27,476,960 to $27,440,611.

I am eliminating $86,906 added to provide Consultants in the Special Elementary Reading Instruction Program and the Continuation High School Program Special assistance for these programs can and should be provided by existing staff in the Department's Elementary and Secondary Field Services Units In addition, I am eliminating $40,955 for AB 65 staff development programs.

Given the fiscal constraints placed upon the State by the passage of Proposition 13, these augmentations for administrators should not be approved.

I am also eliminating the following language in this item "Provided further, that any unexpended balance of the appropriation made by Section 78 of Chapter 894, Statutes of 1977, not exceeding $92,370 is hereby reappropriated in augmentation of this item; provided further, that the appropriation in this item shall be reduced by the amount of the unexpended balance of the appropriation made by Section 78 of Chapter 894, Statutes of 1977, which is reappropriated pursuant to this item." This reappropriation language is no longer necessary as I am advised that sufficient funds from Chapter 894, Statutes of 1977 will revert in the 1977-78 fiscal year to achieve the desired offset to the $92,370 legislative augmentation to this item.

Item 311.1—For local assistance to renovate existing facilities and to purchase portable facilities for Migrant Child Care I reduce this item from $2,000,000 to $1,000,000.

While I am reducing this item, I am also directing the Department of Finance to allocate up to $1,000,000 in Public Works Employment Act (PWEA) funds for this purpose. I anticipate that the funds in this item will be combined with the PWEA funds for allocation to local agencies upon the approval of the Department of Finance to fully achieve the legislative intent

Item 312—For local assistance to Child Development Programs (State Preschool Program) I reduce this item from $26,014,567 to $24,542,044 by reducing (a) Total Program from $26,768,834 to $25,296,311.

I am reducing the six percent cost-of-living adjustment that I originally proposed for the State Preschool Program because of the fiscal restraint required by Proposition 13 This action is consistent with my action to eliminate inflation adjustments in other local assistance programs

Item 316—For local assistance, Department of Education, for transfer to the State Child Nutrition Fund. I eliminate this item

I am eliminating this item since it is a duplicate appropriation The appropriation for the State Child Nutrition Fund is contained in SB 154, Chapter 292, Statutes of 1978 Because of the legislative action to place this funding in SB 154, there is no need to continue the Budget Act appropriation

Item 322—For support of University of California. I reduce this item from $760,284,108 to $756,151,008

I am eliminating the $845,000 salary related price increase added to Contract Services of the University of California consistent with my action to delete all employee salary increases

In addition, I am reducing the appropriation by $3,288,100 to correctly reflect the Conference action on this item

Item 337—For support of California State University and Colleges. I reduce this item from $695,404,344 to $695,340,533 by reducing (f) Institutional Support from $175,678,739 to $175,614,928.

I am reducing the funds budgeted for the Consortium Administration of the California State University and Colleges since this activity should be supported by non-State funds.

Item 339—For support of Board of Governors of the California Community Colleges I reduce this item from $2,586,990 to $2,526,990 by reducing (b) Operating exp. & equip from $1,322,813 to $1,262,813.

I am eliminating the $60,000 augmentation for a Washington, D C. lobby, because this item is more appropriately funded by local community college districts which control this function.

Item 366—For support of the Commission for Economic Development. I reduce this item from $354,196 to $328,390 by reducing (a) Personal services from $175,476 to $169,120, (b) Operating exp & equip from $178,720 to $159,270.

I am eliminating the $25,806 augmentation provided by the Legislature for expenses of the members of the Task Force on Rural Economy and for unbudgeted salary increases. The legislation establishing the Task Force on Rural Economy (Chapter 1258/78) was approved on the basis that the cost of this new program would be absorbed by the Commission

The original amount budgeted included sufficient funding for the authorized position levels

Item 370—For support of Public Utilities Commission. I reduce this item from $16,342,218 to $16,307,967 by reducing (a) Personal services from $22,719,656 to $22,687,213, (b) Operating exp. & equip. from $4,564,592 to $4,562,784.

I am reducing General Fund support for regulating the safety of the Bay Area Rapid Transit District. The Bay Area Rapid Transit District should reimburse the Public Utilities Commission for BART safety inspection costs.

Item 397—For support of the Board of Control. I reduce this item from $470,707 to $444,707 by reducing (a) Personal services from $1,021,004 to $1,001,004, (b) Operating exp & equip. from $408,999 to $402,999

I am eliminating the $26,000 augmentation provided by the Legislature for increased marketing of the merit award program. The amount included in my budget provides an adequate level of funding for this program.

Item 406—For local assistance, reimbursement for open-space lands under Sections 423 and 423 5 of the Revenue and Taxation Code. I reduce this item from $22,000,000 to $15,000,000.

I am eliminating the reimbursement for open-space subventions to school districts because under Proposition 13 they will be unable to claim this money. Appropriate reimbursement will be provided to school districts under SB 154.

I eliminate the following employee salary increase items:

Item 411 civil service and related classes, General Fund employees
Item 414 University of California, faculty
Item 415 University of California, nonfaculty
Item 417 California State University and Colleges, academic
Item 418 California State University and Colleges, nonacademic
Item 422 civil service and related classes, special fund employees
Item 424 civil service and related classes, nongovernmental cost fund employees

Proposition 13 radically restructures the financing of government in California. During this transition year, local government will have its revenues reduced by $7 billion To meet this unprecedented challenge and minimize the human hardship, state government must share its funds. Accordingly for this year, I have frozen state hiring and salaries to provide maximum assistance to local government and minimize the total number of layoffs as well as cutbacks in programs for the elderly and the handicapped

I appreciate the dedication of the men and women who work for the State of California and trust that they recognize the need to maintain essential government

services during this interim period

I have allowed funds in other items of this Act to provide for an increase in the State's contribution for health benefits I am also allowing funds for promotions and merit salary adjustments.

Item 447—For capital outlay, Highway Transportation Program, Department of Transportation. I reduce this item from $203,542,500 to $195,324,000 by reducing (g) New facilities from $289,212,000 to $280,993,500.

The Budget will be more than adequate to meet projected highway needs for the next fiscal year.

Item 458—For capital outlay, Department of Parks and Recreation I reduce this item from $1,548,901 to $48,901 by eliminating (b) American River Bike Trail, development ($1,500,000).

I will support this project if legislation is passed to fund it from park bond funds

Item 459—For capital outlay, Department of Parks and Recreation. I reduce this item from $4,232,355 to $3,632,355 by reducing (e) Woodson Bridge SRA—levee study from $125,000 to $25,000 and (f) Minor capital outlay from $2,403,225 to $1,903,225.

I am reducing the Woodson Bridge Levee study and repair work project to the originally budgeted level of $25,000 for the study only. This study must be completed before repair work is undertaken to insure that there will be no private property damage.

I am also reducing the amount for minor capital outlay to the level of past year expenditures

Item 485—For capital outlay, Trustees of the California State University and Colleges. I reduce this item from $4,400,000 to $3,500,000

I am reducing this item because it does not contain projects of sufficient priority in view of the greater systemwide need for life and safety projects

Item 498—For capital outlay, Department of Parks and Recreation I reduce this item from $1,689,155 to $1,539,155 by eliminating (d) Sugar Pine Point SB—Acquisition ($150,000)

I am deleting the appropriation for the acquisition of lands at Sugar Pine Point State Beach I know of no particular urgency which would make this a priority project and expenditures should be limited to only those highest public priorities

Section 32 5—For local assistance, Aid to Families with Dependent Children. I reduce this item from $640,479,150 to $624,282,800 by eliminating the cost of living increase and striking the following language·

"Provided further that both AFDC recipients and state employees shall receive cost-of-living increases of 2½ percent "

The legislature has linked the cost-of-living increases for AFDC recipients to salary increases for state employees.

With the above deletions and reductions, I hereby approve Assembly Bill No 2190

EDMUND G BROWN JR , Governor

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

SECTION 1. This act shall be known and may be cited as the "Budget Act of 1978."

SEC. 2. The following sums of money, or so much thereof as may be necessary unless otherwise provided herein, are hereby appropriated for the use and support of the State of California for the 1978–79 fiscal year beginning July 1, 1978, and ending June 30, 1979. All such appropriations, unless otherwise herein provided, shall be paid out of the General Fund in the State Treasury.

Whenever by constitutional or statutory provision the revenues or receipts of any institution, department, board, bureau, commission, officer, employee, or other agency, or any moneys in any special fund

created by law therefor, are to be used for salaries, support or any proper purpose, expenditures shall be made therefrom for any such purposes, to the extent only of the amount herein appropriated, unless otherwise stated herein, or authorized pursuant to Section 11006 of the Government Code.

Appropriations for purposes not otherwise provided for herein which have been heretofore made by any existing constitutional or statutory provision shall continue to be governed thereby.

LEGISLATIVE/JUDICIAL/EXECUTIVE

Legislative

ITEM	AMOUNT
1—For salaries of Senators	$1,025,500
2—For mileage of Lieutenant Governor, Senators and statutory officers of the Senate	1,800
3—For expenses of Members of the Senate	395,200
4—For contingent expenses of the Senate, including personal services for officers, clerks and all other employees, and legislative committees thereof composed in whole or in part of Members of the Senate, to be transferred by the State Controller to the Senate Contingent Fund	16,824,638
5—For contingent expenses of the Senate relating to the lease, maintenance, repair, insurance, and other costs of operating automobiles for the use of Members of the Senate, to be transferred by the State Controller to the Senate Contingent Fund	186,945
6—For salaries of Assemblymen	2,086,000
7—For mileage of Assemblymen and statutory officers of the Assembly	4,000
8—For expenses of Members of the Assembly	790,400
9—For contingent expenses of the Assembly including personal services for officers, clerks and all other employees, and legislative committees thereof composed in whole or in part of Members of the Assembly, to be transferred by the State Controller to the Assembly Contingent Fund	24,090,099
9.5—For contingent expenses of the Assembly, for updating a study on the effect of the California Environmental Quality Act which was previously provided pursuant to Chapter 375 of the Statutes of 1974, payable from the California Environmental Protection Program Fund	25,000

ITEM	AMOUNT
10—For contingent expenses of the Assembly relating to the lease, maintenance, repair, insurance, and other costs of operating automobiles for the use of Members of the Assembly, to be transferred by the State Controller to the Assembly Contingent Fund	433,537
11—For expenses of Joint Legislative Committee for the Revision of the Penal Code	162,000
12—For legislative printing, binding, mailing and other necessary expenses; and in addition thereto, any amounts received from the sale of legislative publications notwithstanding any other provision of Section 2 of this act, this appropriation shall be available without regard to fiscal years; provided further, that funds appropriated by this item shall not be expended for the purpose of providing the compilation of any California code or portion thereof in computer usable form, except as expressly authorized in writing by the Joint Rules Committee.	2,750,000
13—For the expenses of joint committees and their members and for any charges, expenses, or claims they may incur, to be transferred by the State Controller to the Contingent Funds of the Assembly and Senate, available without regard to fiscal years, to be paid on certification of chairmen of the committees to which allocations have been made by statute or concurrent resolution or by resolution of the Joint Rules Committee	8,964,536
14—For support of Legislative Counsel Bureau	6,113,716
15—For support of California Law Revision Commission	298,469
16—For support of California Commission on Uniform State Laws	39,095
Judicial	
17—For support of Supreme Court of California, Courts of Appeal, Judicial Council of California and Commission on Judicial Qualifications provided, that the funds appropriated in this item may be allocated or reallocated between them by order of the Judicial Council subject to being reported to the Director of Finance.	20,435,560
18—For reimbursement of any county, in whose superior court a judge of the municipal court of another county is assigned to sit and which is required by subdivision (b) of Section 68540 of the	

ITEM		AMOUNT
	Government Code to reimburse the other county from which such assignment is made, of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) and the personal expenses of the judge of the municipal court while serving on assignment in its superior court; and for payment to any county, in whose superior court a judge of its municipal court is assigned to sit, of the cost of the regular salary of a municipal court judge (as specified in subdivision (b) of Section 68202 and in Section 68203 of the Government Code) plus a portion of the difference between the regular salaries of a superior court judge and a municipal court judge computed at the same rate as the state's share of the regular salary of a superior court judge (as provided in Section 68206 of the Government Code), and the personal expenses of the judge of the municipal court while serving on assignment in its superior court; State Controller.....	300,000
19	—For support of Judicial Council, for implementing uniformity and consistency of procedure in traffic courts, payable from the Motor Vehicle Account, State Transportation Fund	39,029
20	—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the Judicial Council, of any new program or increased level of service of an existing program mandated by statute, State Controller.....	262,546
	provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.	
21	—For state's share of salaries of judges of superior courts as provided by Section 68206 of the Government Code	22,471,546
	provided, that any funds which are unexpended due to vacancies in judgeships may be expended by the Judicial Council for extra compensation, expenses and staff for judges assigned by the Chairman of the Judicial Council.	

ITEM		AMOUNT
22—For payment to counties for the annual cost of superior court judgeships created subsequent to January 1, 1973, for disbursement as a block grant by the State Controller		3,840,000
23—For transfer by the State Controller to the Judges' Retirement Fund for Supreme Court and appellate court judges		241,443
24—For transfer by the State Controller to the Judges' Retirement Fund for superior court and municipal court judges		3,246,609
25—For state's share of cost for membership in National Center for State Courts, Judicial Council of California		14,000
Executive		
26—For support of Governor and of Governor's office (exempt from the provisions of Sections 925.6, 12410 and 13320 of the Government Code)		3,178,336
27—For support of Governor's residence (exempt from the provisions of Sections 925.6, 12410 and 13320 of the Government Code)		17,400
28—For special contingent expenses, Governor's office (exempt from the provisions of Sections 925.6, 12410 and 13320 of the Government Code)		15,000
29—For support of the Governor's office; for printing of the Governor's Budget, and, in addition thereto, any amounts received from the sale of publications		350,000
30—For support of Secretary of State and Consumer Services		405,329
31—For support of Business and Transportation Agency, to be transferred to Item 32		51,240
32—For support of Business and Transportation Agency, payable from the Motor Vehicle Account, State Transportation Fund		439,312
Schedule:		
(a) Support	895,442	
(b) Reimbursements	−404,890	
(c) Amount payable from the General Fund (Item 31)	−51,240	
33—For support of Secretary of Health and Welfare		1,843,425
34—For support of Secretary of Resources		937,104
35—For support of Office of Employee Relations in the Governor's office		400,994
36—For support of Office of Planning and Research		2,410,207
Schedule:		
(a) Personal services	2,454,929	

ITEM		AMOUNT
(b) Operating expenses and equipment	1,089,318	
(c) Reimbursements	−169,082	
(d) Federal funds	−964,958	

and in addition thereto, any amounts received from federal grants or other sources. Provided, that the state clearinghouse shall forward copies of all state agencies' comments on proposed federal regulations to the Chairman of the Joint Legislative Budget Committee or his designee, and the chairman of the committee in each house which considers appropriations.

37—For support of Office of Emergency Services, California Emergency Council and Advisory Committees 2,239,180

Schedule:

(a) Personal services	2,436,790	
(b) Operating expenses and equipment	1,460,721	
(c) Reimbursements	−24,583	
(d) Federal funds	−1,633,748	

and in addition, any amounts received from federal grants or other sources shall be available for expenditure in accordance with the provisions of this item.

Provided, that funds appropriated by this item may be reduced by the Director of Finance, after notice to the Chairman of the Joint Legislative Budget Committee, by the amount of federal funds made available for the purposes of this item in excess of the $1,633,748 scheduled above.

38—For transfer to the Natural Disaster Assistance Fund, Public Facilities Account 6,500,000

39—For support of Lieutenant Governor 777,103

Schedule:

(a) Personal services	588,074	
(b) Operating expenses and equipment	289,029	
(c) Federal funds	−100,000	

40—For support, including travel expenses of the Commissioners of the California Advisory Commission on Youth attending scheduled meetings of the commission, Lieutenant Governor's office 62,280

Schedule:

(a) Personal services	32,893	
(b) Operating expenses and equipment	29,387	

provided, that none of the funds appropriated by

ITEM		AMOUNT
this item may be encumbered unless and until a statute is enacted which creates the California Advisory Commission on Youth.		
41—For support of Commission of the Californias.....		82,448
Schedule:		
(a) Personal services	51,031	
(b) Operating expenses and equipment	31,417	
General Administration		
42—For support of Department of Justice		64,880,427
Schedule:		
(a) Personal services	66,760,479	
(b) Operating expenses and equipment	23,101,966	
(c) Reimbursements	−12,096,440	
(d) Amount payable from the Political Reform Act of 1974 (Item 346)	−182,340	
(e) Federal funds	−2,456,779	
(f) Amount payable from fingerprint fees in the General Fund (Item 43)	−2,424,924	
(g) Amount payable from the Attorney General's Antitrust Account, General Fund (Item 44)	−989,586	
(h) Amount payable from Motor Vehicle Account, State Transportation Fund (Item 45)	−6,831,949	
provided, that $14,000 provided in category (b) for purchase of a replacement vehicle for the Attorney General be expended for the replacement vehicle selected by the newly elected Attorney General.		
43—For support of Department of Justice, to be transferred to Item 42, payable from fingerprint fees deposited in the General Fund pursuant to subdivision (e) of Section 11105 of the Penal Code..		2,424,924
44—For support of Department of Justice, to be transferred to Item 42, payable from the Attorney General's Antitrust Account, General Fund		989,586
45—For support of Department of Justice, to be transferred to Item 42, payable from the Motor Vehicle Account, State Transportation Fund		6,831,949
Schedule:		
(a) Data processing	6,240,913	
(b) Uniform Blood Alcohol Program	591,036	

ITEM		AMOUNT
	provided, that the funds appropriated in category (b) shall not be available for expenditure after December 31, 1978.	
46—	For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to the activities of the Department of Justice, of any new program or increased level of service of an existing program mandated by statute, State Controller	72,000
	provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates such costs and subdivision (d) of Section 2231 of the Revenue and Taxation Code.	
47—	For support of State Controller	26,680,945
	Schedule:	
	(a) Personal services	20,924,135
	(b) Operating expenses and equipment	10,745,962
	(c) Refunds of taxes, licenses and other fees	30,000
	(d) Reimbursements	−3,248,215
	(e) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 48)	−1,454,832
	(f) Amount payable from the State School Building Aid Fund (Item 49)	−204,195
	(g) Amount payable from the Aeronautics Account, State Transportation Fund (Item 50)	−111,910
	The appropriation made by this item shall be in lieu of any allocation made pursuant to subdivision (b) of Section 30462 of the Revenue and Taxation Code during the 1978–79 fiscal year and no funds shall be allocated to the State Controller pursuant to Section 30462 during the 1978–79 fiscal year.	
	Provided, that the funds appropriated in category (c) are for refunding of payments of taxes, licenses, fees and other receipts which have been erroneously collected and deposited in the General Fund for the refund of which no other provision is made by law, for refunding of amounts withheld and deposited in a fund in the State Treasury to any person who is determined to be liable to a taxpayer by reason of withholding and	

ITEM		AMOUNT
	transmitting payments of taxes, interest, and penalties for the refund of which no other provision is made by law, and for payment of prior judgments, liens or encumbrances pursuant to Section 12516 of the Government Code; provided further, that expenditures made under category (c) of this item shall be charged to the year in which the warrant is issued by the State Controller.	
48	—For support of State Controller, to be transferred to Item 47, payable from the Motor Vehicle Fuel Account, Transportation Tax Fund	1,454,832
49	—For support of State Controller, to be transferred to Item 47 the sum of $204,195 is appropriated from the State School Building Aid Fund	(204,195)
50	—For support of State Controller, to be transferred to Item 47, payable from the Aeronautics Account, State Transportation Fund	111,910
51	—For support of State Board of Equalization	51,233,881
	Schedule:	
	(a) Personal services	54,706,862
	(b) Operating expenses and equipment	13,928,447
	(c) Reimbursements	—12,724,485
	(d) Amount payable from the State Energy Resources Conservation and Development Special Account, General Fund (Item 52)	—38,296
	(e) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 53)	—2,595,980
	(f) Amount payable from the State Emergency Telephone Number Special Account, General Fund (Item 54)	—48,971
	(g) Amount payable from the Timber Tax Fund (Item 55)	—923,906
	(h) Amount payable from the State Litter Control, Recycling and Resource Recovery Fund	—1,069,790
52	—For support of State Board of Equalization, to be transferred to Item 51, payable from the State Energy Resources Conservation and Development Special Account, General Fund	38,296
53	—For support of State Board of Equalization, to be transferred to Item 51, payable from the Motor Vehicle Fuel Account, Transportation Tax Fund	2,595,980

ITEM		AMOUNT
54—For support of State Board of Equalization, to be transferred to Item 51, payable from the State Emergency Telephone Number Special Account, General Fund		48,971
55—For support of State Board of Equalization, to be transferred to Item 51, the sum of $923,906 is appropriated from the Timber Tax Fund		(923,906)
55.5—For support of State Board of Equalization, to be transferred to Item 51, payable from the State Litter Control, Recycling, and Resource Recovery Fund		1,069,790
56—For support of Secretary of State		5,829,732
Schedule:		
(a) Personal services	3,830,816	
(b) Operating expenses and equipment	2,882,992	
(c) Reimbursements	−453,382	
(d) Amount payable from the Political Reform Act of 1974 (Item 346)	−430,694	
provided, that funds appropriated in this item for reimbursement of expenses for postage incurred by counties in mailing voter registration cards may not be expended for any other purpose.		
57—For printing constitutional amendments and other ballot measures, Secretary of State		1,742,200
58—To the State Controller to provide reimbursement, pursuant to Section 16100.6 of the Government Code, to local governments for the actual increased cost to such local governments caused by the provisions of Section 6555 of the Elections Code		212,762
provided, that the appropriation made by this item is in augmentation of, and in addition to, the funds continuously appropriated to the State Controller by Section 16100 of the Government Code.		
59—For reimbursement of net costs to local government associated with the implementation of Chapter 704 of the Statutes of 1975, relating to voter registration and voting procedures, in accordance with Section 91 of that chapter, for such costs incurred during the 1978–79 fiscal year, State Controller		800,000
provided, that the Secretary of State shall determine the maximum reimbursement available to each local jurisdiction (and shall so advise the State Controller), as a proration of the total amount appropriated in this item and based upon a consideration of the number of unregistered		

ITEM		AMOUNT
voters within each jurisdiction, the reasonably estimated costs of programs designed and implemented pursuant to regulations adopted pursuant to Section 304 of the Elections Code, and other reasonably estimated costs and savings related to Chapter 704 of the Statutes of 1975. Provided, further, that prior to the payment of any claim funded by this item, the State Controller shall confer with the Secretary of State to determine whether the cost for which reimbursement is sought is properly reimbursable under Section 91 of Chapter 704 of the Statutes of 1975.		
60—For support of Commission on Voting Machines and Vote Tabulating Devices		21,000
61—For support of State Treasurer		2,511,447
Schedule:		
(a) Personal services	2,159,467	
(b) Operating expenses and equipment	959,108	
(c) Reimbursements	−607,128	
STATE AND CONSUMER SERVICES		
62—For support of Museum of Science and Industry		2,839,572
Schedule:		
(a) Personal services	2,259,357	
(b) Operating expenses and equipment	580,215	
63—For support of Board of Behavioral Science Examiners of the State of California, payable from the Behavioral Science Examiners Fund		328,657
64—For support of Board of Dental Examiners of California, payable from the State Dentistry Fund		1,247,057
65—For support of State Board of Guide Dogs for the Blind		11,956
66—For support of Board of Medical Quality Assurance of the State of California, payable from the Contingent Fund of the Board of Medical Quality Assurance		7,034,289
provided, that prior to encumbering any funds for the medical student loan program, authorized by Article 4.5 (commencing with Section 2176) of Chapter 5 of Division 2 of the Business and Professions Code, during the 1978–79 fiscal year, the board shall adopt a plan for recovering any outstanding medical student loans.		

ITEM	AMOUNT
67—For support of Board of Medical Quality Assurance of the State of California, payable from the Acupuncturists Fund	88,628
68—For support of Board of Medical Quality Assurance of the State of California, payable from the Hearing Aid Dispensers Fund	114,100
69—For support of Board of Medical Quality Assurance of the State of California, payable from the Physical Therapy Fund	171,780
70—For support of Board of Medical Quality Assurance of the State of California, payable from the Physicians Assistant Fund	65,607
71—For support of Board of Medical Quality Assurance of the State of California, payable from the Speech Pathology and Audiology Examining Committee Fund	108,232
72—For support of State Board of Examiners of Nursing Home Administrators, payable from the Nursing Home Administrator's State License Examining Board Fund	185,000
73—For support of State Board of Optometry, payable from the State Optometry Fund	214,672
74—For support of California State Board of Pharmacy, payable from the Pharmacy Board Contingent Fund	1,207,234
75—For support of Board of Registered Nursing, payable from the Board of Registered Nursing Fund	2,049,288
76—For support of Board of Examiners in Veterinary Medicine, payable from the Board of Veterinary Examiners' Contingent Fund	256,746
77—For support of Board of Examiners in Veterinary Medicine, payable from the Animal Health Technician Examining Committee Fund	49,403
78—For support of Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, payable from the Vocational Nurse and Psychiatric Technician Examiners' Fund	1,098,926
79—For support of Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, payable from the Vocational Nurse and Psychiatric Technician Examiners' Fund from those moneys deposited under the provisions of Section 4547 of the Business and Professions Code	208,454
80—For support of State Board of Accountancy, payable from the Accountancy Fund	1,087,742
81—For support of Cemetery Board, payable from the Cemetery Fund	155,450

ITEM		AMOUNT
82—For support of Bureau of Collection and Investigative Services, Department of Consumer Affairs, payable from the Collection Agency Fund		335,285
83—For support of Bureau of Collection and Investigative Services, Department of Consumer Affairs, payable from the Private Investigator and Adjuster Fund		707,009
84—For support of Tax Preparers Program, Department of Consumer Affairs, payable from the Tax Preparers Fund		245,989
85—For support of California State Board of Architectural Examiners, payable from the California State Board of Architectural Examiners' Fund		409,724
86—For support of Contractors' State License Board, payable from the Contractors' License Fund		7,654,554
Schedule:		
(a) Personal services	4,909,792	
(b) Operating expenses and equipment	2,744,762	
87—For support of State Board of Registration for Geologists and Geophysicists, payable from the Geology and Geophysics Fund		109,152
88—For support of California State Board of Landscape Architects, payable from the State Board of Landscape Architects Fund		82,844
89—For support of State Board of Registration for Professional Engineers, payable from the Professional Engineers' Fund		1,285,105
Schedule:		
(a) Personal services	801,672	
(b) Operating expenses and equipment	483,433	
90—For support of Structural Pest Control Board, payable from the Structural Pest Control Fund		1,276,803
Schedule:		
(a) Personal services	438,163	
(b) Operating expenses and equipment	838,640	
91—For support of State Athletic Commission		474,511
92—For support of the Bureau of Automotive Repair, Department of Consumer Affairs, payable from the Automotive Repair Fund		2,835,963
Schedule:		
(a) Personal services	4,099,553	
(b) Operating expenses and equipment	2,587,697	
(c) Reimbursements	−3,851,287	

ITEM		AMOUNT
93—For support of State Board of Barber Examiners, payable from the State Board of Barber Examiners' Fund		553,360
94—For support of State Board of Cosmetology, payable from the Board of Cosmetology's Contingent Fund		1,704,655
Schedule:		
(a) Personal services	575,469	
(b) Operating expenses and equipment	1,129,186	
95—For support of Bureau of Employment Agencies, Department of Consumer Affairs, payable from the Bureau of Employment Agencies Fund		450,667
96—For support of State Board of Fabric Care, payable from the Fabric Care Fund		551,853
97—For support of State Board of Funeral Directors and Embalmers, payable from the State Funeral Directors and Embalmers Fund		300,136
98—For support of Bureau of Home Furnishings, Department of Consumer Affairs, payable from the Bureau of Home Furnishings Fund		906,686
99—For support of Nurses' Registry, payable from the Nurses' Registry Fund		22,796
100—For support of Bureau of Repair Services, Department of Consumer Affairs, payable from the Repair Services Fund		697,477
101—For support of Certified Shorthand Reporters Board, payable from the Shorthand Reporters' Fund		91,450
102—For support of Division of Consumer Services, Department of Consumer Affairs, to be transferred to Item 103		1,181,783
103—For support of the Department of Consumer Affairs, the sum of $6,892,873 is appropriated from the Consumer Affairs Fund		(6,892,873)
Schedule:		
(a) Division of Administration	2,681,436	
(b) Division of Investigation	2,951,805	
(c) Division of Consumer Services	1,447,101	
(d) Building maintenance and operation	1,031,881	
(e) Amount payable from the General Fund (Item 102)	−1,181,783	
(f) Amount payable from Chapter 380, Statutes of 1977	−5,000	
(g) Amount payable from the General Fund (Item 103.1)	−32,567	
provided, that the Department of Consumer Af-		

ITEM AMOUNT

fairs shall work with the Department of Finance in developing programs which identify areas of activities within the Division of Consumer Services, and provided further, that expenditures for such programs be shown in the 1979–80 Governor's Budget for the 1979–80 fiscal year.

Provided, that except as otherwise provided below, no funds appropriated by this act or made available for encumbrance from any other source may be used to pay the salaries of the exempt positions in the Division of Administration of the Department of Consumer Affairs after February 1, 1979.

Provided further, that the Director of Consumer Affairs shall prepare a comprehensive report and submit this report to the members of the Senate Finance Committee, the Assembly Committee on Ways and Means, the Office of the Legislative Analyst, and the Department of Finance, no later than November 1, 1978, which report clearly indicates that significant, remedial action has been taken, which has improved, and will continue to improve, the operations of the Department of Consumer Affairs and the various boards, bureaus, committees, commissions, and divisions, with particular attention to the Division of Consumer Services, of the Department of Consumer Affairs, which are specified in Items 64–103, inclusive, of Section 2 of this act; provided further, that such report shall include consideration of the Regulatory Review Task Force Report dated May 31, 1978, and shall indicate any other action to be taken by the Director of Consumer Affairs which will improve such operation.

Provided further, that on November 15, 1978, the department, pursuant to the provisions of Section 28 of this act shall submit a request for a deficiency authorization from the Consumer Affairs Fund for the purpose paying the salaries of the positions referenced above, for the period February 1, 1979 through June 30, 1979.

103.1—For support of Consumer Advisory Council..... 32,567

ITEM		AMOUNT
	provided, that the Consumer Advisory Council shall prepare a report which identifies the effectiveness of the council's programs and activities, and shall submit such report to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee not later than December 1, 1978.	
104—For support of State Fire Marshal		2,968,800
Schedule:		
(a) Personal services	3,118,247	
(b) Operating expenses and equipment	914,971	
(c) Reimbursements	−1,054,418	
(d) Federal funds	−10,000	
105—For support of Franchise Tax Board		65,427,197
Schedule:		
(a) Personal services	44,314,435	
(b) Operating expenses and equipment	22,792,187	
(c) Reimbursements	−1,083,371	
(d) Amount payable from the Political Reform Act of 1974 (Item 346)	−596,054	
provided, that not more than $596,054 shown in categories (a) and (b) of this schedule and any other amounts appropriated for salary and benefit increases may be expended for purposes of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).		
106—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the Franchise Tax Board, of any new program or increased level of service of an existing program mandated by statute, State Controller		48,000
provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.		
107—For support of Department of General Services for transfer to the Service Revolving Fund, to be transferred by the State Controller in such amounts as the Department of Finance may authorize; provided, that the money so transferred shall not be available for expenditure after June		

ITEM	AMOUNT
30, 1979, and any unencumbered balances as of June 30, 1979, shall be returned to the General Fund	5,831,183
107.1—For support of programming unit, Department of General Services ..... provided, that the funds appropriated by this item shall be used solely for the purpose of supporting a programming unit in the Office of Facilities Planning and Development in the department.	211,452
107.2—For transfer to the Service Revolving Fund as a loan, to be transferred by the State Controller in such amounts and upon such terms and conditions as may be prescribed by the Department of Finance, for purposes of the purchase or lease-purchase of copier machines, Department of General Services	2,000,000
110—For support of Department of General Services, to be transferred to Item 114, payable from the State Emergency Telephone Number Account, General Fund	174,545
111—For support of Office of State Architect, Department of General Services, to be transferred to Item 114 payable from the Architecture Public Building Fund	2,495,157
112—For expenditure by Office of State Architect, Department of General Services, for the purposes specified in Section 14957 of the Government Code, the sum of $15,278,662 is appropriated from the Architecture Revolving Fund for transfer to Item 114 ..... provided, that any balances in the Architecture Revolving Fund continue to be appropriated by and subject to Section 14957 of the Government Code, and are available for construction and for augmentation of this appropriation; and provided further, that during the 1978–79 fiscal year the Office of State Architect, Department of General Services, shall maintain expenditures for staff to a level commensurate with the funds necessary to maintain a staff sufficient to perform a basic architectural and engineering services workload volume of $39,458,000, as projected to June 30, 1979.	(15,278,662)
113—For augmentation of the Service Revolving Fund, to be transferred by the State Controller in such amounts and at such times as funds are made available. Upon approval of the State Board of Control, the State Controller shall transfer to this item from any appropriation made from the Gen-	

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	eral Fund, or any special fund, by the provisions of this act that part of such appropriation which is intended to be used and is available, for the purchase or replacement of automobiles and reproduction equipment; and provided, any funds in the Service Revolving Fund may be used to purchase equipment from the General Fund or special funds of the state at the depreciated value at the time of purchase, payable at the option of the Service Revolving Fund over the remaining depreciation period.	
114—For support of Department of General Services for activities financed from the Service Revolving Fund, other than the Office of State Printing, the sum of $143,492,609 is appropriated from the Service Revolving Fund		(143,492,609)
	Schedule:	
	(a) Personal services	68,841,084
	(b) Operating expenses and equipment	101,627,004
	(c) Reimbursements	−39,822
	(d) Federal funds	−100,000
	(e) Amount payable from the General Fund (Item 107)	−5,831,183
	(e.1) Amount payable from the General Fund (Item 107.1)	−211,452
	(e.2) Amount payable from the General Fund (Item 107.2)	−2,000,000
	(h) Amount payable from the Emergency Telephone Number Account, General Fund (Item 110)	−174,545
	(i) Amount payable from the Architecture Public Building Fund (Item 111)	−2,495,157
	(j) Amount payable from the Architecture Revolving Fund (Item 112)	−15,278,662
	(k) Amount payable from the State School Building Aid Fund (Item 116)	−719,098
	(*l*) Amount payable from the Deferred Compensation Plan Fund (Item 117)	−125,560
115—For expenditure by Office of State Printing, Department of General Services, the sum of $32,670,635 is appropriated from the Service Revolving Fund		(32,670,635)
	Schedule:	

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	(a) Personal services 13,956,326	
	(b) Operating expenses and equipment 18,714,309	
116—For support of Department of General Services, the sum of $719,098 is appropriated from the State School Building Aid Fund for transfer to Item 114		(719,098)
117—For support of Department of General Services the sum of $125,560 is appropriated from the Deferred Compensation Plan Fund portfolio earnings or account for administrative service fees, for transfer to Item 114		(125,560)
118—For reimbursement of local agencies and service suppliers or communications equipment companies for costs incurred pursuant to Sections 41137, 41137.1 and 41138 of the Revenue and Taxation Code, Department of General Services, payable from the State Emergency Telephone Number Account, General Fund		1,040,260
119—For support of State Personnel Board ..... Schedule:		19,488,819
	(a) Personal services 12,361,502	
	(b) Operating expenses and equipment 11,459,298	
	(c) Reimbursements ..... −2,728,601	
	(d) Amount payable from the Cooperative Personnel Services Revolving Fund (Item 120) ..... −1,603,380	

provided, that $128,561 of the funds specified in category (a) is authorized for 4.6 analyst positions and one clerical position which positions may only be used for the purpose of continuing the conduct of the State Personnel Board's compensation surveys to provide data to enable the Legislature to evaluate compensation increases negotiated by the Governor or his representative.

Provided further, that $38,164 of the funds specified in category (b) is authorized for satisfying office space requirements, but may be encumbered only after the scope, cost, and implementation details of the State Personnel Board's short-term and long-term office space plans are approved by the Department of Finance and 30 days' notice is provided to the Chairman of the Joint Legislative Budget Committee, or his designee.

Provided further, that this appropriation shall be reduced by the amount of any unbudgeted reimbursements, except those funds originating

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from a nonstate source, received by the State Personnel Board from any state agency under an interagency agreement to provide additional personnel services, except for those services related to training.

Provided further, that as of June 30, 1978, all reimbursements, except those funds originating from a nonstate source, received by the State Personnel Board for personnel services, except those related to training, which it provided from March 15, 1978, through June 30, 1978, for other state agencies under reimbursements, shall be remitted to the State Treasurer and shall be deposited in the General Fund.

Provided further, that (1) $89,073 of the funds specified in category (a) is authorized for six professional and four clerical positions and (2) $30,976 of the funds specified in category (b) is authorized for related expenses in processing workload increases in state civil service examinations; however, these positions shall not be filled and these funds shall not be encumbered for expenditure unless and until the state civil service hiring freeze imposed by the Governor effective June 7, 1978, is terminated.

120—For support of State Personnel Board, to be transferred to Item 119, the sum of $1,603,380 is appropriated from the State Personnel Board Cooperative Personnel Services Revolving Fund (1,603,380)

121—For support of Board of Administration of the Public Employees' Retirement System, to be transferred to Item 122 42,516

122—For support of Board of Administration of the Public Employees' Retirement System, the sum of $12,872,843 is appropriated from the Public Employees' Retirement Fund, pursuant to Section 20202.5 of the Government Code ..... (12,872,843)

Schedule:

(a) Personal services	10,171,895
(b) Operating expenses and equipment	5,062,020
(c) Reimbursements	−936,564
(d) Amount payable from the General Fund (Item 121)	−42,516
(e) Amount payable from the State Employees' Contingency Reserve Fund (Item 123)	−1,335,403

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(f) Amount payable from the Legislators' Retirement Fund (Item 124)	−46,589	
123—For support of Board of Administration of the Public Employees' Retirement System, for transfer to Item 122, the sum of $1,335,403 is appropriated from the State Employees' Contingency Reserve Fund, in accordance with the provisions of Section 22840 of the Government Code		(1,335,403)
124—For support of the Board of Administration of the Public Employees' Retirement System, for transfer to Item 122, the sum of $46,589 is appropriated from the Legislators' Retirement Fund in accordance with Section 9354 of the Government Code		(46,589)
125—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the Public Employees' Retirement System, of any new program or increased level of service of an existing program mandated by statute, State Controller		14,840
provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.		
126—For support of State Teachers' Retirement System, the sum of $7,319,385 is appropriated from the State Teachers' Retirement Fund		(7,319,385)
Schedule:		
(a) Personal services	5,194,204	
(b) Operating expenses and equipment	2,315,181	
(c) Reimbursements	−190,000	
127—For support of Department of Veterans Affairs		1,504,486
Schedule:		
(a) Personal services	1,611,972	
(b) Operating expenses and equipment	322,670	
(c) Reimbursements	−200	
(d) Amount payable from the Veterans' Farm and Home Building Fund of 1943 (Item 129)	−429,956	
128—For educational assistance to veterans' dependents, Department of Veterans Affairs, to be expended under the provisions of Sections 890 through 899 of the Military and Veterans Code		1,875,000
129—For support of Department of Veterans Affairs, to		

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be transferred to Item 127, the sum of $429,956 is appropriated from the Veterans' Farm and Home Building Fund of 1943		(429,956)
130—For support of Veterans' Home of California		10,602,901
Schedule:		
(a) Personal services	13,959,149	
(b) Operating expenses and equipment	3,822,997	
(c) Reimbursements	−2,276,790	
(d) Federal funds	−4,902,455	
provided, that the Veterans' Home of California shall collect from home members, after due consideration of income and family status, fees and charges for domiciliary, nursing home, and hospital care.		
131—For contribution to counties toward the compensation and expenses of county service officers, Department of Veterans Affairs, to be expended in accordance with Section 972 of the Military and Veterans Code		1,000,000

BUSINESS AND TRANSPORTATION

Business

132—For support of Department of Alcoholic Beverage Control		11,582,050
Schedule:		
(a) Personal services	9,641,747	
(b) Operating expenses and equipment	1,988,615	
(c) Data-processing conversion	215,000	
(d) Reimbursements	−263,312	
provided, that funds scheduled in category (c) shall not be available for encumbrance until 30 days after the Chairman of the Joint Legislative Budget Committee is notified of the State Data Processing Management Office's approval of the conversion project in accordance with Section 4 of this act.		
Provided further, that no funds appropriated by this item may be encumbered for enforcement of Section 24755 of the Business and Professions Code.		
133—For support of Alcoholic Beverage Control Appeals Board		218,440
Schedule:		
(a) Personal services	183,037	

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(b) Operating expenses and equipment	35,403	
134—For support of State Banking Department, payable from the State Banking Fund		4,645,397
Schedule:		
(a) Personal services	3,900,002	
(b) Operating expenses and equipment	971,847	
(c) Reimbursements	−65,000	
(d) Amount payable from the Small Business Loan Reserve Fund	−161,452	
provided, that State Banking Department shall submit to the committee in each house which considers appropriations, the Department of Finance, and the Joint Legislative Budget Committee on or before July 10, 1978, a schedule for completion of departmental regulations prior to receiving first-quarter funding. The draft regulations shall be submitted quarterly to the above entities prior to receiving subsequent-quarter funding. All draft regulations shall be completed on or before June 30, 1979.		
135.1—For transfer to the Small Business Loan Reserve Fund, payable from the State Banking Fund, for expenditure under the California Small Business Loan Program, State Banking Department		98,493
136—To the State Banking Department for loans and for expenses of the department, in carrying out the duties imposed on the department under provisions of the California Small Business Loan Program, payable from Small Business Loan Reserve Fund		(98,493)
provided, that this appropriation for the 1978–79 fiscal year shall be in lieu of the appropriation made without regard to fiscal years by Section 3822 of the Financial Code.		
137—For support of Department of Corporations		6,160,572
Schedule:		
(a) Personal services	8,159,315	
(b) Operating expenses and equipment	2,061,736	
(c) Reimbursements	−4,060,479	
provided, that, notwithstanding the provisions of Section 1382 of the Health and Safety Code, any payments received pursuant to that section shall be credited to this item as reimbursements and are hereby appropriated for the purposes of this item.		

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138	For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the Department of Corporations, of any new program or increased level of service of an existing program mandated by statute, State Controller.. provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.	3,780
139	For support, Department of Economic and Business Development..... provided, that no funds shall be expended from this item for support of the Office of Small Business Development, unless the Secretary of the Business and Transportation Agency (hereafter called the secretary) assumes that authority and management of the Office of Small Business Development, as authorized under Section 13978 of the Government Code. Provided further, that on or after July 1, 1978, all contracts proposed to be entered into by the Office of Small Business Development shall be approved by the Small Business Development Board and the secretary prior to signing by the executive director of the board. Such approval shall be evidenced by the signature of the secretary. Provided further, that all such contracts shall contain performance criteria which are relevant and representative of the expectations of the parties to the contract. All such contracts shall also include conditions that periodic progress reports be submitted by the contractor describing services rendered and results obtained. Staff analysis of such periodic progress reports shall be presented to the secretary by the executive director within 45 days of receipt of the report.	3,768,312

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Provided further, that the executive director shall make a final written report, within 30 days after the receipt of the contractor's final report, to the secretary regarding all executed contracts including performance and results obtained. In instances when full performance of the conditions of the contract have not been tendered by the contractor, final payment to such contractor shall be made only upon approval by the board and the secretary.

Provided further, that no such contract shall be awarded to any person, corporation, or other entity which has a conflict of interest, as described under Section 14110 of the Corporations Code. This prohibition includes, but is not limited to, firms or officers or employees of firms which are members of regional corporations.

139.1—To the Department of Economic and Business Development for transfer to the Small Business Expansion Fund for the purposes of Chapter 924, Statutes of 1977 1,299,951

provided, that no funds shall be transferred from this item unless the Secretary of Business and Transportation Agency assumes authority and management over the Office of Small Business Development, on or before July 15, 1978, under the authority granted to the secretary pursuant to the provisions of Section 13978 of the Government Code.

Provided further, that loan guarantee reserves established by the Small Business Development Board for each participating regional corporation shall not exceed 50 percent of the total dollar amount allocated to such regional corporations for loan guarantees for loans made through each regional corporation, except in cases involving the use of second round financing.

Provided further, that the Small Business Development Board shall not guarantee any loan in excess of 95 percent of the loan principal, or the remaining unpaid balance thereof, and the amount of loan interest qualifying for guarantee, as prescribed by regulations of of the Small Business Development Board.

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Provided further, that the Small Business Development Board shall develop a specific plan for a declining guarantee level for such loans, utilizing as its primary factors the age and quality of repayment of such loans.		
Provided further, that these provisions shall apply only to appropriations to the Loan Guarantee Account, Small Business Expansion Fund, as provided in this act.		
140—For local assistance, Department of Economic and Business Development, for transfer to the California Economic Development Grant and Loan Fund		625,000
141—For support of Department of Housing and Community Development		4,874,610
Schedule:		
(a) Personal services	5,885,106	
(b) Operating expenses and equipment	1,722,848	
(d) Reimbursements	−416,480	
(e) Amount payable from the Mobilehome Revolving Fund	−1,869,162	
(f) Amount payable from Housing Redevelopment Loan Fund	−100,500	
(g) Amount payable from Urban Development Loan Fund	−34,000	
(h) Federal funds	−313,202	
142—For local assistance, Department of Housing and Community Development		2,675,000
Schedule:		
(a) Farm Worker Housing Grant Program	2,500,000	
(b) Low income home management training program	175,000	
143—For support of Department of Insurance		7,765,165
Schedule:		
(a) Personal services	8,519,665	
(b) Operating expenses and equipment	2,552,513	—
(c) Reimbursements	−3,307,013	
144—To pay the state's share of the cost of providing riot and civil disorders insurance pursuant to Division 4 (commencing with Section 13000) of the Insurance Code		200,000
provided, that any refunds of past years' premium payments received during the 1978–79 fiscal year shall be credited to this item and deposited in the General Fund.		

ITEM		AMOUNT
145—For support of Department of Real Estate, payable from the Real Estate Fund		10,031,036
Schedule:		
(a) Personal services	6,663,039	
(b) Operating expenses and equipment	2,579,997	
(c) Education and research	812,000	
(d) Recovery act	216,000	
(e) Reimbursements	−240,000	

provided, that the Department of Real Estate and the Real Estate Education and Research Advisory Committee shall develop a list of proposed education and research activities for the 1979–80 fiscal year, indicating the need and estimated expenditures for these activities, and submit this list to the chairman of the committee in each house which considers appropriations, the Chairman of the Joint Legislative Budget Committee, the Chairman of the Senate Business and Professions Committee and the Chairman of the Assembly Finance, Insurance, and Commerce Committee on or before February 1, 1979; provided further, that the Department of Real Estate shall examine alternative methods for reducing excess balances in the Real Estate Fund and report its findings to such entities on or before September 1, 1978.

146—For support of Department of Savings and Loan, payable from the Savings and Loan Inspection Fund		5,992,655
Schedule:		
(a) Personal services	4,575,907	
(b) Operating expenses and equipment	1,436,169	
(c) Reimbursements	−19,421	

TRANSPORTATION

147—For support, California Transportation Commission, payable from the Transportation Planning and Research Account, State Transportation Fund		799,439
148—For support, Transportation Planning Program, Department of Transportation, payable from the Transportation Planning and Research Account, State Transportation Fund		5,632,272
Schedule:		
(a) Transportation planning	5,757,272	
(b) Federal funds	−125,000	

ITEM		AMOUNT
and, in addition, any other amounts contained in this account shall be available for expenditure in accordance with the provisions of Section 11006 of the Government Code and Section 28 of this act.		
148.1—For augmentation or contracts related to the development of an energy efficient external combustion engine, Department of Transportation, payable from the California Environmental Protection Program Fund		120,000
provided, that the funds appropriated by the item shall be available only on the condition that the firm contracted with to develop the external combustion engine provide matching funds in an equal amount.		
Provided further, that the contracting firm shall also provide to the Department of Finance and the Joint Legislative Budget Committee evidence of its commitment of such matching funds.		
149—For support, Mass Transportation Program, Department of Transportation, payable from the Transportation Planning and Research Account, State Transportation Fund		2,115,408
Schedule:		
(a) Mass transportation	3,488,053	
(b) Reimbursement for purposes of Section 7204.4 of the Revenue and Taxation Code	—317,990	
(c) Reimbursements	—131,550	
(d) Federal funds	—923,105	
and, in addition, any other funds contained in such account shall be available for encumbrance in accordance with the provisions of Section 11006 of the Government Code and Section 28 of this act.		
150—For support, Aeronautics Program, Department of Transportation, payable from the Aeronautics Account, State Transportation Fund		1,467,900
151—For support, Highway Transportation Program, Department of Transportation, payable from the State Highway Account, State Transportation Fund		290,959,003
Schedule:		
(a) Maintenance	177,632,000	
(b) Rehabilitation	735,000	
(c) Operational improvements	5,388,000	
(d) Operation	26,187,000	
(e) Local assistance	1,382,000	
(f) Program development	17,823,000	
(g) New facilities	52,000	

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	(h) Administration	78,249,421
	(i) Reimbursements	−1,652,918
	(j) Federal funds	−7,655,000
	(k) Savings	−7,181,500

provided, that up to 10 percent of any of the amounts scheduled in this item may be transferred to Item 156 or Item 447, as authorized under the provisions of Section 168 of the Streets and Highways Code, and provided, further, that any federal reimbursements shall be from any federal funds deposited in the State Highway Account, State Transportation Fund; provided further, that notwithstanding Section 4 of this act, the Department of Transportation is authorized to contract for electronic data processing services of its choice to improve its budget preparation process if the cost of such services does not exceed $30,000.

Provided further, that except as otherwise provided below, no funds appropriated by this act or made available for encumbrance from any other source may be used to pay the salary of the Director of Transportation after February 1, 1979.

Provided further, that the Director of Transportation shall prepare a comprehensive report and submit this report to the members of the Senate Finance Committee, the Assembly Committee on Ways and Means, the Office of the Legislative Analyst, and the Department of Finance, no later than November 1, 1978, which report clearly indicates that significant, remedial action has been taken, which has improved, and will continue to improve, the operations of the Department of Transportation.

Provided further, that on November 15, 1978, the Department of Transportation, pursuant to the provisions of Section 28 of this act, shall submit a request for deficiency authorization from the State Highway Account, State Transportation Fund for the purpose of paying the salary of the Director of Transportation for the period February 1, 1979 through June 30, 1979.

151.1	—For support, Highway Transportation Program, in augmentation of Items 151, 156, and 447, payable from the State Highway Account, State Transportation Fund	175,200,000
	Schedule:	
	(a) Highway Transportation Program	280,200,000
	(b) Federal funds	−105,000,000

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provided, that funds in this item shall be available in augmentation of Items 151, 156, and 447, if the California Transportation Commission finds that the funds, or a portion thereof, can be utilized for highway purposes. Provided further, that $156,000,000 of state funds appropriated by this item shall be available for expenditure in county group 2 and $19,200,000 in county group 1; and provided further, that $66,000,000 of county group 2 funds shall be for expenditure in State Transportation District 7. Provided further, that upon commission allocation or approval of the $66,000,000, or any part thereof, the department shall expend such funds on the backlog of projects in District 7 during the 1978–79 fiscal year.	
151.2—For support of the state highway program, payable from the Motor Vehicle Account, State Transportation Fund, to be transferred to the State Highway Account, State Transportation Fund	45,000,000
151.3—For local assistance, Highway Transportation Program, Department of Transportation, payable from the State Highway Account, State Transportation Fund provided, that these funds shall be allocated to local agencies by the California Transportation Commission for the purpose of matching federal highway funds made available to local agencies pursuant to the Federal Highway Act.	10,000,000
152—For transfer by the State Controller from the Aeronautics Account, State Transportation Fund, to the Transportation Planning and Research Account, State Transportation Fund, as prescribed by Section 21682.5 of the Public Utilities Code for appropriation as specified in this act for expenditures by the California Transportation Commission and the Department of Transportation for transportation planning and research	(42,000)
153—For transfer by the State Controller from the State Highway Account, State Transportation Fund, to the Transportation Planning and Research Account, State Transportation Fund, as prescribed by Section 192 of the Streets and Highways Code for appropriation as specified in this act for expenditures by the California Transportation Commission and the Department of Transportation for transportation planning and research	(8,976,389)

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Schedule:		
(a) State funds	5,086,389	
(b) Federal funds	3,890,000	
154—For local assistance, Transportation Planning Program, Department of Transportation, payable from the Transportation Planning and Research Account, State Transportation Fund		2,644,500
Schedule:		
(a) Transportation planning	12,921,942	
(b) Reimbursements	—4,977,442	
(c) Federal funds	—5,300,000	
provided, that in addition, any other amounts in such account shall be available for expenditure in accordance with the provisions of Section 11006 of the Government Code and Section 28 of this act.		
155—For local assistance, Mass Transportation Program, Department of Transportation, for allocation by the California Transportation Commission, payable from the State Highway Account, State Transportation Fund, in accordance with the provisions of Sections 199 and 199.1 of the Streets and Highways Code		15,226,000
Schedule:		
(a) For allocation to the San Diego Metropolitan Transit Development Board for guideway purposes	6,000,000	
(b) For local assistance, Mass Transportation Program	9,226,000	
156—For local assistance, Highway Transportation Program, Department of Transportation, payable from the State Highway Account, State Transportation Fund		39,270,000
Schedule:		
(a) Local assistance	205,313,000	
(b) Reimbursements	—43,000	
(c) Federal funds	—166,000,000	
provided, that up to 10 percent of any amounts scheduled in this item may be transferred to Item 151 or Item 447, as authorized under the provisions of Section 168 of the Streets and Highways Code, and provided, further, that any federal reimbursements shall be from any federal funds deposited in the State Highway Account, State Transportation Fund.		
157—For support of Department of the California Highway Patrol, payable from the Motor Vehicle Account, State Transportation Fund		223,036,743

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Schedule:
(a) Personal services 179,841,294
(b) Operating expenses and equipment 46,397,602
(c) Reimbursements ..... —2,664,460
(d) Federal funds ..... —537,693

provided, that a reserve of $95,000 shall be established for the funds in categories (a) and (b) for the costs of operating the department's helicopter in the Sacramento area; and provided further, that this amount shall not be expended for any other purpose and shall revert to the Motor Vehicle Account, State Transportation Fund, if federal reimbursement of these costs is provided.

Provided further, that of the department's currently authorized positions, four key data operator positions and one clerical position shall be authorized only through June 30, 1979, and that an additional 41 key data operator and four clerical positions shall be authorized only through June 30, 1980; and provided further, that no portion of the $967,368 budgeted for the department's management system shall be used to fund alternate routing capacity for the system, unless and until this capacity is determined to be technically feasible at projected traffic volumes and the department insures that this capacity can be provided within the amounts budgeted for the system during the 1978–79 fiscal year; provided further, that a reserve of $21,378 shall be established for funds in category (b) for increases in future leasing costs, except that if actual or negotiated costs are lower that such reserve, any unencumbered balance may not be encumbered for any other purpose and shall revert to the Motor Vehicle Account, State Transportation Fund.

158—For payments of deficiencies in appropriations for the Department of the California Highway Patrol which may be authorized by the Director of Finance, with the consent of the Governor, pursuant to Section 11006 of the Government Code, the sum of $1,000,000, or so much thereof as may be necessary, is appropriated from the Motor Vehicle Account, State Transportation Fund ..... (1,000,000)
provided, that the Director of Finance shall report allocations from this item in the same manner as required for reporting allocations from Item 426 of this act.

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159—To the Department of the California Highway Patrol, for advance authority for the department to incur automotive equipment purchase obligations in an amount not to exceed $2,500,000 during the 1978–79 fiscal year, for delivery beginning in the 1979–80 fiscal year, the sum of $2,500,000 is hereby appropriated from the Motor Vehicle Account, State Transportation Fund		(2,500,000)
160—For support of Department of Motor Vehicles.... to be transferred to the Motor Vehicle Account, State Transportation Fund, Item 161 of this act for anatomical donor designation program and petit jury panel selection.		697,170
161—For support of Department of Motor Vehicles, payable from the Motor Vehicle Account, State Transportation Fund		126,251,616
Schedule:		
(a) Personal services	119,659,863	
(b) Operating expenses and equipment	41,359,402	
(bb) Pay-as-you-drive study	150,141	
(c) Reimbursements	−9,984,859	
(d) Federal funds	−486,080	
(e) Amount payable from the General Fund (Item 160)	−697,170	
(f) Amount payable from the Motor Vehicle License Fee Account, Transportation Tax Fund (Item 163)	−19,961,122	
(g) Amount payable from the California Environmental Protection Program Fund (Item 164)	−1,957,284	
(h) Amount payable from the State Bicycle License and Registration Fund (Item 165)	−167,003	
(i) Amount payable from the Harbors and Watercraft Revolving Fund (Item 166)	−1,664,272	
162—For payment of deficiencies in appropriations for the Department of Motor Vehicles which may be authorized by the Director of Finance, with the consent of the Governor, pursuant to Section 11006 of the Government Code, the sum of $500,000, or so much thereof as may be necessary, is appropriated from the Motor Vehicle Account, State Transportation Fund		(500,000)

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	provided, that the Director of Finance shall report allocations from this item in the same manner as required for reporting allocations from Item 426 of this act.	
163	For support of Department of Motor Vehicles, payable from the Motor Vehicle License Fee Account, Transportation Tax Fund ..... to be transferred to Item 161, as provided by Section 11003 of the Revenue and Taxation Code.	19,961,122
164	For support of Department of Motor Vehicles, payable from the California Environmental Protection Program Fund ..... to be transferred to Item 161, as provided by Section 39101 of the Health and Safety Code.	1,957,284
164.1	For payment of a deficiency in the appropriation made by Item 214 of the Budget Act of 1976 for the Department of Motor Vehicles, the sum of $313,440 is appropriated from the California Environmental Protection Program Fund ..... to be transferred to Item 211, Budget Act of 1976, as provided by Section 39101 of the Health and Safety Code.	(313,440)
165	For support of Department of Motor Vehicles, payable from the State Bicycle License and Registration Fund ..... to be transferred to Item 161, as provided by Section 39001 of the Vehicle Code.	167,003
166	For support of Department of Motor Vehicles, the sum of $1,664,272 is appropriated from the Harbors and Watercraft Revolving Fund ..... to be transferred to Item 161, for undocumented vessel registration and fee collection.	(1,664,272)
167	For support of the Stephen P. Teale Consolidated Data Center, Business and Transportation Agency, the sum of $13,254,318 is appropriated from the Stephen P. Teale Consolidated Data Center Revolving Fund.....	(13,254,318)
	RESOURCES	
168	To Resources Agency for support of Waterways Management Planning Program pursuant to Chapter 761, Statutes of 1971, and the California Wild and Scenic Rivers Act (commencing with Section 5093.50) of the Public Resources Code....	325,669
169	To Resources Agency for grants to public and private higher education for use as a maximum of two-thirds of the local matching share for projects	

ITEM		AMOUNT
under the National Sea Grant College and Program Act of 1966, as provided in subdivision (d) of Section 6217 of the Public Resources Code		500,000
170—For subvention to California Tahoe Regional Planning Agency		330,100
Schedule:		
(a) Local assistance	230,100	
(b) Attorney General contract services	100,000	
170.1—To Resources Agency for allocation to the Tahoe Regional Planning Agency for support		75,000
provided, that the Secretary of the Resources Agency may allocate funds appropriated by this item solely for the defense of actions brought in inverse condemnation, for the enforcement of ordinances, and for the establishment of air and water standards for the Tahoe Basin.		
170.2—To Resources Agency for subvention to the Tahoe Area Regional Transit System		40,000
provided, that the funds appropriated by this item shall not be allocated unless evidence is provided to the Secretary for Resources that such transit system will extend throughout the Tahoe Basin and be supported in part by the Tahoe Basin counties of the State of Nevada.		
171—For support of the Environmental Protection Program, Resources Agency, payable from moneys in the California Environmental Protection Program Fund to be allocated by the Department of Finance upon recommendation of the Secretary of the Resources Agency		412,500
Schedule:		
(a) Department of Forestry	362,500	
(c) Department of Fish and Game	50,000	
provided, that the funds appropriated for category (c) may only be encumbered for the purposes of making a study of the legal and regulatory restrictions on aquaculture, which study shall include, but need not be limited to, the making of specific recommendations for statutory and regulatory changes to remove unnecessary barriers to the development of the aquaculture industry; provided further that funds appropriated for category (c) for this aquaculture study shall not be available unless and until Assembly Bill No. 3034 of the 1977–78 Regular Session of the Legislature is enacted.		
172—For support of California Conservation Corps		15,516,037

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	Schedule:	
	(a) Personal services 5,679,843	
	(b) Operating expenses and equipment 18,543,450	
	(c) Reimbursements ..... −2,213,136	
	(d) Federal funds ..... −6,494,120	
	provided, that the funds appropriated by this item may be used for establishment of base centers at Santa Cruz, Oat Mountain, and Rustic Canyon; and provided further, that no funds appropriated by this item may be used for the funding of any other base centers, unless approved by the Department of Finance, and unless the sites for such additional base centers are approved by the Public Works Board.	
173	—For support of State Energy Resources Conservation and Development Commission, payable from the State Energy Resources Conservation and Development Special Account, General Fund	20,284,636
	Schedule:	
	(a) Personal services 12,858,536	
	(b) Operating expenses and equipment 12,626,734	
	(c) Repayment of General Fund loan 1,000,000	
	(d) Reimbursements ..... −1,493,544	
	(e) Federal funds ..... −4,707,090	
	provided, that because of the importance of the commission's work and the lack of precedents, it is a condition of this appropriation that the commission shall submit a progress report to the Legislature every two months beginning July 1, 1978, in which it lists research and technical assessment contracts in excess of $10,000, awarded in the preceding two months, and such contracts to be awarded in the following two months.	
174	—For support of Solid Waste Management Board..	1,184,035
	Schedule:	
	(a) Personal services 2,244,002	
	(b) Operating expenses and equipment 19,580,282	
	(c) Reimbursements ..... −20,059	
	(d) Federal funds ..... −2,579,000	
	(e) Amount payable from the State Litter Control, Recycling and Resource Recovery Fund (Item 175) −18,000,000	
	(f) Amount payable from Chapter 1158, Statutes of 1977 ..... −41,190	
	provided, that the board may not add more than	

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	13 new technical positions for the federal-mandated state plan for landfill inventory, at a maximum cost of $307,000, without specific authorization by the Director of Finance. The authorization by the director may not exceed the remainder of the budgeted amount and may occur only after a review of the board's workload increases and not sooner than 30 days after notification in writing of the necessity therefore to the Chairman of the Joint Legislative Budget Committee.	
175—For support of the State Solid Waste Management Board, for the purposes of the Litter Control, Recycling, and Resource Recovery Act of 1977 (commencing with Section 68000 of the Government Code), to be transferred to Item 174, payable from the State Litter Control, Recycling, and Resource Recovery Fund.....		18,000,000
	provided, that notwithstanding any other provisions of law, and except as otherwise provided in this item, not more than $13,000,000 of the amount appropriated by this item shall be available for encumbrance by the Solid Waste Management Board during the 1978–79 fiscal year; provided further, that the Director of Finance may authorize the expenditure of the remaining $5,000,000 appropriated by this item, first for implementation of large-scale solid waste-to-energy conversion projects, and, if not used for that purpose, for additional loans and grants pursuant to the Litter Control, Recycling, and Resource Recovery Act of 1977, upon request of the board after review, by the Department of Finance, of the board's requests for such additional expenditures and not sooner than 30 days after notification in writing of the necessity therefor to the Chairman of the Joint Legislative Budget Committee.	
	Provided further, that notwithstanding the 5 percent expenditure requirement for program management and administrative costs contained in Section 68052 of the Government Code, the board shall follow Section 68042 of the Government Code in allocating the funds appropriated by this item.	
175.1—For a loan, as determined and ordered by the Director of Finance, to the State Litter Control, Recycling, and Resource Recovery Fund.....		9,900,000
	provided, that not more than $6,500,000 of the amount appropriated by this item shall be made	

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	available by the Director of Finance to the State Solid Waste Management Board, except that the Director of Finance may authorize additional loans of the remaining $3,400,000 only for the same purposes and under the same limitations as provided for expenditure of the $5,000,000 reserve contained in Item 175; provided further, that the additional loans shall be made after request by the board and a review of the request by the Department of Finance for additional expenditure and not sooner than 30 days after notification in writing of the necessity therefore to the Chairman of the Joint Legislative Budget Committee; provided further, that such loan shall be repaid with interest charged at the 1978–79 fiscal year rate for the Pooled Money Investment Account and on such terms and conditions as the Director of Finance may prescribe.	
176—For support of State Air Resources Board		3,263,324
	Schedule:	
	(a) Personal services	12,439,883
	(b) Operating expenses and equipment	19,312,384
	(c) Reimbursements	−582,763
	(d) Federal funds	−1,605,307
	(e) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 177)	−15,226,589
	(f) Amount payable from the Automotive Repair Fund (Item 178)	−1,251,259
	(g) Amount payable from the California Environmental Protection Program Fund (Item 179)	−1,519,333
	(h) Amount payable from the Motor Vehicle Account, State Transportation Fund (Loan) (Item 180)....	−2,919,887
	(i) Amount payable from the Air Pollution Control Fund (Item 181) ..	−631,420
	(j) Amount payable from the Vehicle Inspection Fund (Item 182)	−4,752,385
177—For support of vehicular program, State Air Resources Board, to be transferred to Item 176, payable from the Motor Vehicle Account, State Transportation Fund		15,226,589
178—For support of State Air Resources Board, to be transferred to Item 176, payable from the Automotive Repair Fund		1,251,259

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179—For support of State Air Resources Board, to be transferred to Item 176, payable from the Environmental Protection Program Fund	1,519,333
180—For the purposes of Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code, to be allocated by the Department of Finance as loans to the State Air Resources Board from the Motor Vehicle Account, State Transportation Fund, in amounts of which the total shall not exceed $2,919,887	2,919,887

provided, that the amount appropriated in this item shall be reduced by the amount of any federal funds received by the State Air Resources Board or the Bureau of Automotive Repair, Department of Consumer Affairs, or by both such board and bureau, for the purposes of Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code. Any loan made pursuant to this item shall be repaid upon such terms and conditions as may be prescribed by the Department of Finance, including interest at the rate earned by the Pooled Money Investment Fund, on or before December 31, 1983, from any revenues from inspection fees collected for repayment purposes pursuant to Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code.

Provided further, that inspection fees collected pursuant to Section 9889.61 of the Business and Professions Code shall be deposited in the Vehicle Inspection Fund and are appropriated to the Air Resources Board for the purposes of Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code.

Provided further, that every attempt shall be made to utilize Department of Motor Vehicles field office facilities for inspection purposes.

181—For support of the State Air Resources Board, to be transferred to Item 176, payable from the Air Pollution Control Fund	631,420
182—For the purposes of Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code, to be transferred to Item 176, State Air Resources Board, payable from the Vehicle Inspection Fund	4,752,385

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183—For assistance to counties in the operation of local air pollution control districts, State Air Resources Board, in accordance with Chapter 5 (commencing with Section 39800) of Part 2 of Division 26 of the Health and Safety Code		4,700,000
provided, that the amount appropriated by this item shall be reduced by order of the Director of Finance by the amount of any other funds that become available for the purposes of this item during the 1978–79 fiscal year.		
184—For assistance to counties in the operation of local air pollution control districts, State Air Resources Board, in accordance with Chapter 5 (commencing with Section 39800) of Part 2 of Division 26 of the Health and Safety Code, payable from the Motor Vehicle Account, State Transportation Fund		3,038,000
185—For support of the Colorado River Board of California		150,312
Schedule:		
(a) Personal services	366,365	
(b) Operating expenses and equipment	84,571	
(c) Reimbursements	−300,624	
186—For support of Department of Conservation		7,983,816
Schedule:		
(a) Personal services	6,477,965	
(b) Operating expenses and equipment	3,191,269	
(c) California Institute of Technology seismograph network	57,000	
(d) Reimbursements	−505,375	
(e) Federal funds	−326,675	
(f) Amount payable from State Highway Account, State Transportation Fund (Item 187)	−11,400	
(g) Amount payable from California Water Fund (Item 188)	−11,400	
(h) Amount payable from Strong-Motion Instrumentation Program Fund (Item 189)	−887,568	
provided, that the funds for two positions and associated operating expenses supported by the appropriation made in this item for the classification of mineral resource areas pursuant to Section 2761 of the Public Resources Code shall not be expended until after October 1, 1978, and shall be expended only upon completion and submission of a report by the Department of Conservation to the		

ITEM		AMOUNT
Department of Finance and the Chairman of the Joint Legislative Budget Committee, which shall contain all of the following elements: (a) A detailed assessment of the manpower needs to complete the classification task in urban and urbanizing areas in five years, to begin July 1, 1978. (b) Definition and description of the various elements of a five-year program, with time estimates of each. (c) An assessment of the department's ability to add two additional professional positions to the program in 1978–79. Provided further, that the positions engaged in the classification of mineral resource areas pursuant to Section 2761 of the Public Resources Code shall be used principally for the classification of such areas within urban and urbanizing portions of the state that are subject to urban expansion or other irreversible land uses. Provided further that $250,000 of the $500,000 appropriated for the well abandonment program shall be available only for emergency abandonments pursuant to allocation by the Director of Finance.		
187—For support of Department of Conservation to fund the state share of the California Institute of Technology seismograph network, to be transferred to Item 186, payable from the State Highway Account, State Transportation Fund		11,400
188—For support of Department of Conservation to fund the state share of the California Institute of Technology seismograph network, to be transferred to Item 186, payable from the California Water Fund		11,400
189—For support of Department of Conservation, in carrying out the functions of the Division of Mines and Geology, to be transferred to Item 186, payable from the Strong-Motion Instrumentation Program Fund		887,568
190—For support of Department of Forestry		83,979,300
Schedule:		
(a) Personal services	90,330,329	
(b) Operating expenses and equipment	28,271,676	
(c) Fire protection contract—counties	7,358,253	

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(d) Fire protection contract—United States Forest Service	2,438,905	
(e) Reimbursements	−42,705,016	
(f) Federal funds	−1,268,868	
(g) Amount payable from Professional Forester Registration Fund (Item 192)	−49,072	
(h) Amount payable from Environmental Protection Program Fund (Item 193)	−115,537	
(i) Amount payable from Timber Tax Fund (Item 194)	−14,370	
(j) Amount payable from Chapter 1163, Statutes of 1977	−267,000	

provided, that an amount not more than $100,000 in emergency fire suppression and detection costs and related emergency revegetation costs may be expended from the amounts appropriated for categories (a) and (b) without approval of the Department of Finance, provided further, that no funds shall be allocated for the Title II wood energy project by the Director of Finance, unless the Department of Forestry has provided locations where the material can be utilized at no cost to the state, and provided further, that to the extent reimbursements from wintertime fire protection contracts exceed $385,082, such funds shall be deposited in the General Fund.

191—For allocation by the Director of Finance to the Department of Forestry for emergency fire suppression	5,000,000
192—For support of Department of Forestry, in carrying out the function of forester registration, to be transferred to Item 190, payable from the Professional Forester Registration Fund	49,072
193—For support of Department of Forestry to fund a soil erosion study, to be transferred to Item 190, payable from the California Environmental Protection Program Fund	115,537
194—For support of Department of Forestry, to be transferred to Item 190, the sum of $14,370 is appropriated from the Timber Tax Fund	(14,370)
195—For support of State Lands Commission	5,122,321

Schedule:

(a) Personal services	5,947,631
(b) Operating expenses and equipment	1,709,405
(c) Reimbursements	−459,306

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(d) Federal funds	−103,884	
(e) Amounts payable under the provisions of Chapter 138, Statutes of 1964 (First Extraordinary Session)	−1,971,525	
196—For support of Seismic Safety Commission		507,088
Schedule:		
(a) Personal services	253,042	
(b) Operating expenses and equipment	254,046	
197—For transfer to the Fish and Game Preservation Fund (Item 200), solely for the support of existing programs devoted to nongame species management and protection, environmental protection, and conservation aides		2,255,889
provided, that the funding of conservation aides is an interim measure and shall not be considered as establishing a precedent.		
198—For allocation by the Department of Finance as loans to the Fish and Game Preservation Fund for working capital purposes, the sum of $2,000,000 is hereby appropriated from the General Fund, to be repaid upon such terms and conditions as may be prescribed by the Department of Finance		(2,000,000)
199—For transfer to the Fish and Game Preservation Fund (Item 200), for the support of programs relating solely to environmental protection, management of nongame species, and updating the wildlife element of the California Fish and Wildlife Plan, Department of Fish and Game, payable from the California Environmental Protection Program Fund		1,368,311
200—For support of Department of Fish and Game, and for the maintenance and construction of fish screens and other stream improvements, and for the purchase of land for game production, improvement of waterfowl areas and research in game management under provisions of the Pittman-Robertson Act, fish restoration and management projects under the provisions of the Dingell-Johnson Act, commercial fisheries research and development projects under the provisions of the Commercial Fisheries Research and Development Act (Bartlett Act); and for the state's share of expenses of the Pacific Marine Fisheries Commission, Department of Fish and Game, payable from moneys in the Fish and Game Preservation Fund, including revenues subject to the provisions of Section 13005 of the		

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	Fish and Game Code, which revenues are hereby appropriated to the extent required to meet the appropriation made by this item	30,731,726
	Schedule:	
	(a) Personal services	24,842,705
	(b) Operating expenses and equipment	13,435,955
	(c) Pittman-Robertson program	4,678,140
	(d) Dingell-Johnson program	1,783,040
	(e) Commercial fish research and development	309,148
	(f) Anadromous Fish Act	1,214,600
	(g) Pacific Marine Fisheries Commission	26,600
	(h) Reimbursements	−3,899,174
	(i) Federal funds	−8,035,088
	(j) Amount payable from the General Fund (Item 197)	−2,255,889
	(k) Amount payable from the California Environmental Protection Program Fund (Item 199)	−1,368,311
	provided, that any moneys received in reimbursement of expenditures from subitems (c), (d), (e), and (f) shall be credited to this appropriation.	
201	—For investigation into the decline of the market crab in state waters, Department of Fish and Game, payable from the Fish and Game Preservation Fund	303,333
202	—For research in the development of commercial fisheries of the Pacific Ocean and of marine products, Marine Research Committee, payable from the Fish and Game Preservation Fund from revenues derived under the provisions of Section 8046 of the Fish and Game Code	195,000
203	—For projects for the purpose of protecting and propagating migratory waterfowl and for the preservation of wetlands, Department of Fish and Game, payable from the Fish and Game Preservation Fund from revenues derived under the provisions of Section 3700 of the Fish and Game Code	202,750
204	—For the education or training of department employees, Department of Fish and Game, payable from the Fish and Game Preservation Fund from revenues derived under the provisions of Section 12018 of the Fish and Game Code	286,891
205	—For programs related to native species conservation and enhancement as prescribed in the Native Species Conservation and Enhancement Act, De-	

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partment of Fish and Game, payable from the Native Species Conservation and Enhancement Account in the Fish and Game Preservation Fund		29,400
206—For support of Wildlife Conservation Board, payable from the Wildlife Restoration Fund		279,713
Schedule:		
(a) Personal services	212,901	
(b) Operating expenses and equipment	66,812	
provided, that any money in the Wildlife Restoration Fund in excess of the appropriation made by this item shall continue to be available pursuant to Section 1352 of the Fish and Game Code.		
207—For support of Department of Navigation and Ocean Development, to be transferred to Item 208		244,593
208—For support of Department of Navigation and Ocean Development, the sum of $2,070,336 is appropriated from the Harbors and Watercraft Revolving Fund		(2,070,336)
and in addition thereto, any amounts received from federal grants or other sources.		
Schedule:		
(a) Personal services	1,430,183	
(b) Operating expenses and equipment	864,746	
(c) Feasibility determinations	20,000	
(d) Amount payable from General Fund (Item 207)	−244,593	
208.5—For preparation of a report to be submitted to the Legislature on or before January 1, 1979, including but not limited to, proposals for alternative means for providing a program of loans to persons owning or operating small craft harbor facilities, Department of Navigation and Ocean Development, payable from the Harbors and Watercraft Revolving Fund		25,000
210—For loans to cities, counties, or districts pursuant to Sections 70.2 and 71.4 of the Harbors and Navigation Code, Department of Navigation and Ocean Development, the sum of $7,263,000 is appropriated from the Harbors and Watercraft Revolving Fund		(7,263,000)
Schedule:		
(a) Benicia Marina—Solano County	1,450,000	
(b) Brisbane Marina—San Mateo County	200,000	
provided, that none of the funds appropriated for		

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	this project may be encumbered unless and until a permit, if a permit is required, has been granted by the San Francisco Bay Conservation and Development Commission.	
	(c) Channel Islands Marina—Ventura County	600,000
	(d) Emeryville Marina—Alameda County	625,000
	(e) Humboldt Bay—Woodley Island Marina—Humboldt County	1,188,000
	(g) Oakland Embarcadero Marina, Ph. IV—Alameda County	750,000
	(h) Oyster Point—San Mateo County	850,000
	(i) Planning loans—statewide	100,000
	(j) Richmond Marina—Contra Costa County	1,500,000
211	—For grants for construction and development of small craft launching facilities to cities, counties, districts, or other public agencies pursuant to Section 72.5 of the Harbors and Navigation Code, Department of Navigation and Ocean Development, the sum of $1,760,000 is appropriated from the Harbors and Watercraft Revolving Fund	(1,760,000)
	Schedule:	
	(a) East Park Reservoir—Colusa County	135,000
	(b) Edison Lake—Fresno County	125,000
	(c) Emeryville—Alameda County	175,000
	(d) Floating restrooms—statewide	100,000
	(e) Pittsburg—Contra Costa County	150,000
	(f) Redbud Park—Lake County	240,000
	(g) Rio Vista—Solano County	210,000
	(h) Ramp repairs and extensions—statewide	100,000
	(i) Salton City—Imperial County	250,000
	(j) Shelter Cove—Humboldt County	125,000
	(k) Tisdale Weir—Sutter County	150,000
212	—For allotment, pursuant to Section 663.7 of the Harbors and Navigation Code, for boating safety and enforcement programs, Department of Navigation and Ocean Development, the sum of $1,900,000 is appropriated from the Harbors and Watercraft Revolving Fund	(1,900,000)
213	—For allocation by the Director of Finance to provide for repairs, authorized by the Director of Finance, of damage at small craft harbor facilities constructed pursuant to Sections 70.2, 71.4, and 72.5 of the Harbors and Navigation Code, caused	

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	by emergency conditions, including but not limited to tidal waves or severe storms, and for payment of deficiencies in appropriations for the Department of Navigation and Ocean Development which may be authorized by the Director of Finance; the sum of $100,000, or so much thereof as may be necessary, is appropriated from the Harbors and Watercraft Revolving Fund	(100,000)
214—For support of California Coastal Commission		5,246,462
	Schedule:	
	(a) Personal services 4,701,837	
	(b) Operating expenses and equipment 2,747,333	
	(c) Reimbursements ..... −64,241	
	(d) Federal funds ..... −1,487,580	
	(e) Amount payable from Chapter 885, Statutes of 1977 ..... −650,887	
215—For assistance to local governments, California Coastal Commission, for coastal planning assistance as provided in Section 16 of Chapter 1330 of the Statutes of 1976, as amended by Section 28 of Chapter 1331 of the Statutes of 1976		356,425
	Schedule:	
	(a) Assistance to local planning agencies 1,701,425	
	(b) Federal funds ..... −1,345,000	
216—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the California Coastal Commission, of any new program or increased level of service of an existing program mandated by statute, State Controller		400,000
	provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.	
	Provided further, that none of the funds appropriated in this item may be approved for disbursement to any local entity unless the California Coastal Commission has first determined that federal funds are not available.	
217—For support of Department of Parks and Recreation		53,652,411
	Schedule:	
	(a) Personal services 45,819,917	

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	(b) Operating expenses and equipment	20,018,814
	(c) Reimbursements	−6,379,858
	(d) Federal funds	−1,682,721
	(e) Amount payable from Park and Recreation Revolving Account, General Fund (Item 218)	−296,011
	(f) Amount payable from State Park Highway Account, Bagley Conservation Fund	−900,000
	(g) Amount payable from Collier Park Preservation Fund (Item 219)	−1,842,860
	(h) Amount payable from Off-Highway Vehicle Fund (Item 220)	−844,790
	(i) Amount payable from Harbors and Watercraft Revolving Fund (Item 221)	−240,080
218—For support of the Department of Parks and Recreation, to be transferred to Item 217 by the State Controller, payable from the Park and Recreation Revolving Account, General Fund		296,011
218.5—For support of the Department of Parks and Recreation, to be transferred to Item 217 by the State Controller, payable from the California Environmental Protection Program Fund for the purpose of developing classroom field guides, and for outdoor and other required education purposes		35,000
219—For support of the Department of Parks and Recreation, to be transferred to Item 217 by the State Controller, payable from the Collier Park Preservation Fund		1,842,860
220—For support of the Department of Parks and Recreation, to be transferred to Item 217 by the State Controller, payable from the Off-Highway Vehicle Fund		844,790
221—For support of Department of Parks and Recreation, to be transferred to Item 217 by the State Controller, the sum of $240,080 is appropriated pursuant to subdivision (d) of Section 663.7 of the Harbors and Navigation Code, Harbors and Watercraft Revolving Fund		(240,080)
222—For local assistance for urban open-space and recreation local grants program, Department of Parks and Recreation, to be available for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years, to be allocated by the Director of Parks and		

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Recreation to counties, cities, cities and counties, and districts for acquisition or development, or both, of park and recreation areas and facilities and open-space areas in accordance with criteria approved in Section 2 of Chapter 6 of the Statutes of 1977		15,000,000
provided, that the Department of Finance may authorize the Department of Parks and Recreation to retain from this item an amount for administration of this program and for studies of urban park needs.		
222.1—For allocation by the Director of Finance, for subvention to local jurisdictions for the cost of operating state-owned beaches		2,500,000
provided, that no funds appropriated by this item shall be allocated for subvention to local jurisdictions where local operation and maintenance is required by contract or statute.		
223—For grants to counties, cities, or cities and counties pursuant to subdivision (a) of Section 38270 of the Vehicle Code, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund to be available for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years		615,000
Schedule:		
(a) County of Monterey, Laguna Seca Mini Bike Course	45,000	
(b) County of Sacramento, Sacramento Operation Grant, 1978–79	130,000	
(c) City of Huron, Huron Cycle Park, II	125,000	
(d) City of Marysville, River Front Off-Highway Vehicle Course	52,500	
(e) County of Riverside, De Anza Motorcycle Park, II	262,500	
224—For support of Department of Parks and Recreation, Division of Exposition and State Fair, and for payment of principal and interest on revenue bonds to meet the provisions of Section 15849 of the Government Code		3,125,918
Schedule:		
(a) Support	6,634,732	
(b) Payment of interest and principal on revenue bonds	1,130,000	
(c) Operating revenues payable from Item 225	—4,145,397	
(d) Amount payable from the Fair and Exposition Fund	—265,000	

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(e) Reimbursements ..... −228,417

provided, that no more than the amount actually needed to pay any deficit in principal and interest on the revenue bonds shall be made available for expenditure from subitem (b) of this item; and provided further, that the amount appropriated by subdivision (a) of Section 19622 of the Business and Professions Code shall be transferred by the State Controller to this item; provided further, that $80,000 appropriated by this item together with the remaining balance of $120,000 in planning money contained in Item 229, Budget Act of 1977, which remaining balance is hereby reappropriated, shall, notwithstanding Section 2 of this act, be expended by the Department of Parks and Recreation during the 1978–79 and 1979–80 fiscal years, solely for the preparation of a program and facilities master plan for the California Exposition and State Fair; provided further, that the $200,000 shall be expended by the department with the advice and program guidance of a task force organized, as provided herein; provided further the task force shall consist of six members appointed by the department to represent the interests of the department, the administration, and the fair community generally; provided further, that an additional six members shall be appointed by the Legislature, three by the Senate and three by the Assembly, in such manner as to provide representation for the two fiscal committees, the two policy committees, one representative from the City of Sacramento and one from the County of Sacramento; provided further, that the Director of Parks and Recreation shall designate the time and place of the first meeting and shall appoint a 13th member to serve as chairman of the task force subject to approval by a majority of the task force; provided further, that the task force members should possess background and relevant skills which will permit them to study existing and future programs for the California Exposition and State Fair with consideration toward: (1) revisions of the existing programs and uses of the land and structures for a fair, an exposition, and quality interim purposes, (2) the uses and deficiencies of the existing plant facilities, (3) the best uses of the existing lands, (4) present pedestrian and traffic flow patterns, (5) all feasible patterns of coopera-

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tion and joint use of the property with the City of Sacramento, the County of Sacramento and any other appropriate federal, state or local entities, (6) the addition of new structures and facilities, (7) integration of transportation services to the California Exposition and State Fair with regional transportation and (8) any other appropriate matters; provided further, that the management staff at the California Exposition and State Fair shall provide all reasonable assistance to the task force; provided further, that it is the intent of the Legislature that a major portion of the $200,000 herein made available be used for necessary expenses and to secure expert, technical and professional advice, analysis, and assistance for the department and the task force, including evaluating program and policy alternatives, studying economic and technical feasibility, preparing program statements, study plans and specifications, estimating markets, attendance, revenues and costs of construction and maintenance, and sources of funding; provided further, that the task force report shall contain (1) the major conclusions drawn from the above studies, (2) a short-term and long-range master plan for the California Exposition and State Fair (3) recommendations for legislation and implementing action; provided further, that the report shall be supported by a majority of the task force members and may contain views of any minority members; provided further, that the report shall be submitted to the Legislature and the administration 15 months after the first meeting of the task force.

225—For support of the Department of Parks and Recreation, Division of Exposition and State Fair, to be transferred to Item 224 by the State Controller provided, that the expenditures from the appropriation made by this item shall not exceed those operating revenues deposited in the General Fund by the Division of Exposition and State Fair. 4,145,397

226—For support of San Francisco Bay Conservation and Development Commission 722,119

Schedule:

(a) Personal services 736,747

(b) Operating expenses and equipment 362,277

(c) Federal funds ..... −376,905

227—For reimbursement in accordance with subdivi-

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	sion (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to the San Francisco Bay Conservation and Development Commission, of any new program or increased level of service of an existing program mandated by statute, State Controller.....	9,800
	provided, that allocations made to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code; provided further, that none of the funds appropriated by this item may be approved for disbursement to any local entity unless the San Francisco Bay Conservation and Development Commission has first determined that federal funds from the Coastal Zone Management Act are not available.	
228	—For transfer to the Water Resources Revolving Fund, to be transferred by the State Controller in such amounts as the Department of Finance may authorize, for support of Department of Water Resources, including cooperative work with other agencies	21,818,600
	Schedule:	
	(a) Continuing formulation of the California Water Plan..... 10,299,300	
	(b) Implementation of the State Water Resources Development System 2,526,900	
	(c) Public safety and prevention of damage..... 8,394,400	
	(d) Services 598,000	
	(e) General management..... 6,143,600	
	(f) Technical services 7,520,700	
	(g) Less charges to general funded programs .....—1,607,700	
	(h) Less charges to other funded programs .....—4,535,900	
	(i) Less charges to programs.....—7,520,700	
	provided, that the money so transferred be placed in a special account in that fund and shall not be available for expenditure after June 30, 1979; and any unencumbered balances shall be returned to the General Fund as of June 30, 1979.	
229	—For expenditure by the Department of Water Resources, in accordance with Chapters 1 (commencing with Section 12570), 2 (commencing	

ITEM		AMOUNT
	with Section 12639), 3 (commencing with Section 12800), 3.5 (commencing with Section 12840), and 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code, for payment of, and for reimbursement for necessary advances made for, the cost of cooperation by the state for major flood control projects adopted by the Legislature, for small flood control projects approved under Section 12750 of the Water Code, and for watershed protection and flood prevention projects as authorized pursuant to Chapter 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code, and administrative costs, Department of Water Resources	2,500,000
	provided, that no expenditure shall be made until the local organizations give assurances that they will maintain and operate the projects after completion in such manner as will accomplish the purposes for which the projects were authorized and constructed and as may be required by the federal agencies concerned and the Department of Water Resources, and that the local organizations will hold and save the State of California free from damages or claims due to the construction, installation, or operation of the project.	
230	—For expenditure by the Department of Water Resources, in accordance with the provisions of Part 9 (commencing with Section 12980) of Division 6 of the Water Code, for reimbursement of eligible local agencies for a portion of the annual maintenance or improvement costs incurred on nonproject levees	200,000
	provided, that no funds appropriated by this item shall be expended for the purpose of Part 9 (commencing with Section 12980) of Division 6 of the Water Code, unless a nonstate entity provides hold-harmless assurances to the State of California for the work which would be done with such funds.	
232	—For support of State Water Resources Control Board	10,414,216
	Schedule:	
	(a) Personal services 19,033,213	
	(b) Operating expenses and equipment 8,751,563	
	(c) Reimbursements ..... −814,760	
	(d) Federal funds ..... −11,579,934	

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(f) Amount payable from State Clean Water Fund	−4,975,866	

HEALTH AND WELFARE

234—For support of the Health and Welfare Agency Consolidated Data Center pursuant to Section 11778 of the Government Code		500,000
Schedule:		
(a) Personal services	2,294,767	
(b) Operating expenses and equipment	3,662,208	
(c) Reimbursements	−5,456,975	
235—For support of the Office of Statewide Health Planning and Development		1,200,956
Schedule:		
(a) Personal services	3,280,658	
(b) Operating expenses and equipment	3,396,040	
(c) Reimbursements	−1,267,597	
(d) Federal funds	−2,045,101	
(e) Amount payable from Health Facilities Construction Loan Insurance Fund	−252,330	
(f) Amount payable from the Hospital Building Account, Architecture Public Building Fund	−1,843,838	
(g) Amount payable from other appropriations	−66,876	

provided, that the Director of Statewide Health Planning and Development may give public notice relative to proposing or amending any rule and regulation which could result in increased cost to any program administered by the Office of Statewide Health Planning and Development only after approval by the Department of Finance as to the availability of funds; and provided further, that any rule or regulation adopted by the Director of Statewide Health Planning and Development during the 1978–79 fiscal year which adds to the cost of any program administered by the Office of Statewide Health Planning and Development shall not be effective, except for emergency regulations, any sooner than 30 days after notification in writing to the chairman of the committee in each house which considers appropriations, the chairmen of the appropriate policy committees, and the Chairman of the Joint Legis-

ITEM		AMOUNT
lative Budget Committee.		
236—For local assistance for the health manpower program, Office of Statewide Health Planning and Development		-0-
Schedule:		
(a) Family physician training	2,332,500	
(b) Nurse practitioner training program	445,114	
(c) Amount payable from Chapter 1162, Statutes of 1977	-2,332,500	
(d) Reimbursements	-445,114	
237—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the Office of Statewide Health Planning and Development, of any new program or increased level of service of an existing program mandated by statute, State Controller		120,960
provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.		
238—For support of Department on Aging and Commission on Aging		1,018,573
Schedule:		
(a) Support, Department on Aging	53,214,371	
(b) Support, Commission on Aging	226,870	
(c) Reimbursements	-138,000	
(d) Federal funds	-52,284,668	
and, in addition, any amounts received from federal grants or other sources shall be available for expenditure in accordance with the provisions of this item.		
239—For support of the Department of Alcohol and Drug Abuse		5,099,191
Schedule:		
(a) Personal services	4,541,358	
(b) Operating expenses and equipment	3,272,614	
(c) Special projects	428,469	
(d) Research center	493,975	
(e) Amount payable from other appropriations	-541,025	
(f) Reimbursements	-336,730	
(g) Federal funds	-2,759,470	
provided, that upon order of the Department of		

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	Finance, the State Controller shall transfer such funds as are necessary between this item and Item 240.	
240—For local assistance for alcoholism programs in accordance with the provisions of Part 2 (commencing with Section 11775) of Division 10.5 of the Health and Safety Code, Department of Alcohol and Drug Abuse		31,961,159
	Schedule:	
	(a) County-based programs 35,770,444	
	(b) State hospital services 1,147,467	
	(c) Public inebriate program 218,805	
	(d) Federal funds ..... —5,175,557	
	provided, that the Department of Finance may authorize the transfer of funds from this item to the Health Care Deposit Fund for the state's share of expenditures for alcoholism services provided to persons eligible under the California Medical Assistance Program.	
241—For local assistance for narcotics and drug abuse programs in accordance with the provisions of Part 3 (commencing with Section 11860) of Division 10.5 of the Health and Safety Code, Department of Alcohol and Drug Abuse		22,092,604
	Schedule:	
	(a) Local assistance 36,774,760	
	(b) Federal funds ..... —14,682,156	
	provided, that upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 262 for purposes of paying the cost of local assistance, narcotics and drug abuse programs.	
	Provided further, that of the total amount appropriated by this item, $1,531,965 shall be available for expansion of adolescent treatment, $610,275 shall be available for expansion of treatment for drug dependent women, $568,850 shall be available for expansion of parenting treatment, $788,910 shall be available for expansion of poly-drug treatment, and $1,000,000 shall be available for increases in reimbursement to residential facilities to meet the costs of licensing standards; provided further, that none of the funds subject to the provisos contained in this paragraph shall be utilized until 30 days after the submission of a plan for the expenditure of such funds to the Chairman of the Joint Legislative Budget Committee.	

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242—For local assistance for narcotics and drug abuse programs, Department of Alcohol and Drug Abuse		355,000
provided, that the funds appropriated by this item shall be expended by grant or contract for intervention and education and other types of prevention activities specifically associated with the juvenile and adolescent use of phencyclidine, commonly referred to as PCP or Angel Dust.		
243—For support of the Governor's Advisory Committee on Child Care appointed pursuant to Section 8254 of the Education Code		74,471
244—For support of Department of Health Services ..		49,123,408
Schedule:		
(a) Personal services	74,560,502	
(b) Operating expenses and equipment	37,365,036	
(c) For transfer to the Health Care Deposit Fund	21,396,195	
(d) Reimbursements	−11,976,261	
(e) Federal funds	−6,806,413	
(f) Amount payable from other appropriations	−387,455	
(g) Amount payable from Hazardous Waste Control Account, General Fund	−919,468	
(h) Amount payable from Motor Vehicle Account, State Transportation Fund (Item 247)	−302,466	
(k) Amount payable from Health Care Deposit Fund	−48,904,097	
(i) Amount payable from Item 245 (licensing)	−12,134,286	
(j) Amount payable from Item 246 (procurement project)	−2,767,879	
provided, that the funds appropriated in subitem (c) shall be transferred by the Controller to the Health Care Deposit Fund to match federal funds for support of the Department of Health Services; provided further, that the Director of Health Services may give public notice relative to proposing or amending any rule or regulation which could result in increased cost to any program administered by the Department of Health Services only after approval by the Department of Finance as to the availability of funds; provided further, that any rule or regulation adopted by the Director of the Department of Health Services during		

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the 1978–79 fiscal year which adds to the cost of any program administered by the Department of Health Services shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.

Provided further, that should any additional funds become available to the state for venereal disease programs, such funds shall be used in lieu of funds appropriated from the General Fund for such purpose.

Provided further, that it is the intent of the Legislature that the Department of Health Services move forward with the development of a system to produce reliable and timely information needed for decisionmaking on issues which affect the Medi-Cal program.

Provided further, that the department shall issue a report no later than December 15, 1978, outlining the steps it has taken, and proposes to take, to accomplish this end.

Provided further, that any funds appropriated by this item for grants and contracts for lupus erythematosus research shall be subject to the provisions of Section 5 of Chapter 215 of the Statutes of 1977.

244.1—For continuation of the program of prior authorization of Medi-Cal hospital admissions, Department of Health Services 397,239

Schedule:

(a) For prior authorization of Medi-Cal hospital admissions 1,215,533

(b) For transfer to the Health Care Deposit Fund 397,239

(c) Transfers from the Health Care Deposit Fund ..... —1,215,533

provided, that these funds shall be used only to the extent needed to provide prior review and approval of hospital admissions of Medi-Cal patients in geographical areas in which the professional standards review organizations do not provide for prior authorization of hospital admissions.

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Provided further, that the funds appropriated in this item shall not be used to fund other activities in the Department of Health Services or be used to fund operating deficits in Item 244 not related to the program of prior authorization of Medi-Cal hospital admissions.

Provided further, that funds from this item may be transferred to Item 244.2 for purposes of funding professional standards review organizations.

244.2—To the Department of Health Services for contracts with professional standards review organizations 1,737,996

245—For support of the Department of Health Services for licensing and certification 5,273,158

Schedule:

(a) Health care facilities licensing 12,134,285
(b) For transfer to the Health Care Deposit Fund 1,040,109
(c) Federal funds ..... −2,786,013
(d) Amount payable from Health Care Deposit Fund ..... −5,115,223

provided, that upon order of the Department of Finance, the State Controller shall transfer funds from (b) of this item to the Health Care Deposit Fund for the state's share of expenditures under the California Medical Assistance Program.

246—For support of the Department of Health Services, to be transferred to Items 244 and 249 for the implementation of the new fiscal intermediary contract 1,473,104

Schedule:

(a) For fiscal intermediary procurement 2,767,879
  (1) Project support and implementation 2,138,789
  (2) Dental claims request for proposal 170,630
  (3) Eligibility redesign 458,460
(b) Transfer to the Health Care Deposit Fund 1,473,104
(c) Transfer from the Health Care Deposit Fund ..... −2,767,879

provided, that in the event increased federal funds are received in support of the Medi-Cal eligibility system redesign effort, an offsetting amount of the General Fund appropriation for this effort shall revert.

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246.1—To the Department of Health Services for the Medi-Cal fiscal intermediary contract, to be allocated by the Department of Finance 3,564,000
Schedule:
(a) For fiscal intermediary contract .. 6,480,000
(b) Transfer to the Health Care Deposit Fund 3,564,000
(c) Transfer from the Health Care Deposit Fund ..... —6,480,000
provided, that the Department of Finance shall allocate only the amount required by the contractor for operations in the 1978–79 fiscal year, the amount to be determined from information in the contractor's price bid and through consultation with the contractor.

Provided further, that the Department of Finance shall notify the Legislature in writing, prior to the signing of a fiscal intermediary contract, of the amount required for operations in the 1978–79 fiscal year, and shall provide a detailed explanation of how the figure was derived.

Provided further, that the Department of Finance shall return to the General Fund, at the time the Legislature is notified of estimated operating cost, any and all funds not required for the new fiscal intermediary contract.

Provided further, that the Department of Finance shall provide the fiscal committees and the Chairman of the Joint Legislative Budget Committee with detailed information as to the cost projections for the next five fiscal years relative to those portions of the fiscal intermediary operations that the state is assuming in the request for proposal not later than January 1, 1979.

Provided further, that the Department of Finance, prior to any further assumption by the state of fiscal intermediary responsibilities, shall provide the fiscal committees with a complete report on the prospective assumption, with cost analyses and rationale therefor.

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	Provided further, that the Department of Finance shall submit annual performance reports with the submission of the first departmental budget to the fiscal committees for the duration of the contract awarded under the request for proposal. Such reports shall include any contract modifications resulting in additional cost to the state, work flow analyses, contractor performance evaluation, provider and beneficiary satisfaction surveys and analyses, and all relevant cost data.	
247	—For support of Department of Health Services, to be transferred to Item 244, payable from the Motor Vehicle Account, State Transportation Fund	302,466
248	—For transfer to the Health Care Deposit Fund to provide for the state's share of Medical Assistance Program expenditures for medical care and services	1,495,908,138
	provided, except as otherwise provided in this item, that the amount authorized to be expended by this item shall fully cover the state's share of payments for medical care and services as defined in the Welfare and Institutions Code, for the 1978–79 fiscal year; provided further, that notwithstanding any other provision of law, funds transferred from this item to the Health Care Deposit Fund by the State Controller shall not exceed the state's share, determined pursuant to a plan approved by the Director of Finance, of bills for services and administration approved for payment as certified by the Director of Health Services.	
	Provided further, that after June 30, 1979, a transfer to the Health Care Deposit Fund from this item shall be permitted to meet the total General Fund obligation.	
	Provided further, that upon the request of the Director of Health Services and the approval of the Director of Finance, funds may be advanced to the Health Care Deposit Fund only pursuant to the provisions of Section 16351 of the Government Code.	
	Provided, notwithstanding any other provision of law, that the Department of Health Services may give public notice relative to proposing or amending any rule or regulation which could result in increased cost to the Medical Assistance Program only after approval by the Department of Finance as to the availability of funds; provided further, that any rule or regulation adopted by the	

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Director of the Department of Health Services during the 1978–79 fiscal year which adds to the cost of the Medical Assistance Program shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.

Provided, that notwithstanding any other provision of law, any federal and county funds received under the provisions of Section 14157 of the Welfare and Institutions Code during the 1978–79 fiscal year, for expenditures for health care services pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, made from funds transferred to the Health Care Deposit Fund from the General Fund in prior years, shall be transferred from the Health Care Deposit Fund to the General Fund.

Provided, that notwithstanding any other provision of law, the disposition of any money recovered for previously paid health care services provided pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code shall be as follows:

(1) If recovered from a third party who is civilly liable or under a contractual obligation, the nonfederal share shall, after being deposited in the Health Care Deposit Fund, be transferred to the General Fund.

(2) If recovered by the fiscal intermediary, both federal and nonfederal shares, except as provided in paragraph (1) of this proviso, are hereby appropriated and shall be expended as soon as practicable for medical care and services as defined in the Welfare and Institutions Code.

(3) If recovered by the state for settlement of county hospital cost report audits, both federal and nonfederal shares are hereby appropriated and shall be expended as soon as practicable for medical care and services as defined in the Welfare and Institutions Code.

(4) If not otherwise provided for in this proviso, the nonfederal share shall, after being deposited in the Health Care Deposit Fund, be transferred to the General Fund.

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Provided, that notwithstanding any other provision of law, accounts receivable, for recoveries as described in this item, shall have no effect upon the surplus of the General Fund or the Health Care Deposit Fund.

Provided, that notwithstanding any other provision of law, money recovered as described in this item required to be transferred from the Health Care Deposit Fund to the General Fund shall be credited by the State Controller to the General Fund without regard to the appropriation from which it was drawn.

Provided further, that funds appropriated by this item for the Mediscreen Program shall be allocated and administered in conjunction with funds appropriated in Item 252(j) for the Child Health Disability Prevention Program.

Provided further, that the Department of Health Services shall reimburse hospitals operated by the University of California for medical teaching purposes, where the university is responsible for the operating costs of such a hospital, at rates for services to Medi-Cal patients which results in the minimum General Fund liability for the care of such patients.

Provided further, that none of the funds appropriated by this item shall be used to pay for abortions, except under any of the following circumstances:

(a) Where the life of the mother would be endangered if the fetus were carried to full term.

(b) Where the pregnancy is ectopic.

(c) Where the pregnancy results from an act punishable under Section 261 of the Penal Code, and such act has been reported, within 60 days, to a law enforcement agency or a public health agency which has immediately reported it to a law enforcement agency, and the abortion occurs during the first trimester.

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(d) Where the pregnancy results from an act punishable under Section 261.5 of the Penal Code, and the female is under 16 years of age, and the abortion is performed no later than the first trimester, provided the female's parent or guardian or, if none, an adult of the female's choice is notified at least five days prior to the abortion by the physician who performs the abortion. Regulations governing the notice requirement shall be promulgated by the Director of the Department of Health Services.

(e) Where the pregnancy results from an act punishable under Section 285 of the Penal Code, and such act has been reported to a law enforcement agency or a public health agency which has immediately reported it to a law enforcement agency and the abortion occurs no later than during the second trimester.

(f) Where it is determined by fluid obtained through amniocentesis that the mother is likely to give birth to a child with a major or severe genetic or congenital abnormality due to the presence of chromosomal abnormalities, neural tube defects, biochemical diseases, hemoglobinopathies, sex-linked diseases, and infectious processes.

(g) Where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term, on account of any of the following conditions: toxemia; renal failure; diabetes with vascular degeneration; thrombosis; Addison's disease; high blood pressure with renal complications; high blood pressure with previous cardio-vascular accident; hydatidiform mole; congestive cardiac failure; and placentia previa, when so certified under penalty of perjury by two physicians, one of whom, where practicable, is a specialist in the affected medical discipline, and documentation thereof is provided with the claim for payment.

Provided further, that nothing in this item shall be interpreted to prohibit payment for drugs or devices to prevent implantation of the fertilized ovum.

Provided further, that limitation on payment for abortions provided for in this item shall apply only to abortions performed after August 15, 1978.

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Provided further, that in every case, there be, prior to abortion, appropriate counseling regarding the situation, complications, risks, benefits, and alternatives.

Provided further, that the appropriate state department provide the Legislature by May 1, 1979, a report listing the number of abortions theretofore paid for during fiscal year 1978–1979 pursuant to this act, with such report to specify the number of abortions performed under each category, and further specify the reasons or conditions within each category which qualified the particular pregnancy for the abortion and payment pursuant to this item.

Provided further, that the General Fund shall make a loan available not to exceed $45 million to be transferred from time to time as needed to the Health Care Deposit Fund (HCDF) to meet cash needs. Provided further, that any additional loan requirement in excess of $45 million shall be processed in the manner prescribed by Section 16351 of the Government Code.

Provided further, that by August 1, 1978, the Director of Health Services shall issue a listing of the types of surgeries which will require independent consultation by a second physician.

249—For transfer to the Health Care Deposit Fund to provide for the state's share of Medical Assistance Program expenditures for fiscal intermediary services 17,716,500

provided, that the amount authorized to be expended by this item shall fully cover the state's share of payments for fiscal intermediary services for the 1978–79 fiscal year; provided further, that notwithstanding any other provision of law, funds transferred from this item to the Health Care Deposit Fund by the State Controller shall not exceed the state's share, determined pursuant to a plan approved by the Director of Finance, of bills for services and administration approved for payment as certified by the Director of Health Services.

Provided further, that after June 30, 1979, a transfer to the Health Care Deposit Fund from this item shall be permitted to meet the total General Fund obligation. Provided further, that upon the request of the Director of Health Services, and the approval of the Director of Finance, funds

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may be advanced to the Health Care Deposit Fund only pursuant to the provisions of Section 16351 of the Government Code.

Provided further, that notwithstanding any other provision of law, the Department of Health Services may give public notice relative to proposing or amending any rule or regulation which could result in increased cost to the Medical Assistance Program only after approval by the Department of Finance as to the availability of funds; provided further, that any rule or regulation adopted by the Director of the Department of Health Services during the 1978–79 fiscal year which adds to the cost of the Medical Assistance Program shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.

250—For transfer to the Health Care Deposit Fund to provide for the state's share of Medical Assistance Program expenditures for county administration provided, that the amount authorized to be expended by this item shall fully cover the state's share of payments for county administration for the 1978–79 fiscal year; provided further, that notwithstanding any other provision of law, funds transferred from this item to the Health Care Deposit Fund by the State Controller shall not exceed the state's share, determined pursuant to a plan approved by the Director of Finance, of bills for services and administration approved for payment as certified by the Director of Health Services. 98,265,775

Provided further, that after June 30, 1979, a transfer to the Health Care Deposit Fund from this item shall be permitted to meet the total General Fund obligation.

Provided further, that upon the request of the Director of Health Services, and the approval of the Director of Finance, funds may be advanced to the Health Care Deposit Fund only pursuant to the provisions of Section 16351 of the Government Code.

Provided further, that notwithstanding any other provision of law, the Department of Health Services may give public notice relative to proposing or amending any rule or regulation which could result in increased cost to the Medical Assistance Program only after approval by the De-

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partment of Finance as to the availability of funds; provided further, that any rule or regulation adopted by the Director of Health Services during the 1978–79 fiscal year which adds to the cost of the Medical Assistance Program shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.

Provided further, that during the 1978–79 fiscal year, the Department of Health Services shall continue the implementation of a plan whereby costs for county administration will be effectively controlled within the amount appropriated by this item.

Provided further, that notwithstanding any provisions of the Welfare and Institutions Code to the contrary, the amount of state funds available to counties for the administration of the Medical Assistance Program shall be limited to the amount appropriated in this item, administered in accordance with the County Administrative Cost Control Plan by the Department of Health Services for fiscal year 1978–79.

Provided further, that the Department of Health Services shall report by October 1, 1978, to the Legislature and the Department of Finance, cost-of-living increases to be reimbursed to each county in excess of 6 percent for the 1978–79 fiscal year with an explanation of the reasons therefor.

251—For transfer to Item 248, upon order of the Department of Finance, for the state's share of rate increases for county hospital outpatient service, community clinics, and community free clinics .. 25,000,000

Provided, that the amount of $13,700,000 is appropriated to equalize the reimbursement rates for hospital outpatient services rendered by hospital compensated physicians.

Provided further, that the amount of $11,300,000 is appropriated for increased reimbursement rates for hospital outpatient services provided in county and county contract hospitals, in community clinics, and in free clinics in order to assure availability of adequate resources for Medi-Cal eligibles.

Reduction in local health services is likely as a result of the passage of Proposition 13. The Legislature finds that substantial reductions in the level of county outpatient services would not be ab-

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	sorbed by private physicians, that use of expensive emergency room services for routine medical problems would be increased, and that some Medi-Cal eligibles not receiving care in a timely way would develop more serious and more costly medical problems. It is the intent of the Legislature to assist counties in minimizing the reductions of outpatient health care services by increasing Medi-Cal program rates for county and county contract hospitals, community clinics, and free clinics for outpatient services.		
252—For assistance to cities, counties and local public and private nonprofit agencies for health services, Department of Health Services			42,128,290
	Schedule:		
	(a) For a tuberculosis control program in accordance with the provisions of Sections 3279 to 3295 and 3315 to 3317, inclusive, of the Health and Safety Code	344,266	
	(b) Local health agencies, districts, and private nonprofit agencies, in accordance with the provisions of Article 3 (commencing with Section 300), Chapter 2, Part 1, Division 1 of, Chapter 8 (commencing with Section 1100), Part 2, Division 1 of, and Chapter 7 (commencing with Section 3380), Chapter 8 (commencing with Section 3400), and Chapter 10 (commencing with Section 3480) of, Division 4 of, the Health and Safety Code	9,449,525	
	(c) Special medical care program	2,420,062	
	Subschedule:		
	(1) Renal dialysis program in accordance with Article 7.7 (commencing with Section 417), Chapter 2, Part 1, Division 1 of the Health and Safety Code	876,409	
	(2) Genetically handicapped person's program in accord-		

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	ance with Article 3.6 (commencing with Section 340) of Chapter 2 of Division 1 of the Health and Safety Code..... 1,543,653	
(d)	Genetic disease prevention	3,373,342
(e)	Tay-Sachs disease screening	371,000
(f)	Immunization assistance.....	1,169,358
(g)	Indian health services in accordance with Article 14 (commencing with Section 429.30), Chapter 2, Part 1, Division 1 of the Health and Safety Code.....	2,312,826
(h)	Family planning services in accordance with Sections 10053.2 and 10053.3 of the Welfare and Institutions Code	25,451,873
(i)	Maternal and child health services	9,642,708
(j)	Child health disability prevention in accordance with Article 3.1 (commencing with Section 306), Chapter 2, Part 1, Division 1 of the Health and Safety Code.....	12,478,252
(k)	Rural health in accordance with Part 4 (commencing with Section 1185) of Division 1 of the Health and Safety Code.....	2,025,625
(*l*)	For transfer to the Health Care Deposit Fund	2,418,988
(m)	Amount payable from the Health Care Deposit Fund	−7,720,773
(n)	Federal funds.....	−16,740,484
(o)	Amount payable from other appropriations.....	−4,271,296
(p)	Amount payable from General Fund loan to the Genetic Disease Testing Fund in accordance with Section 6 of Chapter 1037	−546,982
(q)	Amount payable from the Immunization Adverse Reaction Fund in accordance with Article 14.5 (commencing with Section 429.35) Chapter 2, Part 1 of Division 1 of the Health and Safety Code	−50,000

provided, that upon order of the Department of

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	Finance, the State Controller shall transfer funds from subitem (j) to the Health Care Deposit Fund for the state's share of expenditures for child health disability prevention services provided to persons eligible under the California Medical Assistance Program.	
253—For assistance to cities, counties, and local public and private nonprofit agencies for crippled children's services, Department of Health Services.. Schedule:		26,792,767
	(a) Services to physically handicapped children in accordance with provisions of Article 2 (commencing with Section 248) of Chapter 2 of Division 1 of the Health and Safety Code..... 33,438,301	
	(b) Reimbursements .....—1,196,734	
	(c) Federal funds .....—4,483,800	
	(d) Family repayments..... —965,000	
	provided, that any person who is eligible for and is receiving services under the program funded by this item shall not be denied services or suffer an interruption of services because of any relocation within this state.	
254—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the Department of Health Services, of any new program or increased level of service of an existing program mandated by statute, State Controller		169,488
	provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.	
255—For allocation by the Department of Finance to the Departments of Health Services and Social Services, in augmentation of their respective appropriations, for adjustments in federal financial participation in health and welfare programs affected by the reorganization pursuant to Chapter 1252 of the Statutes of 1977		3,000,000
	provided, that the Department of Finance shall notify the Chairman of the Joint Legislative Budget Committee of each allocation made pursuant to this item.	

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256—For support of the State Department of Developmental Services		8,388,883
Schedule:		
(a) Personal services	13,585,161	
(b) Operating expenses and equipment	4,909,294	
(c) Reimbursements	−10,105,572	

Provided further, that the Director of Developmental Services may give public notice relative to proposing or amending any rule or regulation which could result in increased cost to any program administered by the State Department of Developmental Services only after approval by the Department of Finance as to the availability of funds.

Provided further, that any rule or regulation adopted by the Director of Developmental Services during the 1978–79 fiscal year which adds to the cost of any program administered by the State Department of Developmental Services shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.

Provided further, that positions authorized for the handicapped assessibility survey shall be limited to fiscal year 1978–79. Continuation of these positions in the subsequent year may be proposed but shall be reviewed by the Legislative Analyst.

257—For support of the state hospitals in the State Department of Developmental Services		—0—
Schedule:		
(a) State hospitals	334,749,903	
(b) Payable from Item 258	−230,879,006	
(c) Payable from appropriations to the Department of Mental Health	−96,619,997	
(d) Reimbursements	−7,250,900	

provided, that upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Items 258, 261 and 262.

258—For local assistance for the developmental disabilities program, State Department of Developmental Services		359,100,588
Schedule:		
(a) State hospital services	232,722,236	
(b) For contracts with regional center operations	118,275,950	

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(c)	Community program development and special project	905,711
(d)	Protective living services	10,130,365
(e)	State Council on Developmental Disabilities	574,004
(f)	Area boards on developmental disabilities	1,033,206
(g)	Program Development Fund (Sec. 4677, W & I Code)	600,000
(h)	Developmental Disabilities Prevention Project	820,031
(i)	Provider rate increase	4,611,483
(j)	Workshop activity center (unfunded and partially funded clients)	2,500,000
(*l*)	Federal funds	−2,512,921
(m)	Reimbursements	−9,959,477
(n)	Amount payable from the Program Development Fund	−600,000

provided, that the Department of Finance may authorize the transfer of funds from this item to Item 274 to match federal funds to provide protective living services to the mentally retarded; provided further, that upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Items 257, 261 and 262; provided further, that the Department of Finance may authorize the transfer of funds from this item to the Health Care Deposit Fund for the state's share of expenditures for developmental disabilities services provided to persons eligible under the California Medical Assistance Program.

Provided further, it is intended, by adoption of the "Analysis of the Functioning of Residential Care Rates for Regional Center Clients" presented to the Legislature on March 1, 1978, that the amounts identified for wage increases in that report be allocated to direct-care staff in the facilities.

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Provided further, that allocation made pursuant to category (j) of this item shall be limited to the annual cost, or such lesser proportional amount as the director may determine, such that an equal distribution of the appropriated funds shall be available to reimburse the total number of unfunded and partially funded developmentally disabled persons who are enrolled in workshops on July 1, 1978, as determined by the Department of Rehabilitation, incurred by such workshops and centers with respect to each eligible person.

Provided further, that no expenditures shall be made from funds available pursuant to category (n) of this item until the department's request for proposal has first been approved by the Department of Finance and not sooner than 30 days after notification in writing of the proposal is provided to the Chairman of the Joint Legislative Budget Committee.

Provided further, that the State Department of Developmental Services shall comply with the provisions of Article 3 (commencing with Section 4300) of Chapter 2 of Division 4 of the Welfare and Institutions Code; and provided further, that no position shall be administratively established nor shall any authorized position be redirected to replace the person appointed as chief executive officer of the state hospital.

Provided further, that the Department of Developmental Services shall not use those positions or funds which were diverted in the 1977–78 fiscal year to replace the person appointed as chief executive officer of the state hospital unless legislation is enacted authorizing a third executive officer position.

Provided further, that the State Department of Developmental Services shall not use positions or funds budgeted in the state hospitals elsewhere in the department.

Provided further, that funds specified in category (d) may not be expended until the department submits a report to the Joint Legislative Budget Committee on the status of the opt-out policy.

Provided further, that funds in category (j) shall fund only actual costs per month per person for sheltered workshops up to a maximum of $225.

Provided further, that funds in category (j)

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shall be limited to the total number of clients who are enrolled in workshops on July 1, 1978, as determined by the Department of Rehabilitation.

Provided further, that funds appropriated for the state hospital special proficiency training program shall not be used to compensate any staff for overtime.

Provided further, that proposals for allocation of funds for Developmental Disabilities Prevention Projects pursuant to category (k) shall be reviewed and approved by a committee composed of representatives from at least the following groups:

(a) State Developmental Disabilities Council.

(b) Maternal and Child Health Program of the State Department of Health Services.

(c) State Department of Education.

(d) Association of local health officers.

(e) Private agencies providing services to developmentally disabled or at risk infants.

(f) Hospitals with intensive care nurseries.

Provided further, that priority for allocation of funds shall be given to proposals which provide for the regional centers contracting with or purchasing from other public or private agencies direct assessment, follow along treatment, or therapeutic services.

Provided further, that proposals for regional centers to provide direct assessment, follow along treatment, or therapeutic services shall only be approved if the regional center fully and clearly documents that there is no other appropriate agency capable of providing the particular direct service.

Provided further, that proposals shall include at least the following information:

(a) An accounting of the regional centers budget, actual expenditures, and activities in the area of prevention for the prior three years.

(b) A detailed description of the service system for the developmentally disabled and the at risk infant within the geographical area served by the regional center; and how this project will fit into this service system.

259—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the State Department of Developmental Services,

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	of any new program or increased level of service of an existing program mandated by statute, State Controller	123,438
	provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.	
260	—For support of the State Department of Mental Health.....	10,711,367
	Schedule:	
	(a) Personal services 16,942,621	
	(b) Operating expenses and equipment 9,828,752	
	(c) Reimbursements ..... -16,060,006	
	provided, that the Director of Mental Health may give public notice relative to proposing or amending any rule or regulation which could result in increased cost to any program administered by the State Department of Mental Health only after approval by the Department of Finance as to the availability of funds; and provided further, that any rule or regulation adopted by the Director of Mental Health during the 1978–79 fiscal year which adds to the cost of any program administered by the State Department of Mental Health shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.	
261	—For support of the hospitals for the mentally ill for judicially committed patients and patients committed pursuant to the Penal Code, State Department of Mental Health	37,813,487
	Schedule:	
	(a) State-operated services 34,663,228	
	(b) Community-based programs 3,044,259	
	(c) Program evaluation and patient tracking system 106,000	
	provided, that upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Items 257, 258 and 262.	
	Provided further, that funds appropriated for the State Hospital Special Proficiency Training Program shall not be used to compensate staff for overtime.	
262	—For assistance to local agencies in the establish-	

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	ment and operation of mental health services, in accordance with the provisions of Division 5 (commencing with Section 5000) of the Welfare and Institutions Code, State Department of Mental Health.....	353,478,123
	Schedule:	
	(a) Local mental health services 230,006,554	
	(b) State-operated services 116,899,125	
	(c) Expansion of existing services 6,572,444	
	and in addition, any amounts transferred from the Health Care Deposit Fund shall augment and be available for expenditure for the purposes specified in categories (a) and (c).	
	Provided, that the Department of Finance may authorize the transfer of funds from this item to the Health Care Deposit Fund for the state's share of expenditures for mental health services provided to patients eligible under the California Medical Assistance Program.	
	Provided further, that upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Items 257, 258 and 261.	
	Provided further, that upon order of the Department of Finance, funds may be transferred to Item 274 to match federal funds in order to provide services to former, potential, and current recipients of public assistance receiving mental health services under the provisions of Division 5 (commencing with Section 5000) of the Welfare and Institutions Code.	
	Provided further, that no county shall receive an allocation from the amounts specified in category (c) unless the county maintains its expenditures for existing programs at the levels at which they were funded by the county in the 1977–78 fiscal year.	
	Provided further, that the State Department of Mental Health shall comply with the provisions of Article 3 (commencing with Section 4300) of Chapter 2 of Division 4 of the Welfare and Institutions Code; and provided further that no position shall be administratively established nor shall any authorized position be redirected to replace the person appointed as chief executive officer of the state hospital.	
	Provided further, that the State Department of Mental Health shall not use any positions or any	

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funds which were diverted in 1977–78 to replace the person appointed as chief executive officer of the state hospital unless legislation is enacted authorizing a third executive officer position.

Provided further, that the State Department of Mental Health shall not use positions or funds budgeted in the state hospitals elsewhere in the department.

Provided further, that funds appropriated for the State Hospital Proficiency Training Program shall not be used to compensate staff for overtime.

Provided further, that the amount reappropriated in S.B. 2212 as enacted by the Legislature in the 1977–78 Regular Session shall be used solely for the development and operation of local treatment programs that will permit diversion to local facilities for minors or for persons described in Sections 5150 or 5350 of the Welfare and Institutions Code or Section 4011.6 of the Penal Code, who would otherwise be served through state hospitals, provided further, that such funds shall be allocated on the basis of county plans approved by the Department of Mental Health and the Department of Finance; provided further, that expenditure of such funds shall be made not sooner than 30 days after notification in writing of the proposal is made to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairman of the committee, or his designee shall designate.

263—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the State Department of Mental Health, of any new program or increased level of service of an existing program mandated by statute, State Controller 283,660

provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.

264—For support of Employment Development Department 17,483,060

Schedule:

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(a) Work incentive programs, as specified in Division 2 (commencing with Section 5000) of the Unemployment Insurance Code, for transfer by the State Controller to the Special Deposit Fund..... 4,426,900

provided, that the State Controller shall transfer these funds only at such time as federal funds are deposited in the Special Deposit Fund and no transfer so made shall exceed 12.5 percent of the amount of federal funds so deposited; and provided, further, the amount available for transfer to the Special Deposit Fund shall be reduced by the amount in cash or in kind available from other sources as the state's share of the work incentive program, as determined by the Employment Development Department and certified to the State Controller.

(b) Service Center Program as specified in Section 301.5 of the Unemployment Insurance Code..... 4,567,081

(c) Office of Economic Opportunity and, in addition, any amounts received from federal grants or other sources shall be available for expenditure in accordance with the provisions of this item 155,500

Subschedule:

(1) Support..... 8,905,292

(2) Federal funds .....—8,749,792

provided, that no funds may be expended for this category unless and until federal matching funds are available for the purpose of funding this office ; provided further, that positions funded by this category shall be used only for authorized activities of the Office of Economic Opportunity.

(d) For payment to various local jurisdictions and state agencies for support of the migratory agricultural workers..... 3,993,166

provided, that no funds shall be expended from this category to build new housing or to replace or renovate existing housing unless a formal rehabilitation plan is developed by the department and approved by the Department of Finance and a

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	30-day written notification of the plan is provided to the Chairman of the Joint Legislative Budget Committee. Such formal rehabilitation plan shall identify, both in relation to the housing units and to the day care facilities, the following: (1) specific projects and associated costs planned for the budget year; (2) an assessment of any remaining need and associated costs and plans to meet such needs; and (3) criteria used to establish priorities for the selection of projects to be undertaken; provided further, that no less than $428,000 of the funds collected from migrant housing rental fees shall be set aside for use only to rehabilitate the migrant day care centers for purposes of correcting problems potentially dangerous to the health and safety of the children served and to meet documented increase in utility costs of housing.	
	(e) Job Agents Program as specified in Division 3 (commencing with Section 9000) of the Unemployment Insurance Code	1,840,413
	(f) Youth Employment and Development Act of 1977 as specified in Part 1 of Division 3 (commencing with Section 9800) of the Unemployment Insurance Code.....	2,500,000
	provided, that the expenditure of funds appropriated by this category, together with the funds appropriated pursuant to Section 2 of Chapter 678, Statutes of 1977, shall not exceed $5,000,000 in fiscal year 1978–79.	
265—For support of Employment Development Department, payable from the Department of Employment Development Contingent Fund.....		2,048,825
	and in addition thereto, any grants made available by the federal government; provided, that all or any portion of this appropriation may be transferred to the Unemployment Administration Fund upon executive order of the Department of Finance.	
266—For administration of unemployment compensation disability benefits, Employment Development Department, the sum of $27,005,948 is appropriated from the Unemployment Compensation Disability Fund		(27,005,948)
267—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of		

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	the Employment Development Department, of any new program or increased level of service of an existing program mandated by statute, State Controller	1,839,000
	provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and subdivision (d) of Section 2231 of the Revenue and Taxation Code.	
	Provided further, that, notwithstanding any other provision of this section, the appropriation made by this item is available to the department for the payment of deficiencies incurred in connection with unemployment benefits for classified school employees in the 1975–76, 1976–77 and 1977–78 fiscal years.	
268	For support of Department of Rehabilitation	11,991,230
	Schedule:	
	(a) I. Vocational rehabilitation of the disabled	11,485,113
	(1) Total program 97,760,813	
	(2) Reimbursements −6,064,693	
	(3) Federal funds −80,211,007	
	(b) II. Small business and job development	296,898
	(1) Total program 3,473,607	
	(2) Reimbursements −8,105	
	(3) Federal funds −3,168,604	
	(c) III. Development of community rehabilitation resources	209,219
	(1) Total program 3,723,593	
	(2) Reimbursements −8,851	
	(3) Federal funds −3,505,523	
	(d) IV. General	–0–
	(1) Departmental administration 9,617,639	
	(2) Amount chargeable to programs I through III −9,617,639	
	provided, that upon approval of the Director of Finance, the above programs may be augmented from other budget items in this act where funds have been budgeted for transfer to the Department of Rehabilitation for the programs contained in this budget item. Provided further, that such transfers shall enable the state to made maximum utilization of available federal funds.	

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270—For support of Department of Social Services, together with any grants made available by the federal government for support of the Department of Social Services		23,994,901
Schedule:		
(a) Personal services	58,588,965	
(b) Operating expenses and equipment	26,634,745	
(c) Reimbursements	−3,667,575	
(d) Federal funds	−57,543,234	
(e) Amount payable from other appropriation	−18,000	

provided, that any rule or regulation adopted and any all-county letters issued by the Department of Social Services which adds to the cost of any public assistance program included in Items 271–277 inclusively shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.

Provided further, that funds appropriated by this item may be transferred to the Health Care Deposit Fund to be matched by federal funds for administrative services rendered under the Medi-Cal Program.

271—For state supplementary payment program for aged, blind, and disabled, as provided in Article 1 (commencing with Section 12000) to Article 5 (commencing with Section 12200), inclusive of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, Department of Social Services 766,685,300

provided, that this appropriation is in addition to the county contribution required for this program as prescribed by Section 12400 of the Welfare and Institutions Code; and

Provided further, that there is further appropriated for purposes of this item, subject to the review of the Director of Finance, such funds as are required to meet the terms of the contract between the State of California and the Secretary of Health, Education, and Welfare relating to the State Supplementary Payment Program for Aged, Blind, and Disabled. The Director of Finance shall report to the Legislature within 15 days any such reviews of expenditures in excess of the amount appropriated in this item. At such time as a report is made, the amount of this appropriation shall be increased by the amount of such excess expendi-

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ture unless or until otherwise provided by law.

Provided further, that funds transferred from the Federal Revenue Sharing Fund pursuant to Item 409 shall be expended prior to the remaining $577,032,400 of general funds in this item.

Provided further, that it is the intent of the Legislature in enacting Chapter 332 of the Statutes of 1978, and in enacting this act, that federal cost-of-living increases for the Supplemental Security Income (SSI) program, shall be passed on to recipients.

Provided further, that, notwithstanding any provisions to the contrary, such federally funded increases are provided to SSI/SSP recipients in lieu of the 2½-percent across the board cost-of-living salary increases which are granted to AFDC recipients and to state employees.

Provided further, that the Director of Finance may transfer funds appropriated in this item to Item 270 or 276 for the cost of administering food stamp benefits as may be required by federal law.

272—For the costs of the state's share of special adult programs, including (a) special circumstances, as defined in Sections 11212, 12550, and 12551 of the Welfare and Institutions Code, (b) special benefits, pursuant to Section 12553 of the Welfare and Institutions Code, (c) aid to the potentially self-supporting blind, pursuant to Chapter 5 (commencing with Section 13000) of Part 3 of Division 9 of the Welfare and Institutions Code, and (d) emergency payments, pursuant to Section 12525 of the Welfare and Institutions Code, Department of Social Services 5,268,100

Schedule:

(a) Special circumstances	2,121,300
(b) Special benefits	104,400
(c) APSB	1,238,000
(d) Emergency payments	1,804,400

273—For the state's share of costs for providing child care services as part of the Work Incentive Program as authorized by Part A of Title IV of the Social Security Act and pursuant to Section 15150 of the Welfare and Institutions Code, Department of Social Services 347,471

274—For the cost of special social service programs for which federal grants-in-aid are made to the state; for rehabilitative and employment services; for grants or services to local agencies for the exten-

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	sion of child welfare services; for the cost of the adoption programs and care of children, to be expended in accordance with the provisions of Chapter 2 (commencing with Section 16100) of Part 4 of Division 9 of the Welfare and Institutions Code; for the costs incurred by counties, including but not limited to, the required matching funds, for in-home supportive services as provided by Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code; for the cost of local agency special training and statewide demonstration programs; for the cost of providing child development services pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1 of the Education Code; and for the costs of community rehabilitation of mentally handicapped, Department of Social Services.....	118,846,017
	Schedule:	
	(a) Child development services 54,877,255	
	(b) Child protection 3,400,000	
	(c) Regional centers 7,013,336	
	(d) Community rehabilitation 17,180,716	
	(e) Blind counselors..... 140,000	
	(f) Homemaker chore service 149,994,618	
	(g) Minimum wage increase..... 5,294,000	
	(h) Adoptions 15,392,594	
	(i) Demonstration programs 5,882,773	
	(j) Other county social services 126,986,528	
	(k) Family planning 4,444,444	
	(*l*) Facilities evaluation 12,298,066	
	(m) Reimbursements and transfers...—17,199,271	
	(n) Federal funds.....—270,734,042	
	(o) Amount payable from other appropriation ..... —125,000	
	(p) Homemaker chore regulations 4,000,000	
	provided, that the amount of federal Title XX funds allocated to each county shall not be less than the amount of federal social service funds allocated to such county under this program in the 1975–76 fiscal year.	
	Provided further, that funds appropriated in this item may be transferred to the Health Care Deposit Fund to be matched by federal funds for services rendered under the Medi-Cal program.	
	Provided further, that the Department of Social Services shall promulgate emergency homemaker chore regulations to implement uniform ad-	

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ministrative procedures among counties. Such regulations shall be promulgated by July 15, 1978. This item reserves $1,000,000 to reimburse counties for related costs.

Provided further, that the Department of Social Services shall develop homemaker chore regulations establishing a uniform range of services available to all recipients based on individual needs. Such regulations shall be presented to the Legislature for review by November 15, 1978, and shall be adopted by April 1, 1979. This item reserves $3,000,000 for implementation of such regulations.

Provided further, that the amount of $44,205,-941 is appropriated from category (n) federal funds, to category (a) child development services; provided further, that the Department of Social Services may transfer funds between this item and Item 311 for the purposes of implementing the requirement of this paragraph.

Provided further, that General Fund moneys for other county social services shall be allocated to each county in proportion to its allocation of federal funds. Each county shall spend its federal allocation for other county social services prior to its General Fund allocation and any unexpended General Fund moneys shall revert.

Provided further, that any increased allocation of funds specified in category (j) of this item for "other county social services" shall be available only when matched by 25 percent in county program funds.

Provided further, that it is the intent of the Legislature that state funds shall be appropriated for support of "other county social services" for fiscal year 1978–79 on a one-time basis only, and that any future General Fund appropriation shall be based on the department's ability to identify the effectiveness of such services in meeting program goals.

Provided further, that the Director of Finance may authorize the transfer of funds from category (l) to Item 270, in order to perform the facilities evaluation function in the event the counties fail to perform such function.

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Provided further, that should additional Title XX federal funds become available to the state, such funds shall be used in lieu of moneys appropriated from the General Fund for "other county social services."

275—For the state's share of costs of the Indo-Chinese Refugee Assistance Program, as authorized by Public Law 94-23 and pursuant to the contract between the Department of Social Services and United States Department of Health, Education, and Welfare; Department of Social Services 1,540,700

Schedule:

(a) AFDC		1,297,300
(b) SSI/SSP		397,800
(c) Administration		−154,400
(1) AFDC	74,300	
(2) Food stamps	−228,700	

provided, that funds appropriated by this item may be transferred to Items 271 and 276 and used for the purposes specified in Section 32.5 for expenditures incurred for the Indo-Chinese refugees under programs funded by those items.

Provided further, that funds received from the federal government to partially or fully reimburse state and counties for this program may be proportionately allocated to the counties.

276—For the state's share of the nonfederal administrative costs of administering (a) the payment of aid grants as specified in Section 15204.2 of the Welfare and Institutions Code, (b) Special Adult Programs, (c) food stamps, as provided by Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code, (d) emergency payments, and (e) nonmedical out-of-home care, Department of Social Services..... 78,763,100

Schedule:

(a) AFDC administration	62,942,100
(b) Administration of Special Adult Programs	1,178,800
(c) Food stamp administration	13,106,100
(d) Emergency payments administration	471,900
(e) Nonmedical out-of-home care administration	1,064,200

provided, that the department may act in the place of any county and assume direct responsibility for the administration of eligibility and grant determination. Upon recommendation of the Di-

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rector of Social Services, the Department of Finance may authorize the transfer of funds to Item 270 for this purpose.

Provided further, that during the 1978–79 fiscal year, the Department of Benefit Payments shall continue the implementation of a plan whereby costs for county administration will be effectively controlled within the total amount appropriated by this item.

Provided further, that notwithstanding any provisions of the Welfare and Institutions Code to the contrary, the total amount of state funds available to the counties for administration of the programs specified in this item shall be limited to the amount appropriated by this item.

Provided further, that the funds appropriated in this item for the AFDC and Food Stamp programs shall be administered during the 1978–79 fiscal year, in accordance with the county administrative cost control plan, as approved by the Department of Social Services during the 1978–79 fiscal year.

Provided, that notwithstanding any other provision of law, the Department of Social Services may withhold state financial support of a county's automated welfare operations if the county does not provide a fiscal accounting of such operations in the form and manner as may be requested by the department; provided further, that the Department of Social Services may enter into an agreement with a county wherein state financial support for the development or modification of county-automated welfare operations is conditioned upon the realization of savings projected by the county.

Provided further, that the Department of Social Services shall report by October 1, 1978 to the Legislature and the Department of Finance, cost-of-living increases to be reimbursed to each county in excess of 6 percent for the 1978–79 fiscal year, with an explanation of the reasons therefor.

Provided further, that, notwithstanding other provisions of this section, $300,000 of the funds in category (e) shall be available to the Department of Social Services for the payment of deficiencies incurred in connection with the county administration of the nonmedical out-of-home care program in the 1976–77 fiscal year.

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	Provided further, that the Department of Social Services may, subject to the approval of the Department of Finance, reimburse county welfare departments for the state's share of the federal administrative costs resulting from state and federal field audits, court orders, fair hearing decisions, or retroactive changes in federal regulations which pertain to programs administered by the Department of Social Services for the 1975–76 and prior fiscal years; provided that no expenditure shall be allowed in excess of the final program allocation to each individual county for the appropriate prior fiscal year.	
277—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the Department of Social Services, of any new regulations or regulation changes, Department of Social Services		409,500
278—For reimbursement of the costs, which relate to activities of the Department of Social Services, of any new program or increased level of service of an existing program mandated by statute, notwithstanding the provisions of Section 2231 of the Revenue and Taxation Code, Department of Social Services		17,633,400
	provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and subdivision (d) of Section 2231 of the Revenue and Taxation Code.	
279—For support of Department of Corrections		251,541,980
	Schedule:	
	(a) I. Reception and diagnosis	2,932,846
	(b) II. Institutional program	211,263,644
	(c) III. Releasing authorities	158,072
	(d) IV. Community correctional program	26,594,134
	(e) V. Administration	12,432,636
	(g) Reimbursements	−1,797,289
	(h) Federal funds	−42,063
	provided, that upon executive order of the Department of Finance, any portion of this item which reflects savings due to reduction of population may be transferred to and in augmentation of Item 292 of this act.	
280—For support of the Community Release Board		5,190,732

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281	For payment of worker's compensation claims of inmates pursuant to Sections 3364.55, 3365, and 3370 of the Labor Code and Section 2700 of the Penal Code; and for payment of unemployment insurance and disability insurance claims of, and for support of Department of Corrections, Employment Development Department, and California Unemployment Insurance Appeals Board for claims of inmates pursuant to Chapter 5.8 (commencing with Section 1480) of Part 1 of Division 1 of the Unemployment Insurance Code, Department of Corrections	1,247,600
	provided, that expenditures made pursuant to this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.	
282	For transportation of prisoners to and between state prisons, including the return of parole violators to prison and for the conveying of persons under provisions of Division 3 (commencing with Section 3000) of the Welfare and Institutions Code and the Western Interstate Corrections Compact (commencing with Section 11190 of the Penal Code), in accordance with the provisions of Section 26749 of the Government Code	233,200
	provided, that claims made against this item of appropriation shall be filed by the local jurisdictions within six months after the end of the month in which such transportation costs were incurred; and provided further, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.	
283	For expenses of returning fugitives from justice from outside the state, in accordance with the provisions of Sections 1389, 1549 and 1557 of the Penal Code	816,200
	provided, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller, and any restitution received by the state for such expenses be credited to the appropriation of the year in which the State Controller's receipt is issued.	

ITEM		AMOUNT
284—For court costs and county charges, payable under Sections 4700 and 4700.5 of the Penal Code, in connection with coroners' services and trials of inmates charged with commission of a crime or crimes while incarcerated in a state institution or prison under the Department of Corrections, Department of Corrections		1,724,550
provided, that claims filed payable under Section 6005 of the Penal Code may be paid by the Department of Corrections from funds appropriated by this item.		
Provided further, that claims made against this item of appropriation shall be filed by the local jurisdictions within six months after the end of the month in which such court costs and county charges were incurred; and provided further, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.		
285—For reimbursement to counties for the cost of detaining state parolees pursuant to Section 4016.5 of the Penal Code, Department of Corrections		1,919,918
provided, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.		
286—For support of Department of the Youth Authority		109,899,166
Schedule:		
(a) I. Community services	3,727,881	
(b) II. Rehabilitation services	108,232,866	
(c) III. Research	1,917,107	
(d) IV. Youth Authority Board	1,641,904	
(e) V. Administration undistributed	6,210,082	
(f) Reimbursements	−11,582,219	
(g) Federal funds	−448,455	
(h) Title II deferred maintenance match	200,000	
provided, that upon executive order of the Department of Finance, any portion of this item which reflects savings due to reduction of population may be transferred to and in augmentation of Item 292 of this act.		
287—For transportation of persons committed to Department of the Youth Authority to or between its facilities, including the return of parole violators; provided, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller		43,540

ITEM		AMOUNT
287.1	—For reimbursement to counties for the cost of the detention of Youth Authority parolees, who are detained on alleged parole violations, pursuant to Section 1776 of the Welfare and Institutions Code	75,500
288	—For reimbursements to counties for maintenance of juvenile homes, ranches and camps, Department of the Youth Authority, to be expended in accordance with the provisions of Sections 880 to 890, inclusive, of the Welfare and Institutions Code	3,648,000
289	—For reimbursements to counties for construction of juvenile homes, ranches and camps, Department of the Youth Authority, to be expended in accordance with Section 891 of the Welfare and Institutions Code Notwithstanding other provisions of this section, the amount made available by this item shall be available for expenditure until June 30, 1980.	400,000
290	—For county delinquency prevention commissions, Department of the Youth Authority, to be allocated by the Director of the Youth Authority, in accordance with Section 1792.1 of the Welfare and Institutions Code	33,300
291	—For delinquency prevention projects and research and training grants, Department of the Youth Authority to be allocated by the director in accordance with Article 5.5 of Chapter I, Division 2.5 of the Welfare and Institutions Code; provided that grants for research and training in delinquency and crime prevention shall be allocated in accordance with Section 1752.6 of the Welfare and Institutions Code.	200,000
291.1	—For contracting the public or private agencies engaged in crime and delinquency prevention, as authorized by Article 5.5 (commencing with Section 1790) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code, Department of the Youth Authority	391,286
291.3	—For contracting with the John Rossi Youth Foundation for juvenile delinquency prevention services and programs, as authorized by Article 5.5 (commencing with Section 1790) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code, Department of the Youth Authority provided, that the John Rossi Youth Foundation shall apply for and be denied federal funding for	107,690

ITEM		AMOUNT
	juvenile delinquency prevention services and programs, as determined by the Department of Youth Authority, prior to receiving the funds appropriated by this item.	
292—For assistance to counties in their operation of special probation supervision programs, in accordance with Article 7 (commencing with Section 1820) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code, Department of the Youth Authority ..... provided, that the amount payable to any county shall be limited to the amount of its entitlement which would be calculated on the basis of the reduced commitment rate achieved during the 1977–78 fiscal year.		15,430,000
	Provided further, that upon executive order of the Department of Finance, any portion of this item which is in excess of the actual reimbursement to the counties in the 1978–79 fiscal year may be transferred to and in augmentation of Items 279 and 286 to provide for unbudgeted population increase. Moneys appropriated by this item shall be available to reimburse counties for their expenditures for the cost of new or expanded special probation supervision programs established above the level of effort in probation supervision maintained by these counties during the 1965–66 fiscal year. Expenditures made under this item to reimburse counties for their cost of special probation supervision programs shall be charged to the year the warrant is issued by the State Controller.	
293—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the Department of the Youth Authority, of any new program or increased level of service of an existing program mandated by statute, State Controller ..... provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.		18,000,000

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294—For support of California Health Facilities Commission payable from the California Health Facilities Commission Fund, in accordance with the provisions of Part 1.7 (commencing with Section 440) of Division 1 of the Health and Safety Code 1,844,294
Schedule:
(a) Support 2,039,294
(b) Amount payable from Item 294.1 —195,000

294.1—For transfer to the California Health Facilities Commission Fund by the State Controller in such amounts as authorized by the Department of Finance 195,000
provided, that if a statute is enacted on or before January 1, 1979, which authorizes an increase in the fees which may be imposed by the California Health Facilities Commission in excess of those specified in Section 442.10 of the Health and Safety Code, as amended by Chapter 1171, Statutes of 1977, an amount equal to the amount transferred to the California Health Facilities Commission Fund, pursuant to this item, shall be repaid to the General Fund on or before June 30, 1982.

EDUCATION

Education—K–12

295—For support of Department of Education, Superintendent of Public Instruction, and State Board of Education 20,725,179
(a) Personal services 37,678,515
(b) Operating expenses and equipment 27,476,960
(c) Education Commission of the States 35,000
(d) Special projects 170,979
(e) Unallocated: vocational education 559,911
(f) Reimbursements ..... —4,902,278
(g) Federal funds ..... —26,109,147
(h) Amounts payable from other support appropriations ..... —13,429,287
(i) Amounts payable from local assistance appropriations ..... —755,474
Provided, that the funds specified in category (e) may be expended only upon their allocation to category (a) or (b), subject to the approval of the Department of Finance. The Department of Fi-

ITEM		AMOUNT
nance shall notify the Chairman of the Joint Legislative Budget Committee upon giving such approval.		
Provided further, that as of July 1, 1978, the Department of Education shall identify and terminate the positions funded from indirect cost charges that will no longer be needed as a result of the staff reductions in the vocational education program made by the Budget Act of 1977.		
Provided further, that any unexpended balance of the appropriation made by Section 78 of Chapter 894, Statutes of 1977, not exceeding $92,370, is hereby reappropriated in augmentation of this item; provided further, that the appropriation in this item shall be reduced by the amount of the unexpended balance of the appropriation made by Section 78 of Chapter 894, Statutes of 1977 which is reappropriated pursuant to this item.		
296—To the Department of Education for the administration of educationally disadvantaged youth programs, as provided in Chapter 1 (commencing with Section 54000) of Part 29 of the Education Code		1,037,879
297—To the Department of Education, in lieu of the appropriation made by subdivision (b) of Section 41312, and in lieu of the apportionment of funds specified in Section 41353, of the Education Code, for the state administrative expenses related to the child nutrition program and nutrition education projects		831,585
298—For the purposes of developing a driver training course and training the instructional personnel to conduct the course according to provisions of Section 41904 of the Education Code, the sum of one hundred six thousand two hundred twenty-three dollars ($106,223) is appropriated from the Driver Training Penalty Assessment Fund for transfer to the General Fund and from the General Fund to the Department of Education		106,223
299—To the Department of Education for the purpose of administering the California High School Proficiency Examination Program		239,929
Schedule:		
(a) Distribution of printed information regarding the California High School Proficiency Examination Program	15,900	
(b) General administration	224,029	

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	provided, that funds specified in category (b) may be allocated by the Director of Finance only when the Superintendent of Public Instruction certifies that application fees are insufficient to support the administration of this program and only in such amount as is necessary to make up the deficiency in fees received.	
300—For support of Department of Education, the sum of $183,472 is appropriated from the State School Building Aid Fund		(183,472)
301—For support of the State Educational Agency for Surplus Property, the sum of $5,273,474 is appropriated from the Surplus Educational Property Revolving Fund		(5,273,474)
302—For support of special schools, Department of Education		18,822,234
	and in addition, any amounts received from federal grants or other sources shall be available for expenditure in accordance with the provisions of this item.	
	Schedule:	
	(a) California School for the Blind	2,333,147
	(1) Support 2,883,219	
	(2) Reimbursements −550,072	
	(b) Diagnostic School for Neurologically Handicapped Children, Northern California	1,474,835
	(1) Support 1,572,860	
	(2) Reimbursements −98,025	
	(c) Diagnostic School for Neurologically Handicapped Children, Southern California	1,508,746
	(1) Support 1,729,047	
	(2) Reimbursements −220,301	
	(d) California School for the Deaf, Berkeley	5,652,147
	(1) Support 6,471,362	
	(2) Reimbursements −819,215	
	(e) California School for the Deaf, Riverside	6,500,278
	(1) Support 7,433,953	
	(2) Reimbursements −933,675	
	(f) Diagnostic School for Neurologically Handicapped Children, Central California	1,353,081
	(1) Support 1,444,146	
	(2) Reimbursements −91,065	

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	provided, that transfers between items in the above schedule may not be made without the approval of the Department of Finance.	
303—For support of Division of Libraries, California Library Services Board, Department of Education and Board of Library Examiners		4,317,966
304—To the Department of Education for environmental education, payable from the California Environmental Protection Program Fund		330,870
	provided, that notwithstanding the provisions of Section 39102 of the Health and Safety Code, such funds shall be expended pursuant to the provisions of Chapter 4 (commencing with Section 8700) of Part 6 of Division 1 of Title 1 of the Education Code.	
307—To the Department of Education to reimburse school districts and county superintendents of schools for the costs of providing occupational training of physically handicapped and mentally retarded pupils pursuant to Section 56072 of the Education Code		180,000
308—To the Department of Education for apportionment to school districts and other eligible agencies maintaining development centers for handicapped pupils pursuant to Chapter 6 (commencing with Section 56800) of Part 30 of Division 4 of Title 2 of the Education Code		14,523,400
	Schedule:	
	(a) Total program 15,596,400	
	(b) Federal funds ..... —1,073,000	
	provided, that notwithstanding any other provisions of law, the Superintendent of Public Instruction may allocate funds from the appropriation made by this item to school districts or county superintendents of schools in order to increase the reimbursement per child-hour allowed pursuant to Section 56810 of the Education Code from $1.75 to $2.12 to meet cost increases due to inflation and increase the maximum reimbursement for transportation allowed pursuant to Section 56830 of the Education Code from $675 to $758 to meet cost increases due to inflation.	
310—To the Department of Education for apportionment to the career guidance center operated by the Office of Superintendent of Schools of the County of San Diego and the center operated by the County of Los Angeles, as described in Section 52340 of the Education Code		250,000

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311—To the Department of Education for child development programs, for allocation to school districts and other eligible agencies maintaining children's centers and child care programs pursuant to Chapter 2 (commencing with Section 8200) or Chapter 2.5 (commencing with Section 8400) of Part 6 of the Education Code		74,216,862
Schedule:		
(a) General child development programs	80,402,358	
(b) Campus children's centers	2,288,738	
(c) High-school-age parenting and infant development	1,303,930	
(d) Migrant day care	2,835,137	
(e) Special allowances for rent	298,549	
(f) Special allowances for handicapped	501,420	
(g) Alternative child care program	13,672,000	
(h) Additional child care funds	20,700,000	
(i) Reimbursements	—44,180,948	
(j) Federal funds	—457,000	
(k) Less administration (shown in Item 295)	—3,147,322	

provided, that the first priority use of funds scheduled in category (h) shall be the replacement of lost local revenue, to the extent necessary as determined by the Superintendent of Public Instruction.

Provided further, that, from funds appropriated by this item, no local agency shall receive more than $1.28 per child-hour generated by children age two and over, and no more than $1.53 per child-hour generated by children under two years of age for each child-hour generated during 1977–78.

Provided further, that the second priority use of funds scheduled in category (h) shall be for expansion of child care services to children not currently served.

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Provided further, that the Department of Education shall make every reasonable effort to allocate the expansion funds, or a pro rata share of the expansion funds scheduled in category (h), as follows: (1) infant care, $5,000,000; (2) extended day care, $2,000,000; (3) high-school-age parenting and infant development, $1,200,000; (4) care for pre-school-age children, $2,700,000; and to the degree possible, provide continued services for children being served by the Santa Clara Pilot Project who continue to need services.

Provided further, that the Department of Education shall make every reasonable effort to allocate expansion funds, to the degree that such funds are available in category (h), such that (1) rural areas, as defined in the allocation process for the Alternative Child Care Program, receive their fair share of expansion funds; (2) campus and migrant child care programs receive proportional funding increases at least equal to the proportion of child care funds currently received by such agencies; (3) among those campus programs applying for expansion funds, priority be given to those programs which propose to coordinate their activities with college child development training programs; and (4) information and referral services be considered eligible to receive such expansion funds.

Provided further, that the Department of Education shall report to the Joint Legislative Budget Committee and the budget committee of each house which considers appropriations on October 1, 1978, the final allocation of expansion funds, including amount allocated to each area addressed in this item.

Provided further, that funds scheduled in category (a) for county child care services shall be allocated subject to the requirements of Section 19.7 of this act.

Provided further, that the Department of Education shall develop average daily enrollment funding standards and shall utilize such standards in allocating child care and child development funds.

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Provided further, that, notwithstanding any other provision of law, the Department of Education may transfer funds between categories (a), (b), (c) and (d) so long as no one category is increased or decreased by an amount in excess of 10 percent of the category.

Provided further, that, notwithstanding any other provision of law, agencies maintaining child care and child development programs funded through this item shall adhere to the following child attendance recording requirements:

Children regularly enrolled in a child care or child development program who are absent on account of illness, quarantine, illness or quarantine of their parent or parents, family emergency requiring travel away from home, or traveling away from home to spend time with a parent or other relative that has been required by a court of law or is in the clear best interest of the child, shall be considered to be in regular attendance for the portion of the day for which they are enrolled, whenever the child care or child development agency certifies that such absence was on account of one of these reasons and is verified by the agency in such manner as the Superintendent of Public Instruction shall require. All enrollment attendance shall be recorded in accordance with the requirements of the Superintendent of Public Instruction.

Provided, further, that the Department of Education shall report to the Joint Legislative Budget Committee and the budget committee of each house which considers appropriations and the Department of Finance by February 15, 1979, on the procedures which were implemented to ensure that no fewer children are served due to the implementation of Chapter 1246, Statutes of 1977.

Provided further, that, notwithstanding any other provision of law, allocations by the Department of Education for special allowances for rent to private contractors who deliver child care services shall be made to an eligible agency promptly upon the proper submission of all required documents by such agency.

311.1—To Department of Education for allocation to migrant child care agencies for the purpose of renovation of existing facilities and purchase of portable facilities for migrant child care programs 2,000,000

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312—To Department of Education for child development programs for apportionment to school districts and other eligible agencies maintaining preschool programs pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1 of the Education Code		26,014,567
Schedule:		
(a) Total program	26,768,834	
(b) Less administration (shown in Item 295)	−754,267	
315—To Department of Education for instructional television programs, to be expended in accordance with the provisions of Section 41920 of the Education Code		821,364
Schedule:		
(a) Total program	841,514	
(b) Less administration (shown in Item 295)	−20,150	
316—To Department of Education for transfer to the State Child Nutrition Fund pursuant to Section 41312 of the Education Code for child nutrition programs pursuant to the provisions of Section 41311 and clause (3) of subdivision (a) of Section 41312 of the Education Code		39,214,143
Schedule:		
(a) Total program	40,045,728	
(b) Less administration (shown in Item 297)	−831,585	
provided, that claims for reimbursement of meals pursuant to this item shall be submitted by school districts not later than September 30, 1979, to be eligible for reimbursement.		
316.1—In lieu of the amount which would otherwise be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 1978–79 fiscal year pursuant to Section 14003 of the Education Code, there is hereby appropriated for transfer by the State Controller during the 1978–79 fiscal year from the General Fund in the State Treasury to Section A of the State School Fund for apportionment pursuant to Education Code Sections 41716 and 41716.5 during the 1978–79 fiscal year, an amount not to exceed		152,400,000

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provided, that funding levels shall reduced by 10 percent from what otherwise would be appropriated by Section 85 of Chapter 323, Statutes of 1976 and by subdivision (b) of Section 54058 of the Education, for the purposes of Section 54061 of the Education Code.

Provided further, that of the funds appropriated pursuant to this item and Section 1 of Chapter 292, Statutes of 1978, no school district or county superintendent of schools shall receive an allocation of funds pursuant to Sections 42716 and 42716.5 of the Education Code or pursuant to Sections 2 and 6 of Chapter 292, Statutes of 1978, if the school district or county superintendent does not maintain at least a proportionate level of service for adult education programs in elementary and secondary basic skills in mathematics, history, government, language arts, adult education programs in English as a second language, adult education programs in citizenship for immigrants, adult education programs for substantially handicapped persons, adult education programs for apprentices, adult short-term vocational programs with high employment potential, summer school adult and kindergarten and grades 1 through 12 programs for substantially handicapped persons, and summer school programs for graduating high school seniors.

Provided further, that for the purposes of this item, a proportionate level of service for a school district is defined to mean a 1978–79 funding level for the above mentioned programs no less than 90 percent of the 1977–78 funding level for such programs.

Provided further, that for the purposes of this item, a proportionate level of service for a county superintendent of schools is defined to mean a 1978–79 funding level for the above-mentioned programs no less than 90 percent of 1977–78 funding level for such programs.

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	Provided further, that for purposes of this item, substantially handicapped persons are those who have handicaps which are likely to continue indefinitely or for a prolonged period and whose handicap results in substantial functional limitations in one or more of the following activities: self-care, receptive or expression language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency.	
	Provided further, that the second proviso to this item may be waived for a school district or county superintendent of schools by the Superintendent of Public Instruction upon certification from the school district or county superintendent of schools that the local demand for the above-mentioned programs is less than the required proportionate level of service.	
	Provided further, that the Superintendent of Public Instruction shall not certify for apportionment any funds in the 1979–80 fiscal year pursuant to Article 12 (commencing with Section 41900) of Chapter 5 of Part 24 of the Education Code if legislation is enacted which eliminates the requirement that an individual under the age of 18 years must have completed the laboratory phase of driver training prior to receiving a driver's license.	
317	—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to educational programs, of any new program or increased level of service of an existing program mandated by statute, State Controller.....	17,469
	provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.	
318	—For support of the California Advisory Council on Vocational Education and Technical Training	84,225
	Schedule:	
	(a) Personal services 169,335	
	(b) Operating expenses and equipment 82,532	
	(c) Federal funds ..... −167,642	

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319—For transfer by State Controller to the Teachers Retirement Fund for State Teachers' Retirement System		144,300,000
320—For support of Commission for Teacher Preparation and Licensing, payable from the Teacher Credentials Fund		3,076,402
Schedule:		
(a) Personal services	2,238,964	
(b) Operating expenses and equipment	1,348,652	
(c) Reimbursements	−101,214	
(d) Federal funds	−410,000	

provided that the $30,000 included in this appropriation for development of an administrative services credential examination shall not be expended until: (1) the Commission for Teacher Preparation and Licensing has completed its evaluation of the latest National Teachers' Examination, (2) the results of the evaluation determine that the National Teachers' Examination is not suitable for adaptation as an administrative services examination, and (3) the Commission for Teacher Preparation and Licensing has received approval from the Department of Finance and the Office of the Legislative Analyst for the expenditure of funds to develop a new administrative services credential examination.

Provided further, that the $15,000 included in this appropriation for the development of an improved data collection capability relative to teacher employment and school curriculum data shall not be expended until the Commission for Teacher Preparation and Licensing has received approval from the Department of Finance and the Office of the Legislative Analyst.

Higher Education

321—For support of California Postsecondary Education Commission		1,677,072
Schedule:		
(a) Personal services	1,336,907	
(b) Operating expenses and equipment	1,987,674	
(c) Federal funds	−1,647,509	

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321.1—For support of the California Postsecondary Education Commission for a statewide study of student financial aid, as authorized by Section 66902 of the Education Code 121,375

322—For support of University of California, exempt from Section 31 of this act 760,284,108
provided, that none of the funds appropriated by this item may be expended to initiate major capital outlay projects, either by contract or lease-purchase agreement, without prior legislative approval.

Provided further, that no expenditure may be made from the $483,500 appropriated by this item for development of management information systems unless it is matched by the university with an equal contribution from funds not appropriated by this act.

Provided further, that none of the funds appropriated by this item may be expended for remedial writing courses which are offered for unit credit.

323—For support of a universitywide Institute of Appropriate Technology, University of California, exempt from Section 31 of this act..... 105,000
provided, that among its functions, the institute shall provide grants for research regarding appropriate technology to faculty and students of the university and shall act as an information clearinghouse linking university personnel, private citizens, and state agencies to those who are interested in learning more about research regarding appropriate technology and policy options; and provided, further, that a report containing the following information shall be submitted to the Department of Finance and the Joint Legislative Budget Committee by February 1, 1979:

(a) The specific objectives which the institute seeks to advance.
(b) The activities engaged in by the institute during the 1978–79 fiscal year.
(c) A detailed budget for the 1978–79 fiscal year for the institute, from all sources, and a proposed budget for the 1979–80 fiscal year.

For the purposes of this item, "appropriate technology" means a technology which is less harmful

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	to people and the environment than our present technologies, which reduces dependence on nonrenewable resources, which is economically and ecologically sound, and which offers small-scale, practical alternatives to our current level of resource consumption.	
	Provided further, that at least 80 percent of the grants shall be for not more than $10,000.	
	Provided further, that at least one person from the Office of Appropriate Technology shall be placed on the institute's board of directors.	
324	—For support of University of California—State Data Program, exempt from Section 31 of this act	122,000
325	—For financing undergraduate teaching excellence, University of California, exempt from Section 31 of this act	1,410,000
326	—For the planning of a University of California medical education program in the Fresno-San Joaquin Valley Region, exempt from Section 31 of this act	79,000
327	—For the support of a University of California medical education program at its Berkeley campus, exempt from Section 31 of this act	760,510
328	—For support of a University of California biomedical education program at its Riverside campus, exempt from Section 31 of this act	636,713
329	—For a loan, to be allocated by the Department of Finance following the adoption of a resolution by the Regents of the University of California declaring a teaching hospital fiscal emergency, to the University of California to ensure that the University of California teaching hospitals suffer no fiscal penalties in the 1978–79 fiscal year as a result of the Medicare cost reimbursement limits issued pursuant to the authority of paragraph (1) of subsection (v) of Section 1861 of the Social Security Act (para. (1), subsec. (v), Sec. 1395x, Title 42, U.S.C.) and the Medi-Cal program cost reimbursement limits issued pursuant to the authority of Sections 14105, 14106, and 14124.5 of the Welfare and Institutions Code and defined in Section 51508 of Title 22 of the California Administrative Code	4,000,000
	provided, that funds appropriated by this item may be allocated on the basis of estimates by the University of California of the differences for each hospital in the reimbursement limits allowed by the Medicare and Medi-Cal programs and the	

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reimbursement rates claimed by the University of California, considering not only such estimates of differences, but also the financial condition of each hospital.

Provided further, that no allocation may be made sooner than 30 days after notification in writing of the necessity therefor is made to the Chairman of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairman of the committee, or his designee, may in such instance determine.

Provided further, that the University of California shall appeal for exceptions to the reimbursement limits pursuant to procedures for requesting such appeals.

Provided further, that any funds allocated under the authority of this item shall be repaid to the General Fund with the proceeds of every claim successfully appealed, without regard to fiscal year, as such proceeds become available.

Provided further, the University of California shall report annually in its budget on the status of such appeals.

Provided further, that after the procedures for requesting appeals have been exhausted and all decisions are rendered, the Director of Finance shall determine the amount of the loan to be repaid by the University of California, and such determination shall become final 30 days after notification in writing is made to the Chairman of the Joint Legislative Budget Committee.

331—For support of University of California program of clinical health sciences education, research, and public service, conducted in conjunction with the Charles R. Drew Postgraduate Medical School, as provided for in Sections 1, 2 and 3 of Chapter 1140 of the Statutes of 1973, exempt from Section 31 of this act 2,105,160

332—For support of a program of basic and clinical health science education and primary health care delivery research in the field of podiatry, University of California, to be conducted in conjunction with the California College of Podiatric Medicine, as provided for in Sections 1 to 4, inclusive, of Chapter 1497, Statutes of 1974, exempt from Section 31 of this act 706,000

333—For support of the Institute of Transportation Studies, University of California, exempt from

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Section 31 of this act, payable from the Transportation Planning and Research Account, State Transportation Fund		523,600
334—For research in mosquito control, University of California, exempt from Section 31 of this act, payable from the California Water Fund		100,000
335—For replacement of instructional equipment, University of California, exempt from Section 31 of this act		2,000,000
336—For support of Hastings College of Law		4,288,476
Schedule:		
(a) Personal services	4,291,968	
(b) Operating expenses and equipment	2,373,322	
(c) Reimbursements	−1,479,644	
(d) Federal funds	−897,170	
337—For support of Trustees of the California State University and Colleges and the California State University and Colleges		695,404,344
Schedule:		
(a) Instruction	452,388,239	
(b) Organized research	97,361	
(c) Public service	393,906	
(d) Academic support	79,097,785	
(e) Student service	98,515,074	
(f) Institutional support	175,678,739	
(g) Independent operations	25,914,452	
(h) Reimbursements	−90,222,362	
(i) Federal funds	−46,458,850	

provided, that the funds appropriated in this item may be reallocated upon order of the Trustees of the California State University and Colleges subject to being reported to the Department of Finance; provided further, that no instructional faculty positions authorized for the 1978–79 fiscal year shall be used for administration, administrative assistance, department chairmanships, or noninstructional research.

Provided further, that no portion of the funds appropriated in this item for instructionally related activities may be expended for intercollegiate athletics.

Provided further, that the reporting requirement on enrollment plans and admission priorities required pursuant to Section 66204 of the Education Code need not be complied with for the 1978–79 school year.

Provided further, that $605,442 of the amount

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	appropriated by this item is to be expended for the differential cost for a reduced student-faculty ratio for the remedial writing program.	
	Provided further, that the $100,000 appropriated for the Student Affirmative Action program shall not be released for expenditure until a detailed plan has been reviewed and approved by the Director of Finance.	
338—For support of California Maritime Academy		2,286,981
	Schedule:	
	(a) Personal services 2,373,123	
	(b) Operating expenses and equipment 1,513,916	
	(c) Reimbursements ..... −1,092,906	
	(d) Federal funds ..... −507,152	
339—For support of Board of Governors of the California Community Colleges		2,586,990
	Schedule:	
	(a) Personal services 3,321,187	
	(b) Operating expenses and equipment 1,322,813	
	(c) Reimbursements ..... −1,434,183	
	(d) Amount payable from Community Colleges Credentials Fund.... −522,827	
	(e) Amount payable from Community College Fund for Instructional Improvement ..... −100,000	
340—For support of the credentials office of the Board of Governors of the California Community Colleges, payable from the Community Colleges Credential Fund		522,827
341—For community college extended opportunity programs and services, Board of Governors of the California Community Colleges, conducted under the provisions of Article 8 (commencing with Section 69640) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code		17,389,919
	provided, that the Board of Governors shall allocate funds on a priority basis and only to local programs which have the greatest need for student financial aid and services and which demonstrate program effectiveness with 65-percent weight given to student need and 35 percent to effectiveness.	

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	Provided further, that no funds in this item shall be available to any community college district unless that community college district maintains at least 85% of its 1977–78 level of local support for such programs.	
342—For support of Student Aid Commission		3,047,092
Schedule:		
(a) Personal services	1,830,872	
(b) Operating expenses and equipment	1,264,726	
(c) Amount payable from the State Guaranteed Loan Reserve Fund (Item 345)	—48,506	
343—For awards in the Cal Grant Program under provisions of Article 4 (commencing with Section 69560), Article 5 (commencing with Section 69580), and Article 6 (commencing with Section 69600) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, Student Aid Commission		67,855,618
Schedule:		
(a) Scholarships (Cal Grant (a))	55,583,836	
(b) College opportunity grants (Cal Grant (b))	19,289,840	
(c) Occupational education and training grants (Cal Grant (c))	3,218,314	
(d) Federal funds	—10,236,372	
provided, that upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between these categories.		
Provided further, that additional Federal-State Student Incentive Grant funds may be used, for the scholarship programs under subdivision (a) of Section 69532 of the Education Code, only in the event that failure to use such funds would cause the reversion of such funds to the United States Office of Education.		
344—For grant awards and graduate fellowship awards under provisions of Education Code Section 10104 and under provisions of Article 9 (commencing with Section 69670) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code, for awards under provisions of Sections 2193.75 through 2193.78 of the Business and Professions Code, and for scholarship awards under provisions of Section 4709 of the Labor Code, Student Aid Commission.....		3,528,000
Schedule:		
(a) Fellowships for graduate study ...	2,698,000	

ITEM		AMOUNT
(b) Clinical training program	500,000	
(c) Dependents of deceased or disabled peace officers program	15,000	
(d) Bilingual teacher development grants	315,000	

provided, that upon order of the Director of Finance, the State Controller shall transfer funds as are necessary between these subitems and between this item and Item 343.

345—For support of Student Aid Commission, the sum of $48,506 is appropriated from the State Guaranteed Loan Reserve Fund for transfer to Item 342 (48,506)

GENERAL GOVERNMENT

General Administration

346—For support of the Political Reform Act of 1974 (Proposition 9), in addition to the funds provided pursuant to Section 83122 of the Government Code, the following sums are hereby appropriated to the following agencies and officers for the administration, investigation, and regulation of political campaigns, officials, and lobbyists 1,372,925

Schedule:

(a) Attorney General, to be transferred by the State Controller to Item 42	182,340	
(b) Secretary of State, to be transferred by the State Controller to Item 56	430,694	
1. Total program	439,791	
2. Reimbursements	−9,097	
(c) Franchise Tax Board, to be transferred by the State Controller to Item 105	596,054	
(d) Fair Political Practices Commission, shall be transferred by the State Controller to and in augmentation of Government Code Section 83122	163,837	
(e) Fair Political Practices Commission, Government Code Section 83122	(1,382,499)	

347—For support of Agricultural Labor Relations Board 8,621,569

Schedule:

(a) Personal services	5,810,569	

ITEM		AMOUNT
(b) Operating expenses and equipment	2,811,000	
provided, that the reduction of field staff of three attorneys and two field examiners shall be by attrition.		
348—For support of Public Employment Relations Board		2,740,436
Schedule:		
(a) Personal services	1,889,163	
(b) Operating expenses and equipment	674,323	
(c) Factfinding (EERA)	176,950	
348.1—For transfer, in augmentation of Item 348 for support of the Public Employment Relations Board, by the State Controller		408,050
provided, that none of the funds appropriated by this item shall be transferred to Item 348 unless and until authorized in writing by the Director of Finance; provided further, that no such authorization may be given sooner than 30 days after the Director of Finance gives written notification to the Chairman of the Joint Legislative Budget Committee and the chairman of the committee of each house which considers appropriations, or not sooner than such lesser time as each chairman or his designee, may in each instance determine.		
349—For support of Department of Finance		10,084,597
Schedule:		
(a) Personal services	9,955,711	
(b) Operating expenses and equipment	2,042,549	
(c) Reimbursements	−1,913,663	
349.1—To the Department of Finance for support of the California Fiscal Information System (CFIS)		2,187,899
Schedule:		
(a) Personal services	546,509	
(b) Operating expenses and equipment	166,390	
(c) Interim departmental system modifications and operation	500,000	
(d) State Controller for the purpose of specifying system requirements and providing reconciliation data for CFIS	75,000	
(e) Departmental participation in CFIS activities	100,000	
(f) Purchase and installation of CFIS software	300,000	

ITEM		AMOUNT
(g) Consolidated data center services for CFIS	100,000	
(h) Consultant services for CFIS	300,000	
(i) Purchase of CFIS terminals	100,000	

provided, that such amounts as are needed shall be transferred between categories scheduled in this item.

Provided further, that the funds appropriated in this item shall be transferred by the State Controller, upon order of the Department of Finance, to other items and departments for CFIS related activities.

Provided further, that if Assembly Bill No. 3322 of the 1977–78 Regular Session is enacted into law, the funds appropriated in this item shall be used for support of activities provided for in that act.

Provided further, that the Legislature shall have complete access to the California Fiscal Information System.

350—For support of Department of Food and Agriculture 22,548,953

Schedule:

(a) Personal services	30,435,969
(b) Operating expenses and equipment	14,206,785
(c) Reimbursements	−2,583,719
(d) Federal funds	−1,279,266
(e) Amount payable from the Department of Agriculture Fund (Item 351)	−17,479,058
(f) Amount payable from the Fair and Exposition Fund (Item 352)	−481,708
(g) Amount payable pursuant to subdivision (1) of Section 224 of the Food and Agricultural Code	−270,050

351—For support of Department of Food and Agriculture, to be transferred to Item 350, payable from the Department of Agriculture Fund 17,479,058

352—For support of Department of Food and Agriculture, to be transferred to Item 350, payable from the Fair and Exposition Fund 481,708

353—For salaries of county agricultural commissioners or compensation for services performed for county agricultural departments, Department of Food and Agriculture, to be expended in accordance with the provisions of Section 2224 of the Agricultural Code 368,816

354—The sum of $184,243 of the money appropriated by

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	Section 19630 of the Business and Professions Code, for district agricultural fairs or citrus fairs and expositions, is hereby reappropriated from the Fair and Exposition Fund during the 1978–79 fiscal year for engineering services, Department of Food and Agriculture	184,243
355—For support of Department of Industrial Relations Schedule:		55,026,538
	(a) Personal services 51,811,642	
	(b) Operating expenses and equipment 19,631,548	
	(c) Reimbursements ..... −2,867,587	
	(d) Federal funds ..... −13,549,065	
357—For support of Department of Industrial Relations, to be allocated by the Director of Industrial Relations for the purpose of expanding apprenticeship opportunities beyond existing apprenticeable crafts and occupations ..... provided, that priority for any allocation made pursuant to this item shall be given to entry-level occupational training which can be linked through apprenticeship to career ladders, with special attention to be given to health occupations where apprenticeship can contribute to improving the level and quality of health care services in rural areas, nursing homes, and the field of mental health.		250,000
	Provided further, that availability of funds appropriated in this item shall be subject to approval of a specific implementation program by the Department of Finance.	
358—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to activities of the Department of Industrial Relations, of any new program or increased level of service of an existing program mandated by statute, State Controller ..... provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and of subdivision (d) of Section 2231 of the Revenue and Taxation Code.		22,141,937
359—For transfer by the State Controller to the Uninsured Employer's Fund		6,090,202

ITEM	AMOUNT
360—For payment of the additional compensation for subsequent injury provided for by Sections 4750 through 4755 of the Labor Code, Department of Industrial Relations	2,900,000

provided, that this item shall not be construed as a limitation on expenditures provided by Section 4706.5 of the Labor Code.

Provided further, that the amount available from this item shall not be available for expenditure at any time that funds appropriated by Section 4706.5 of the Labor Code are available for expenditure.

Provided further, that at the end of fiscal year 1978–79, any expenditures made from the General Fund against this appropriation item shall be reduced by any amounts remaining available from the funds appropriated by Section 4706.5 of the Labor Code.

Provided further, that notwithstanding any other provisions of law the funds made available by Section 4706.5 of the Labor Code will be available without regard to fiscal year.

361—For furnishing of workers' compensation to disaster service workers and their dependents, in accordance with the provisions of Sections 3201 through 6002 of the Labor Code, including the reimbursing of the State Compensation Insurance Fund for the cost of services as adjusting agent, Governor's office, Office of Emergency Services. The State Compensation Insurance Fund may draw from the State Treasury out of the appropriation made by this item, without at the time presenting vouchers and itemized statements, any portion of the appropriation contained in this item, to be used as a cash revolving fund. Expenditures made from the revolving fund in payment of claims for workers' compensation and adjusting services are excepted from the operation of Section 925.6 of the Government Code. Reimbursement of the revolving fund for such expenditures shall be made upon presentation to the State Controller of an abstract or statement of such expenditures. Such abstract or statement shall be in such form as the State Controller requires	200,000
362—For support of Commission on California State Government Organization and Economy.....	152,727

provided, that no funds appropriated in this item shall be expended for contracting with private

ITEM		AMOUNT
persons or groups for professional and technical services where such services are available through contract with state agencies.		
363—For support of California Commission on Interstate Cooperation		88,265
364—For support of the California Arts Council		1,386,660
Schedule:		
(a) Personal services	375,546	
(b) Operating expenses and equipment	462,238	
(c) Grants for programs and projects supporting the arts	967,876	
(d) Federal funds	−419,000	
365—For support of California Public Broadcasting Commission, to be transferred by the State Controller to the California Public Broadcasting Fund		682,533
365.1—For support of the California Public Broadcasting Commission, the sum of $682,533 is appropriated from the California Public Broadcasting Fund		(682,533)
Schedule:		
(a) Personal services	120,027	
(b) Operating expenses and equipment	70,206	
(c) Grants to public broadcasting stations	492,300	
366—For support of Commission for Economic Development		354,196
Schedule:		
(a) Personal services	175,476	
(b) Operating expenses and equipment	178,720	
367—For support of Military Department		8,152,000
Schedule:		
(a) Personal services	12,883,537	
(b) Operating expenses and equipment	6,669,896	
(c) Reimbursements	−472,771	
(d) Federal funds	−10,928,662	
provided, that no expenditures shall be made from this appropriation as a substitution for personnel, equipment, facilities, or other assistance, or for any portion thereof, which in the absence of such expenditure, or of this appropriation, would be available to the Commanding General of the State Military Forces, the California National Guard or the California National Guard Reserve from the federal government.		
368—For payment of military retirements, in accord-		

ITEM		AMOUNT
ance with the provisions of Sections 228 and 256 of the Military and Veterans Code, Military Department		888,454
369—For support of California Cadet Corps		346,193
Schedule:		
(a) Personal services	134,803	
(b) Operating expenses and equipment	211,390	
370—For support of Public Utilities Commission		16,342,218
Schedule:		
(a) Personal services	22,719,656	
(b) Operating expenses and equipment	4,564,592	
(c) Reimbursements	−1,253,064	
(d) Federal funds	−59,742	
(e) Amount payable from the Transportation Rate Fund (Item 371)	−9,629,224	
371—For support of Public Utilities Commission, to be transferred to Item 370, payable from the Transportation Rate Fund		9,629,224
372—For expenditure by the Public Utilities Commission to alleviate a funding deficiency in the appropriation made in Item 75, Budget Act of 1976, the sum of $215,861 is hereby appropriated from the Transportation Rate Fund		(215,861)
373—For support of Commission on the Status of Women		267,241
Schedule:		
(a) Personal services	178,530	
(b) Operating expenses and equipment	88,711	
375—For support of Native American Heritage Commission		163,031
Schedule:		
(a) Personal services	90,380	
(b) Operating expenses and equipment	72,651	
376—For support of the Motion Picture Development Council		40,000
Schedule:		
(a) Personal services	89,690	
(b) Operating expenses and equipment	60,310	
(c) Reimbursements	−110,000	
377—For support of California Horse Racing Board, payable from the Fair and Exposition Fund		831,286
Schedule:		
(a) Personal services	1,300,823	

ITEM		AMOUNT
	(b) Operating expenses and equipment 298,450	
	(c) Reimbursements ..... −717,987	
	(d) Amount payable from the General Fund pursuant to Section 19619(e) of the Business and Professions Code ..... −50,000	
378—For transfer to the Contingent Fund of the Board of Osteopathic Examiners to be allocated by the Department of Finance as a loan to the Board of Osteopathic Examiners from the General Fund.. provided, that any loan made pursuant to this item shall be repaid upon such terms and conditions as may be prescribed by the Department of Finance, including interest at a rate earned by the Pooled Money Investment Fund, on or before June 30, 1983 from resources in the Contingent Fund of the Board of Osteopathic Examiners.		17,447
379—For support of Board of Osteopathic Examiners of the State of California, payable from the Contingent Fund of the Board of Osteopathic Examiners		197,218
380—For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners' Fund		249,411
381—For support of Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun, payable from the Board of Pilot Commissioners' Special Fund		50,159
382—For support of the California Information Systems Implementation Committee		44,833
383—For support of Commission on Peace Officer Standards and Training, payable from the Peace Officers' Training Fund		2,416,962
Schedule:		
(a) Personal services 1,736,442		
(b) Operating expenses and equipment 680,520		
384—For allocation to cities, counties, and cities and counties, pursuant to Section 13523 of the Penal Code, and for payment of contracts pursuant to Section 13503(c) of the Penal Code, Commission on Peace Officer Standards and Training, payable from the Peace Officers' Training Fund		11,152,392
385—For support of the Office of Criminal Justice Planning		553,849
Schedule:		
(a) Personal services 992,226		

ITEM		AMOUNT
(b) Operating expenses and equipment	1,215,343	
(c) Federal funds	−1,653,720	

provided, that funds appropriated from the General Fund shall not be expended in excess of the minimum amount required to match federal grant expenditures for support of the Office of Criminal Justice Planning.

Provided further, that this item is appropriated subject to action by the California Council on Criminal Justice Planning taken prior to June 30, 1978.

386—For allocation by executive order of the Department of Finance to the Office of Criminal Justice Planning, which agency will further allocate to the several state offices, departments, boards, bureaus, commissions, and other state agencies in augmentation of their respective appropriations for support or for other purposes chargeable to the General Fund in such amounts as will make sufficient money available for the state's matching fund contribution for prior year deobligated federal block grant funds 100,000

387—For allocation by executive order of the Department of Finance to the Office of Criminal Justice Planning, which agency will further allocate to the several state offices, departments, boards, bureaus, commissions and other state agencies in augmentation of their respective appropriations for support or for other purposes chargeable to the General Fund in such amounts as will make sufficient money available for the state's matching fund contribution for federal grants made by the Law Enforcement Assistance Administration 1,058,887

provided that, notwithstanding Section 2 of this act, the amount appropriated in this item shall be available for expenditure until June 30, 1981.

388—For allocation by the Office of Criminal Justice Planning 4,345,285

Schedule:

(a) State's matching fund contribution to secure federal grants, to be allocated to local agencies for criminal justice programs 1,477,715

ITEM		AMOUNT
	(b) California Career Criminal Prosecution Program, to be allocated pursuant to Chapter 2.3 (commencing with Section 999b) of Title 6 of Part 2 of the Penal Code	2,867,570

provided, that notwithstanding Section 2 of this act, the amount scheduled in category (a) shall be available for expenditure until June 30, 1981.

389—For support of the Office of the State Public Defender 6,291,645

390—For contribution to counties for providing legal assistance to indigents in accordance with Section 987.6 of the Penal Code 775,000

391—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to the activities pursuant to Section 987.9 of the Penal Code, of any new program or increased level of service of an existing program mandated by statute, State Controller 500,000
provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates such costs and subdivision (d) of Section 2231 of the Revenue and Taxation Code.

392—For reimbursement, in accordance with subdivision (a) of Section 2231 of the Revenue and Taxation Code, of the costs, which relate to guardianship and conservatorship proceedings, of any new program or increased level of service of an existing program mandated by statute, State Controller 2,350,020
provided, that allocations to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute that mandates the reimbursement of such costs and subdivision (d) of Section 2231 of the Revenue and Taxation Code.

393—For payment to counties for cost of homicide trials pursuant to Sections 15201 to 15203, inclusive, of the Government Code, Department of Finance 100,000
provided, that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller.

394—For the administration, investigation, adjustment, defense and payment of tort liability claims, settlements, compromises and judgments against the state, its officers, servants and employees, for ex-

ITEM		AMOUNT
penditure by the Department of Finance in its discretion in respect to, or for allocation by the Department of Finance in its discretion to, state agencies, departments, boards, bureaus or commissions supported from the General Fund, Department of Finance		1,978,711
Schedule:		
(a) Attorney General services	1,628,711	
(b) Claim payments	350,000	
and in addition thereto, there is hereby appropriated from each fund, other than the General Fund, an amount sufficient to pay the cost of administration, investigation, adjustment, defense, and payment of tort liability claims, settlements, compromises and judgments against the state or the state agency supported from such fund, arising from activities of such state agency; provided, that no expenditures from any such appropriation from a fund other than the General Fund for payment of tort liability claims shall be made unless approved by the Department of Finance in its discretion; and provided further, that any funds appropriated herein may be expended for either, or any combination, of the purposes specified herein as may be approved by the Department of Finance.		
397—For support of State Board of Control		470,707
Schedule:		
(a) Personal services	1,021,004	
(b) Operating expenses and equipment	408,999	
(c) Reimbursements	−959,296	
398—For the payment of claims and Board of Control services pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code, State Board of Control		7,902,678
Schedule:		
(a) Claims	7,462,245	
(b) Board of Control services	869,230	
(c) Amount payable from Indemnity Fund, Item 399	−428,797	
399—For transfer to Item 398 payable from the Indemnity Fund, pursuant to Section 13964 of the Government Code, State Board of Control		428,797

ITEM		AMOUNT
400	For support of State Bar of California, for payment of amounts authorized as per diem for public members of boards and committees pursuant to subdivision (c) of Section 6028 of the Business and Professions Code	30,000

Tax Relief

401	For providing property tax assistance to homeowner claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board	85,000,000
402	For providing property tax postponement and assistance to claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, State Controller The appropriation made by this item shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.	10,000,000
403	For providing property tax assistance to renter claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board	9,000,000
404	For reimbursement to local taxing authorities for revenue lost by reason of the repeal or reduction of the property tax on the following classes of property affected by the following provisions of the Revenue and Taxation Code: (1) business inventories under Section 219; (2) motion pictures under Section 988; (3) livestock under Sections 5523 and 5546; and (4) wine and brandy under Section 992; State Controller The appropriation made by this item shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.	202,000,000

ITEM	AMOUNT
405—For reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to Section 3k of Article XIII of the Constitution, State Controller ..... The appropriation made by this item shall be in lieu of the appropriation for the same purposes contained in Section 16100 of the Government Code.	347,000,000
406—For providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423 and 423.5 of the Revenue and Taxation Code, and in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, State Controller ..... The appropriation made by this item shall be in lieu of the appropriation for the same purpose contained in Section 16100 or 16140 of the Government Code, and may not be augmented.	22,000,000
407—For reimbursement to local taxing authorities for revenue lost in accordance with the provisions of Sections 2229 and 2230 of the Revenue and Taxation Code, State Controller.....	6,714,000
408—For transfer, as needed, to the Tax Relief and Refund Account, General Fund, by the State Controller for the purpose of providing credits and refunds to renters as required by Section 17053.5 of the Revenue and Taxation Code, Franchise Tax Board	135,000,000
Federal Revenue Sharing	
409—The sum of $276,200,000 is hereby appropriated from the Federal Revenue Sharing Fund to the General Fund, for transfer by the State Controller at such times and in such amounts as are needed for Item 271, augmentation of the state's share of the State Supplementary Payment Program for aged, blind, and disabled persons	(276,200,000)

ITEM AMOUNT

Miscellaneous

410—For the state's contribution for the cost of a health benefits plan, for annuitants and other employees, in accordance with Sections 22825.7, 22828 and 22829 of the Government Code, which is not chargeable to any other appropriation 22,015,000

410.5—For expenses incurred by the Governor-elect and outgoing Governor, for expenditure by the Department of Finance in accordance with the following schedule..... 228,000

Schedule:

(a) Governor-elect, as provided in Section 12015 of the Government Code 195,000

(b) Outgoing Governor, as provided in Section 12015.5 of the Government Code 33,000

provided, that expenditures of the funds scheduled in category (a) shall be subject to the approval of the Governor-elect and shall be available for encumbrance from November 8, 1978, to January 8, 1979.

Provided further, that expenditure of the funds scheduled in category (b) shall be for appointment and other expenses incurred by the outgoing Governor in concluding matters arising out of his official duties during his last term of office.

Provided further, that if the Governor-elect is the Governor, the appropriation made by this item shall not become operative.

Unallocated

411—For salary increases and increases in benefits related thereto, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations for support or for other purposes, in such amounts as will make sufficient money available to be paid each state officer or employee in the state service, exclusive of personnel in the University of California and in the California State University and Colleges, whose compensation, or portion thereof, is chargeable to the General Fund, the increase in compensation provided in any

ITEM		AMOUNT
	increased salary range or rate established on or after July 1, 1978, by the State Personnel Board, the Department of Finance, the Judicial Council of California, or the Directors of Hastings College of Law, as the case may be.	33,205,293
	provided, that the salary increase authorized by this item shall be used by the salary-setting authority to pay a 2½-percent across the board cost-of-living salary increase for state officers and employees whose compensation is chargeable to this item, except when specific agreements involving red circle rates or salary withholding actions are in effect and therefore preclude such increase.	
	Provided further, that increases in compensation provided by this item for increased salary ranges for positions established for the 1978–79 fiscal year shall not result in total annual salary increases of more than $33,205,293. Before any increased salary range or rate established for any position for the 1978–79 fiscal year shall become effective, a certification shall be obtained from the Director of Finance that sufficient money is available in funds authorized for the agencies or may be made available from the appropriation in this item, to meet the cost of such increases.	
412	—For allocation by executive order of the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations for support or for other purposes chargeable to the General Fund, in such amounts as will make sufficient money available to fund, during the 1978–79 fiscal year, increases in premiums for employee health care	1,020,900
413	—For allocation by executive order of the Department of Finance to the several courts, state agencies, and counties, in augmentation of their respective appropriations for support or for other purposes, in such amounts as will defray the state's share of the cost of the increases in compensation for judges, justices, and related classes, as provided in Sections 68203 and 71702 of the Government Code and in Section 112 of the Labor Code	2,626,000
414	—For salary increases and increases in benefits related thereto, to be allocated by the Department of Finance to the Regents of the University of California, in augmentation of appropriations for support or for other purposes, in such amounts	

ITEM		AMOUNT
	as will defray the cost, including staff benefits, of increases in compensation for faculty and faculty-related positions provided in any increased salary range or rate established on or after July 1, 1978, for the 1978–79 fiscal year by the Regents of the University of California, exempt from Section 31 of this act	8,585,000
	provided, that the salary increase authorized by this item shall be used by the salary-setting authority to pay a 2½-percent across the board cost-of-living salary increase for faculty and faculty-related positions the compensation of which is chargeable to this item, except where specific agreements involving red circle rates or salary-withholding actions are in effect and therefore preclude such increase.	
	provided further, that increases in compensation provided by increased salary ranges for positions established for the 1978–79 fiscal year shall not result in total annual salary increases of more than $8,585,000. Before the Regents of the University of California establish any increased salary range or rate for the 1978–79 fiscal year, a certification shall be obtained from the Department of Finance that sufficient money either is available in funds authorized for the University of California or may be made available from the appropriation in this item to meet the cost of such increases.	
415	—For salary increases and increases in benefits related thereto, to be allocated by the Department of Finance to the Regents of the University of California, in augmentation of appropriations for support or for other purposes, in such amounts as will defray the cost, including staff benefits, of increases in compensation for nonfaculty positions provided in any increased salary range or rate established on or after July 1, 1978, for the 1978–79 fiscal year by the Regents of the University of California, exempt from Section 31 of this act	7,075,000
	provided, that the salary increase authorized by this item shall be used by the salary-setting authority to pay a 2.5-percent across the board cost-of-living salary increase for nonfaculty positions the compensation of which is chargeable to this item, except where specific agreements involving red circle rates or salary-withholding actions are in effect and therefore preclude such increase.	
	Provided further, that increases in compensa-	

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	tion provided by increased salary ranges for positions established for the 1978–79 fiscal year shall not result in total annual salary increases of more than $7,075,000. Before the Regents of the University of California establish any increased salary range or rate for the 1978–79 fiscal year, a certification shall be obtained from the Department of Finance that sufficient money either is available in funds authorized for the University of California or may be made available from the appropriation in this item to meet the cost of such increases.	
416.1	—For allocation by executive order of the Department of Finance to the Regents of the University of California and the Trustees of the California State University and Colleges, in augmentation of their respective appropriations for support or for other purposes chargeable to the General Fund, in such amounts as will make sufficient money available to fund, during the 1978–79 fiscal year, increase in premiums for employee health care	1,000,000
417	—For salary increases and increases in benefits related thereto, to be allocated by the Department of Finance to the Trustees of the California State University and Colleges, in augmentation of appropriations for support or for other purposes, in such amounts as will defray the cost, including staff benefits, of increases in compensation for academic and academic-related positions provided in any increased salary range or rate established on or after July 1, 1978, for the 1978–79 fiscal year by the Trustees of the California State University and Colleges	10,212,500
	provided, that the salary increase authorized by this item shall be used by the salary-setting authority to pay a 2.5-percent across the board cost-of-living salary increase for academic and academic-related positions the compensation of which is chargeable to this item, except where specific agreements involving red circle rates or salary-withholding actions are in effect and therefore preclude such increase.	
	Provided further, that increases in compensation provided by this item for increased salary ranges for positions established for the 1978–79 fiscal year shall not result in total annual salary increases of more than $10,212,500. Before the Trustees of the California State University and Colleges establish any increased salary range or	

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rate for the 1978–79 fiscal year, a certification shall be obtained from the Department of Finance that sufficient money either is available in funds authorized for the California State University and Colleges or may be made available from the appropriation in this item to meet the cost of such increases.

418—For salary increases and increases in benefits related thereto, to be allocated by the Department of Finance to the Trustees of the California State University and Colleges, in augmentation of appropriations for support or for other purposes, in such amounts as will defray the cost, including staff benefits, of increases in compensation for nonacademic positions provided in any increased salary range or rate established on or after July 1, 1978, for the 1978–79 fiscal year by the Trustees of the California State University and Colleges 5,517,500

provided, that the salary increase authorized by this item shall be used by the salary-setting authority to pay a 2½-percent across the board cost-of-living salary increase for nonacademic positions the compensation of which is chargeable to this item, except where specific agreements involving red circle rates or salary-withholding actions are in effect and therefore preclude such increase.

Provided further, that increases in compensation provided by this item for increased salary ranges for positions established for the 1978–79 fiscal year shall not result in total annual salary increases of more than $5,517,500. Before the Trustees of the California State University and Colleges establish any increased salary range or rate for the 1978–79 fiscal year, a certification shall be obtained from the Department of Finance that sufficient money either is available in funds authorized for the California State University and Colleges or may be made available from the appropriation in this item to meet the cost of such increases.

422—For salary increases and increases in benefits related thereto, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations for support or for other purposes, payable from special funds, in such amounts as will make sufficient money available

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	to provide the increase in compensation provided in any increased salary range or rate established on or after July 1, 1978, by the State Personnel Board, the Department of Finance, or the Judicial Council of California, as the case may be.	14,524,768
	provided, that the salary increase authorized by this item shall be used by the salary-setting authority to pay a 2½-percent across the board cost-of-living salary increase for state officers and employees whose compensation is chargeable to this item, except where specific agreements involving red circle rates or salary-withholding actions are in effect and therefore preclude such increase.	
	Provided further, that increases in compensation provided by this item for increased salary ranges for positions established for the 1978–79 fiscal year shall not result in total annual salary increases of more than $14,524,768. Before any increased salary range or rate established for any position for the 1978–79 fiscal year shall become effective, a certification shall be obtained from the Director of Finance that sufficient money is available in funds authorized for the agencies or may be made available from the appropriations in this item, to meet the cost of such increases.	
423	—For allocation by executive order of the Department of Finance to the several state offices, departments, boards, bureaus, commissions and other state agencies, whose employees are paid, in whole or in part, from special funds, there is hereby appropriated from each special fund from which such employees are paid an amount sufficient to fund, during the 1978–79 fiscal year, increases in premiums for employee health care ..	457,150
424	—For salary increases and increases in benefits related thereto, to be allocated by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations for support or for other purposes, payable from nongovernmental cost funds in such amounts as will make sufficient money available to provide the increase in compensation provided in any increased salary range or rate established on or after July 1, 1978, by the State Personnel Board, the Department of Finance, or the Judicial Council of California as the case may be.	(18,190,440)

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provided, that the salary increase authorized by this item shall be used by the salary-setting authority to pay a 2½-percent across the board cost-of-living salary increase for state officers and employees whose compensation is chargeable to this item, except when specific agreements involving red circle rates or salary-withholding actions are in effect and therefore preclude such increase.

Provided further, that increases in compensation provided by this item for increased salary ranges for positions established for the 1978–79 fiscal year shall not result in total annual salary increases of more than $18,190,440. Before any increased salary range or rate established for any position for the 1978–79 fiscal year shall become effective, a certification shall be obtained from the Director of Finance that sufficient money is available in funds authorized for the agencies or may be made available from the appropriations in this item, to meet the cost of such increases.

425—For allocation by executive order of the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, whose employees are paid, in whole or part, from nongovernmental cost funds, there is hereby appropriated from each nongovernmental cost fund from which such employees are paid an amount sufficient to fund, during the 1978–79 fiscal year, increases in premiums for employee health care ..... (571,950)

426—For reserve for contingencies or emergencies, to be expended only on written authorization of the Department of Finance for contingencies or emergencies 1,500,000
(2,500,000)

and in addition, $2,500,000 is appropriated for loans that may be made from the reserve for contingencies and emergencies to state agencies which derive their support from the General Fund or from sources other than the General Fund, upon such terms and conditions for repayment as may be prescribed by the Department of Finance and any sum so loaned shall, if ordered by the Department of Finance, be transferred by the State Controller to the fund from which the support of the agency is derived. Contingencies within the meaning of this item are defined as proposed expenditures arising from unexpected

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conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which, in the judgment of the Director of Finance, constitute cases of actual necessity. Emergencies within the meaning of this item are hereby defined as proposed expenditures arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which in the judgment of the Director of Finance require immediate action to avert undesirable consequences or to preserve the public peace, health, or safety. Emergency and contingency expenditure authorizations shall be limited to purposes which have been specifically approved by the Legislature in budget acts or other legislation, except that not more than $200,000 of this item may be expended for purposes for which no such specific prior authorization exists.

Provided, that authorizations for expenditures arising from a contingency shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee, or no sooner than such lesser time as the committee, or its designee, may in each instance determine.

Provided further, that for expenditure authorizations arising from an emergency, the Director of Finance shall file with the Joint Legislative Budget Committee within 10 days after approval, copies of all executive orders and allotment promises for emergency-related encumbrance or expenditure authorizations stating the reasons for, and the amount of, all such authorizations, except that any emergency augmentation from this item to any program in excess of 10 percent of the amount authorized for expenditure in the 1978–79 fiscal year for such program shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee or no sooner than such lesser time as the committee, or its designee, may in each instance determine, except that no such limit shall apply if the Director of Finance states in writing to the Chairman of the Joint Legislative Budget Committee the necessity and urgency for the allocation which, in the judgment of the director, makes prior approval impractical.

426.1—For reserve for contingencies and emergencies,

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payable from special funds, there is hereby appropriated from such special fund such sums as are necessary to meet contingencies, or emergencies, to be expended only on written authorization of the Director of Finance 1,500,000

provided, that no deficiences shall be authorized by the Director of Finance in any appropriation of money from special funds made by this act for the 1978–79 fiscal year under the provisions of Section 11006 of the Government Code; provided further, that accounts, special accounts and funds in the General Fund, which are treated as other governmental cost funds for accounting and budgeting purposes in accordance with Section 13303 of the Government Code, shall be considered to be special funds within the meaning of this item. Contingencies, within the meaning of this item, are defined as proposed expenditures arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which in the judgment of the Director of Finance constitute cases of actual necessity. Emergencies, within the meaning of this item, are defined as proposed expenditures arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which, in the judgment of the Director of Finance, require immediate action to avert undesirable consequences or to preserve the public peace, health, or safety.

Provided that, deficiency expenditure authorizations shall be limited to purposes which have been specifically approved by the Legislature in Budget Acts or other legislation, except that not more than $200,000 of this item may be expended for purposes for which no such prior specific authorization exists.

Provided further, that authorizations for deficiency expenditures arising from a contingency shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget committee or no sooner than such lesser time as the committee or its designee may in each instance determine.

Provided further, that for deficiency expenditure authorizations arising from an emergency, the Director of Finance shall file with the Joint Legislative Budget Committee, within 10 days af-

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ter approval, copies of all executive orders and allotment promises for emergency-related encumbrances or expenditure authorizations stating the reasons for, and the amount of, all such authorizations, except that any emergency augmentation from this item to any program in excess of 10 percent of the amount authorized for expenditure in the 1978–79 fiscal year for such program shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee, or no sooner than such lesser time as the committee, or its designee, may in each instance determine, except that no such limit shall apply if the Director of Finance states in writing to the Chairman of the Joint Legislative Budget Committee the necessity and urgency for the allocation which, in the judgment of the director, makes prior notice impractical.

426.2—For reserve for contingencies and emergencies, payable from nongovernmental cost funds, there is hereby appropriated from each such nongovernmental cost fund which is subject to control or limited by this act, such sums as are necessary to meet contingencies or emergencies, to be expended only on written authorization of the Director of Finance 1,500,000

provided, that no deficiences shall be authorized by the Director of Finance in any appropriation of money from nongovernmental cost funds made by this act for the 1978–79 fiscal year under the provisions of Section 11006 of the Government Code, except for appropriations from the Service Revolving Fund which are hereby specifically exempted from the above limitation of this item; provided further, however, that all deficiencies authorized from the Service Revolving Fund pursuant to Section 11006 of the Government Code shall be subject to the reporting requirements for contingencies and emergencies as required for authorizations made pursuant to this item. Contingencies, within the meaning of this item are defined as proposed expenditures arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which in the judgment of the Director of Finance constitute cases of actual necessity. Emergencies, within the meaning of this item, are defined as proposed expenditures

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arising from unexpected conditions or losses for which no appropriation has been made by law and which, in the judgment of the Director of Finance, require immediate action to avert undesirable consequences or to preserve the public peace, health, or safety.

Provided, that deficiency expenditure authorizations shall be limited to purposes which have been specifically approved by the Legislature in Budget Acts or other legislation, except that not more than $200,000 of this item may be expended for purposes for which no such prior specific authorization exists.

Provided further, that authorizations for deficiency expenditures arising from a contingency shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee or no sooner than such lesser time as the committee or its designee may in each instance determine.

Provided further, that for deficiency expenditure authorizations arising from an emergency, the Director of Finance shall file with the Joint Legislative Budget Committee within 10 days after approval, copies of all executive orders and allotment promises for emergency-related encumbrances or expenditure authorizations stating the reasons for, and the amount of, all such authorizations, except that any emergency augmentation from this item to any program in excess of 10 percent of the amount authorized for expenditure in the 1978–79 fiscal year for such program shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee or no sooner than such lesser time as the committee, or its designee, may in each instance determine, except that no such limit shall apply if the Director of Finance states in writing to the Chairman of the Joint Legislative Budget Committee the necessity and urgency for the allocation which, in the judgment of the director, makes prior notice impractical.

427—For allocation by executive order of the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations and to other items of this act, for support or for other purposes chargeable

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	to the General Fund, in such amounts as will make sufficient money available to fund, during the 1978–79 fiscal year, price increases in excess of budgeted projections ..... provided, that no part of this money shall be used for increases in personnel, personal service contracts, to upgrade a program now in existence, or to start any program not now provided for in this budget.	5,698,000
	Provided further, that the Department of Finance shall make no allocation pursuant to this item sooner than 30 days after notification in writing of the necessity therefor has been given to the chairman of the committee of each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or sooner than such shorter time as the Chairman of the Joint Legislative Budget Committee, or his designee, may in each instance determine.	
428	—For increases in prices in excess of budgeted projections payable from special funds, there is hereby appropriated from each such special fund from which such price increases are paid such amounts as the Department of Finance shall determine, as will make sufficient money available to fund such increased costs during the 1978–79 fiscal year..... which amounts are to be made available by executive order of the Department of Finance in augmentation of appropriations from special funds and to other items of this act, for support or for other purposes.	2,723,000
	Provided, that no part of this money shall be used for increases in personnel, personal service contracts, to upgrade a program now in existence, or to start any program not now provided for in this budget.	
	Provided further, that the Department of Finance shall not authorize expenditures pursuant to this item sooner than 30 days after notification in writing of the necessity therefor has been given to the chairman of the committee of each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or sooner than such shorter time as the Chairman of the Joint Legislative Budget Committee, or his designee, may in each instance determine.	
429	—For increases in prices in excess of budgeted projections payable from nongovernment cost funds,	

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there is hereby appropriated from each such fund from which such price increases are paid such amounts as the Department of Finance shall determine, as will make sufficient money available to fund such increased costs during the 1978–79 fiscal year	(2,229,000)

which amounts are to be made available by executive order of the Department of Finance in augmentation of appropriations from nongovernmental cost funds and to other items of this act for support or for other purposes.

Provided, that no part of this money shall be used for increases in personnel, personal service contracts, to upgrade a program now in existence, or to start any program not now provided for in this budget.

Provided further, that the Department of Finance shall not authorize expenditures pursuant to this item sooner than 30 days after notification in writing of the necessity therefor has been given to the chairman of the committee of each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or sooner than such shorter time as the Chairman of the Joint Legislative Budget Committee, or his designee, may in each instance determine.

CAPITAL OUTLAY SECTION

SEC. 2.2. The following sums of money, or so much thereof as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years, except that appropriations for studies, planning, and working drawings, and minor capital outlay shall be available for expenditure only during the 1978–79 fiscal year. In addition, every appropriation made in this section for construction, or working drawings and construction, that has not been approved by the State Public Works Board on or before June 30, 1979, shall revert as of that date to the fund from which the appropriation was made. All such appropriations, unless otherwise herein provided, shall be paid out of the General Fund in the State Treasury.

LEGISLATIVE/JUDICIAL/EXECUTIVE

Judicial

431—For minor capital outlay, Judicial Council	14,000

ITEM		AMOUNT
	Executive	
433—For capital outlay, Department of Justice		486,879
Schedule:		
(a) Uninterruptible power system.....	256,054	
(b) New law enforcement building—interior planning and design	142,000	
(c) Minor capital outlay	88,825	
434—For minor capital outlay, State Controller's office		100,500
435—For minor capital outlay, State Board of Equalization		255,270
provided, that no expenditure from this item for alterations to the first and second floors of the Consumer Affairs Building shall be made, unless the fire safety of the entire Consumer Affairs Building is determined by the State Fire Marshal to be in accordance with the fire and life safety study submitted to the Department of Finance.		
435.1—For minor capital outlay, State Treasurer		25,000
	STATE AND CONSUMER SERVICES	
436—For minor capital outlay, Museum of Science and Industry		153,000
437—For minor capital outlay, Department of Consumer Affairs, payable from the Consumer Affairs Fund		(104,688)
438—For capital outlay, Franchise Tax Board.....		375,257
Schedule:		
(a) Central office computer facility—halon fire suppression system	210,000	
(b) Minor capital outlay	165,257	
439—For capital outlay, Department of General Services		45,686,274
Schedule:		
(a) Construction—new state building, San Jose	9,329,400	
(b) Construction—Department of Justice Building, phase II, Sacramento	17,198,200	
(c) Construction—new state building, Long Beach.....	11,651,200	
(c 1) Equipment—Department of Justice Building, phase II, Sacramento	12,214	
(d) Working drawings—site 3, Sacramento	735,000	

ITEM		AMOUNT
	(e) Land acquisition and planning—new state building, San Francisco	2,906,300
	(f) Planning—new state building, Van Nuys	303,960
	(g) Planning and working drawings—new state building, site 1-C, Sacramento	700,000

provided, that funds appropriated for this project shall be for working drawings for a building large enough to consolidate Resource Agency departments in the vicinity of the existing Resources Building.

	(h) Acquisition and planning—new state building site 6, Sacramento..	2,700,000

provided, that the Director of General Services shall not authorize an expenditure of funds, with respect to this category, any sooner than 60 days after submission of a written report by such director to the Chairman of the Joint Legislative Budget Committee and the chairman of the committee in each house which considers appropriations, or not sooner than such lesser time as the chairman of the committee, or his designee, may determine, detailing the project costs of altering an existing structure to provide office space instead of constructing a new building.

	(i) Demolition old state building, San Francisco	150,000

provided, that the appropriation made in this item is a reappropriation of the funds appropriated in Item 389.5, Budget Act of 1977.

Provided further, that prior to approval of the State Public Works Board of preliminary plans, or working drawings, or both, and allocation of funds for working drawings, or construction, or both, appropriated for projects (a) and (c) of this item, the Director of General Services shall submit the final preliminary plans and working drawings to the Chairman of the Assembly Committee on Ways and Means, the Chairman of the Senate Committee on Finance, and the Chairman of the Joint Legislative Budget Committee for their review, and prior to approval by the State Public Works Board of working drawings and allocation of funds for construction appropriated for project (d), the Director of General Services shall submit the final working drawings to such entities.

ITEM		AMOUNT
440—For capital outlay, Department of General Services		3,130,384
Schedule:		
(a) Planning, working drawings and construction, Capitol Area Plan communication raceways, Sacramento	409,000	
(b) Electrical modifications, State Capitol	255,000	
(c) Electrical modifications, OB1 and library and courts, Sacramento	364,200	
(d) Fire and life safety modifications, statewide	476,864	
(e) Alterations, state building, San Francisco	231,000	
(f) Planning—OB1, Sacramento—alterations	50,000	
(g) Capitol Area Plan—parking and mall development, Sacramento	619,000	
(h) Alterations, Resources Building, Sacramento	427,290	
provided, that prior to allocation by the State Public Works Board of funds appropriated for this project, the Director of General Services shall submit the preliminary plans and working drawings to the Joint Legislative Budget Committee for its review.		
(i) Minor capital outlay	298,030	
441—The sum of $142,620,843 is appropriated for construction of state office buildings proposed by the Governor, for expenditure in the 1979–80 and 1980–81 fiscal years when reappropriated by the Legislature in the budget acts of those years		(142,620,843)
442—For capital outlay, for preliminary plans and working drawings—gasifier, Central Plant, Department of General Services		250,000
provided, that prior to allocation by the State Public Works Board of funds for preliminary planning the Director of General Services shall submit the final environmental impact report to the Chairman of the Assembly Committee on Ways and Means, the Chairman of the Senate Committee on Finance, and the Chairman of the Joint Legislative Budget Committee, or such person's designee, for their review.		
Provided further, that prior to allocation by the State Public Works Board of funds for working		

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	drawings appropriated for this project, the Director of General Services shall submit the final preliminary plans to the Chairman of the Assembly Committee on Ways and Means, the Chairman of the Senate Committee on Finance, and the Chairman of the Joint Legislative Budget Committee, or such person's designee, for their review.	
444	—For capital outlay, for alterations—Resources Building, Sacramento, Department of General Services, the sum of $185,653 is appropriated from the Public Employees' Retirement Fund	(185,653)
445	—For minor capital outlay, State Personnel Board	37,750
446	—For minor capital outlay, Veterans Home of California, Department of Veterans Affairs	298,800

BUSINESS AND TRANSPORTATION

Transportation

447	—For capital outlay, Highway Transportation Program, Department of Transportation, payable from the State Highway Account, State Transportation Fund	203,542,500

Schedule:

(a) Maintenance	8,543,000
(b) Rehabilitation	108,750,000
(c) Operational improvements	159,050,000
(d) Operation	14,000
(e) Local assistance	24,575,000
(f) Program development	223,000
(g) New facilities	289,212,000
(h) Administration	15,932,000
(i) Reimbursements	−24,575,000
(j) Federal funds	−371,000,000
(k) Savings	−7,181,500

provided, that up to 10 percent of the amounts scheduled on this item may be transferred to Item 151 or Item 156 of this act, as authorized under the provisions of Section 168 of the Streets and Highways Code; and provided further, that any federal reimbursements shall be from any federal funds deposited in the State Highway Account, State Transportation Fund.

Provided further, that notwithstanding the provisions of Section 2.2 of this act, the appropriations made in this item shall be available for expenditure during the 1978–79, 1979–80, and 1980–81 fiscal years.

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448—For capital outlay, Department of Transportation, payable from the California Environmental Protection Program Fund		100,000
449—For capital outlay, Department of California Highway Patrol, payable from the Motor Vehicle Account, State Transportation Fund		2,189,190
Schedule:		
(a) Construct area facility—San Juan Capistrano	497,600	
(d) Site acquisition and working drawings—Riverside	306,000	
(f) Site acquisition and working drawings—Santa Barbara	256,000	
provided, that the funds appropriated for this project shall be for the planning and design of an office building to accomodate 40 traffic officers.		
(h) *Minor projects*	848,590	
(i) Site acquisition and working drawings—Santa Cruz	281,000	
450—For capital outlay, Department of Motor Vehicles, payable from the Motor Vehicle Account, State Transportation Fund		6,521,084
Schedule:		
(a) Construct office building and parking facilities—San Pedro	839,400	
(b) Construct office building and parking facilities—Torrance	1,018,000	
(c) Construct office building and parking facilities—Pleasanton	937,500	
(d) Relocate key-input unit—Sacramento headquarters	231,000	
(e) Land acquisition and working drawings—Vallejo	422,500	
(f) Land acquisition and working drawings—San Clemente	563,000	
(i) Land acquisition and working drawings—Concord	722,000	
(*l*) Land acquisition and working drawings—Victorville	257,000	
(m) Purchase leased facility—Roseville	125,000	
(n) Purchase leased facility—Watsonville	238,000	
(o) Purchase leased facility—Fremont	550,000	
provided, that prior to allocation by the State Public Works Board of funds appropriated for this project, the Director of the Department of Motor Vehicles shall provide written notification to the		

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	Chairman of the Joint Legislative Budget Committee, or such person's designee, indicating (1) the condition of the facilities, as determined by the Department of General Services, (2) any improvements that should be made by the owner prior to state purchase, and (3) the market value of the property and improvements.	
	(p) Purchase leased facility—Fontana	350,000
	(s) Minor projects	267,684

RESOURCES

451—For minor capital outlay, California Conservation Corps		1,334,600
	provided, that funds appropriated by this item are subject to allocation by the State Public Works Board and such allocations shall be limited to $100,000 for each facility.	
452—For capital outlay, Department of Forestry		3,355,908
	Schedule:	
	(a) Minor capital outlay	688,801
	(b) Land acquisition—statewide opportunity purchases	5,000
	provided, that the funds appropriated by subitems (a) and (b) shall be available for expenditure only during the 1978–79 fiscal year.	
	(c) Land acquisition—Morena conservation camp	80,000
	(d) Construct Occidental forest fire station	342,470
	(e) Equip Occidental forest fire station	4,200
	(f) Construct Piedra forest fire station	413,110
	(g) Equip Piedra forest fire station	6,700
	(h) Construct Hollister forest fire station	544,637
	(i) Equip Hollister forest fire station	3,000
	(j) Construct San Jacinto forest fire station	466,450
	(k) Equip San Jacinto forest fire station	10,400
	(*l*) Construct Davis equipment facility—phase I	493,600
	(m) Equip Davis equipment facility—phase I	60,000
	(n) Construct Fire Academy emergency vehicle operator course	178,740

ITEM		AMOUNT
(o) Land acquisition—San Jacinto forest fire station	58,800	
453—For capital outlay, Department of Fish and Game Schedule:		545,100
(a) Minor capital outlay	247,000	
(b) Working drawings for Black Rock Fish Hatchery Ponds	90,000	
(c) Working drawings for hatchery building and water system at Mount Shasta Fish Hatchery	52,300	
(d) Working drawings for operations building at Fillmore Fish Hatchery	26,100	
(e) Working drawings for Darrah Springs Fish Hatchery Ponds, Phase I	99,200	
(f) Working drawings for Mt. Whitney Fish Hatchery Ponds	30,500	
454—For capital outlay, Department of Fish and Game, payable from the California Environmental Protection Program Fund		425,000
Schedule:		
(a) Land acquisition—ecological reserves	404,000	
(b) Development of ecological reserves	21,000	
455—For capital outlay, Department of Navigation and Ocean Development, the sum of $462,000 appropriated from the Harbors and Watercraft Revolving Fund		(462,000)
Schedule:		
(a) Minor capital outlay	442,000	
(b) Project planning	20,000	
456—For capital outlay, Department of Parks and Recreation		442,600
Schedule:		
(a) Hearst San Simeon State Historical Monument—continuing restoration	442,600	
457—For capital outlay, Department of Parks and Recreation, payable from the Park and Recreation Revolving Account, General Fund		3,705,000
Schedule:		
(a) El Presidio de Santa Barbara SHP—acquisition	875,000	
provided, that none of the funds appropriated for this project may be encumbered for acquisition, unless a plan for acquisition and development of		

ITEM		AMOUNT
	El Presidio de Santa Barbara has been completed and approved by the Santa Barbara Trust for Historic Preservation, Santa Barbara City Council, and the Secretary of the Resources Agency. Such plan shall include an estimate of total costs for the project, a designation of funding sources and an implementation schedule.	
	(b) Jack London SHP—acquisition	900,000
	(c) Preliminary planning	180,000
	(d) Santa Susana Mountains—acquisition	1,650,000
	provided, that the appropriation for this project be used first to augment the appropriation made by the Budget Act of 1977 (Item 443C), as added by Chapter 756, Statutes of 1977, for the phase 1 acquisition (Assessor's Parcel Nos. 2723-01-03, 2723-02-09 and 10, 2821-11-18, 2821-13-14 and 2821-14-33) and secondly for phase 2 acquisition (Assessor's Parcel Nos. 2723-01-02, 04, 05, 08, 14 and 15, and 2723-02-11 and 12).	
	(e) Property acquisition boundary surveys	100,000
	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.	
458	—For capital outlay, Department of Parks and Recreation, subject to the approval of the State Public Works Board, payable from the Bagley Conservation Fund, notwithstanding the provisions of Section 316, Chapter 1, Statutes of 1971, First Extraordinary Session	1,548,901
	Schedule:	
	(a) Design and construction planning	48,901
	(b) American River Bike Trail—development	1,500,000
458.1	—For capital outlay, Department of Parks and Recreation, payable from the Bagley Conserva-	

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tion Fund, notwithstanding the provision of Section 316, Chapter 1, Statutes of 1971, First Extraordinary Session		500,000
Schedule:		
(a) Secombe Park acquisition	1,000,000	
(b) Reimbursement—Federal Land and Water Conservation Fund	−500,000	
provided, that the state is granted a gift of full fee title to the public lands within the boundary of the park; and provided further, that the City of San Bernardino agrees to operate and maintain the properties acquired at no cost to the state.		
459—For capital outlay, Department of Parks and Recreation, payable from the Collier Park Preservation Fund		4,232,355
Schedule:		
(a) Acquisition costs	120,000	
(b) Bolsa Chica SB—sand replenishment	963,600	
(c) Inholding purchases	170,000	
provided, that individual purchases shall be limited to $100,000 each and that life estates shall be negotiated when possible.		
(d) Opportunity purchases	250,000	
(e) Woodson Bridge SRA—levee study	125,000	
(f) Minor capital outlay	2,403,225	
(g) Picacho SRA-mobilehome purchase and site development	145,530	
(h) Purchase of artifacts for state historical projects	55,000	
provided, that no funds allocated to this category may be encumbered for a specific artifact acquisition program or the acquisition of any one artifact costing more than $10,000 unless such program or acquisition has been approved by the State Public Works Board.		
Provided further, that the appropriation made for opportunity purchases shall be expended only for small parcels that were not available to the state approximately six months prior to July 1, 1978, and provided, further, 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		

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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. Provided further, that $330,000 of the funds appropriated in category (b) shall be available as needed for transfer by the Director of Finance to the Department of Navigation and Ocean Development.		
460—For capital outlay, Department of Parks and Recreation, payable from the State Park Contingent Fund		-0-
Schedule:		
(a) Castle Rock SP—acquisition	275,000	
(c) Petrified Forest—acquisition	685,000	
(d) Reimbursements—California State Parks Foundation	−342,500	
(e) Reimbursements—Federal Land and Water Conservation Fund	−617,500	
provided, that expenditure of funds appropriated by this item for the acquisition of full fee title shall be limited to one-half of the appraised value. Provided further, 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.		
461—For capital outlay, Department of Parks and Recreation, payable from the Off-Highway Vehicle Fund		7,191,655
Schedule:		
(a) Hollister Hills SVRA—erosion control	199,955	
(b) Hollister Hills SVRA—phase I, working drawings and construction	378,300	

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(c) Hungry Valley—acquisition	6,500,000	
(d) Pismo Dunes SVRA—phase I and II, working drawings	113,400	
462—For capital outlay, Department of Parks and Recreation, Division of Exposition and State Fair		1,500,000
Schedule:		
(a) Concessions facilities—construction	300,000	
(b) Expo Center—construction	700,000	
(c) Minor capital outlay	500,000	
provided, that the funds appropriated by this item for the projects specified in (a) and (b) may not be encumbered unless and until the working drawings for such projects have been reviewed and approved by the task force specified in Item 224 of this act.		
463—For acquisition of land, easements and rights-of-way, including but not limited to, borrow pit, spoil areas and easements for levees, clearing, flood control works and flowage, and for appraisals, surveys, and engineering studies necessary for the completion or operation of the following projects in the Sacramento and San Joaquin watersheds as authorized by Section 8617.1 and Chapters 1 (commencing with Section 12570), 2 (commencing with Section 12639), 3 (commencing with Section 12800), 3.5 (commencing with Section 12840), and 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code; and for advances to the federal government or payments to the federal government or others for incidental construction or reconstruction items which are an obligation of the state in connection with the completion or operation of the following projects and for materials and necessary construction, reconstruction, relocation, or alterations to highways, railroads, bridges, powerlines, communication lines, pipelines, irrigation works and other structures and facilities and for appraisals, surveys and engineering studies incidental thereto, Department of Water Resources		1,135,000
Schedule:		
(a) Sacramento River and tributaries flood control project	50,000	
(b) Chester, North Fork Feather River flood control project	50,000	
(c) San Joaquin River and tributaries flood control project	15,000	

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(d) Fresno River flood control project	10,000	
(e) Chowchilla River flood control project	10,000	
(f) Sacramento River bank protection project	1,000,000	
notwithstanding the provisions of Section 2.2 of this act, the amount in this item shall be available for expenditure only during the 1978–79 fiscal year; and provided further, that this item shall be exempt from the provisions of Section 7 of this act.		
464—For capital outlay, Department of Water Resources		1,648,400
Schedule:		
(a) Flood warning telemetry system	120,000	
(b) Sutter bypass rehabilitation	1,398,900	
(c) Snow data telemetry system	99,500	
(d) Sutter yard drainage improvements	30,000	

HEALTH AND WELFARE

466—For capital outlay, for alterations—Employment Development Building, Sacramento, Health and Welfare Agency Consolidated Data Center		783,200
467—For capital outlay, Department of Health Services		971,877
Schedule:		
(a) Public health building, Berkeley—install five sprinklers and alarms, construction	700,100	
(b) Minor capital outlay—Berkeley	130,505	
(c) Minor capital outlay—Sacramento	141,272	
468—For capital outlay, Department of Developmental Services		6,555,705
Schedule:		
(a) Fire and life safety	50,915	
Fairview State Hospital:		
(5) Unit T preliminary plans	3,435	
Pacific State Hospital:		
(6) Units 29–30, 33 preliminary plans	7,170	
Porterville State Hospital:		
(7) Units F-2, F-3, F-4, F-11 and M-3 preliminary plans	10,135	

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Sonoma State Hospital: (8) Corcoran, Malone and Smith preliminary plans	30,175	
(b) Environmental		47,365
Fairview State Hospital: (5) Unit T preliminary plans	6,720	
Pacific State Hospital: (6) Units 29, 30, 33 preliminary plans.....	12,130	
Porterville State Hospital: (7) Units F-2, F-3, F-4, F-11 and M-3 preliminary plans.....	22,260	
Sonoma State Hospital: (8) Corcoran, Malone and Smith preliminary plans	6,255	
(c) Camarillo State Hospital—construction of new domestic water supply line.....		831,300
(d) Fairview State Hospital—install emergency powerplant, phase II working drawings		54,800
(e) Napa State Hospital—install emergency power, phase II working drawings.....		49,600
(f) Patton State Hospital—install emergency power, phase II, working drawings		65,800
(g) Stockton State Hospital—replace boilers construction.....		245,950
(h) Minor capital outlay		1,056,925
(i) Napa State Hospital—alterations to electrical distribution system, phase II construction		167,000
(j) Napa State Hospital—replace boiler plant construction		1,774,750
(k) Patton State Hospital—replace boiler plant construction		1,218,700

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(*l*) Patton State Hospital—primary electrical distribution system contribution	992,600	
469—For capital outlay, Department of Mental Health Schedule:		627,255
(c) Atascadero State Hospital—install emergency power, phase II working drawings	35,450	
(d) Atascadero State Hospital—install security alerting system	369,200	
(e) Metropolitan State Hospital—install emergency power, phase II working drawings	59,150	
(f) Minor capital outlay	163,455	
470—For capital outlay, Employment Development Department, for the purpose listed below. Payable from moneys credited to the state's account in the Unemployment Trust Fund and made available to this state under Section 903 of the Social Security Act (42 U.S.C. 1103) as amended Schedule:		(895,646)
(c) Monterey—working drawings	36,610	
(d) Bakersfield—parking site acquisition and improvement	118,000	
(e) Hollywood—parking site acquisition and improvement	603,735	
(f) Preliminary plans	39,270	
(g) Monterey—site acquisition	98,031	
provided that:		
(a) Such money is requisitioned from the Unemployment Trust Fund pursuant to Section 1528.5 of the Unemployment Insurance Code.		
(b) The period within which such money may be obligated is specifically limited to the period beginning on the effective date of this act and ending June 30, 1980.		
(c) The total amount obligated pursuant to this item during the 1978–79 fiscal year shall not exceed the amount by which		
(1) The aggregate of the amounts credited to the account of this state pursuant to Section 903 of the Social Security Act (42 U.S.C. 1103) during such fiscal year and the 24 preceding fis-		

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cal years, exceeds		
(2) The aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the account of this state during such 25 fiscal years.		
471—For minor capital outlay, Department of Rehabilitation		–0–
Schedule:		
(a) Minor capital outlay	274,700	
(b) Federal funds	–274,700	
472—For capital outlay, Department of Social Services		80,300
Schedule:		
(a) Minor capital outlay	157,988	
(b) Federal funds	–77,688	
473—For capital outlay, Department of Corrections		1,085,388
Schedule:		
California State Prison at Folsom:		
(a) Construct water tank	72,288	
California Men's Colony:		
(c) Replace toilets	750,000	
California Rehabilitation Center:		
(e) Replace two elevators	179,300	
Departmentwide:		
(f) Minor capital outlay	83,800	
476—For capital outlay, Department of the Youth Authority		2,976,300
Schedule:		
Southern Reception Center:		
(a) Gymnasium	446,700	
Preston School of Industry:		
(b) Construct domestic waterline and tank	68,100	
Northern Reception Center:		
(c) Gymnasium	489,500	
(d) Rehabilitate electrical system	29,000	
El Paso de Robles School:		
(e) Electrical modifications	399,000	
Fred C. Nelles School:		
(f) Replace steam lines	440,000	
Statewide:		

ITEM		AMOUNT
(g) Minor capital outlay	1,104,000	

EDUCATION

Education—K–12

477—For capital outlay, Department of Education, minor projects for Diagnostic School for Neurologically Handicapped Children—Southern California, to be allocated by the Department of Education		62,000
478—For capital outlay, Department of Education, payable from the Capital Outlay Fund for Public Higher Education, notwithstanding the provisions of Section 66100 and 66102 of the Education Code		1,508,665
Schedule:		
Schools for the Blind, Deaf and Multihandicapped, Fremont:		
School for the Blind:		
(1) Equip administrative services	17,258	
(2) Equip classroom buildings, blind/multihandicapped unit, deaf/blind unit, assessment center, music portion of the auditorium and staff areas	118,636	
(3) Equip media center	5,717	
(4) Equip auditorium	10,973	
(5) Equip physical education and recreation center	13,558	
(6) Equip food service unit	10,377	
(8) Equip residential buildings A, B, C, D and parents area	95,878	
School for the Deaf and Multihandicapped:		
(9) Equip administrative-evaluation unit	157,410	
(10) Equip educational center	95,268	
(11) Equip elementary department	54,154	
(12) Equip junior high	12,078	
(13) Equip senior high	29,368	
(14) Equip vocational department	79,030	
(15) Equip multihandicapped department	26,664	
(16) Equip gymnasium	58,586	
(17) Equip little theater	14,004	
(18) Equip food services	52,549	
(19) Equip support services	21,241	

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(20) Equip student development centers	38,227	
(21) Equip residences, elementary, junior high, senior high and multihandicapped	597,689	

provided that notwithstanding the provisions of Section 2.2 of this act, the appropriations made in this item for equipment items shall be available for expenditure only during the 1978–79 and 1979–80 fiscal years.

Higher Education

479—For capital outlay, University of California, subject to the approval of the State Public Works Board, payable from the Capital Outlay Fund for Public Higher Education; provided that withdrawals shall be as required to meet current obligations as certified by the University of California, in accordance with the following schedule 17,861,000

Schedule:

Universitywide:

(1) Project programming and preliminary plans, general campuses	150,000

provided, that funds appropriated in this subitem shall be released only for those major capital outlay projects for working drawings or working drawings and construction, which are anticipated to be included in the 1979–80 Governor's Budget, except that a maximum of $45,000 shall be available for expenditure on July 1, 1978, for utility and site development of major capital outlay projects, and for development of benefit/cost analyses of planning alternatives for proposed 1980–81 capital outlay projects.

(2) Engineering and environmental planning studies	65,000

San Diego Campus:

(3) Equip Third College Academic Unit 2	325,000
(4) Working drawings and construct utilities and site development, Third College Academic Unit 2	583,000

Davis—Health Sciences:

ITEM		AMOUNT
(5)	Construct Sacramento Medical Center, replacement of seismically deficient patient care facilities	13,377,000
	San Francisco—Health Sciences:	
(6)	Working drawings and construct fuel oil storage facility	258,000
	Los Angeles Campus:	
(7)	Preliminary plans and working drawings for Schoenberg Hall addition	280,000
	Irvine Campus:	
(8)	Working drawings, construct and equip greenhouse unit 1 completion	230,000
(9)	Working drawings, construct and equip, enclosure of engineering building plaza level	195,000
	Santa Cruz Campus:	
(10)	Working drawings and construct completion of applied science building, first floor, (earth sciences) step 2	— 146,000
	Davis Campus:	
(11)	Working drawings and construct alterations to educational data-processing facility	161,000
	Santa Barbara Campus:	
(12)	Working drawings and construct central receiving and storehouse facility	595,000
	Riverside Campus:	
(13)	Working drawings and construct fuel oil storage facility	171,000
	Berkeley Campus:	
(14)	Working drawings for school of law building, California Administrative Code deficiencies	12,000
	Irvine Health Sciences:	
(15)	Working drawings and construct	

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(health sciences), California Administrative Code deficiencies, step 2	264,000	
Irvine Campus:		
(16) Working drawings and construct California Administrative Code deficiencies, step 2	185,000	
Riverside Campus:		
(17) Working drawings and construct California Administrative Code deficiencies (elevators)	136,000	
Santa Barbara Campus:		
(18) Working drawings and construct California Administrative Code deficiencies (elevators)	242,000	
Irvine Campus:		
(19) Working drawings and construct addition of economizer units to the boilers at the central plant	208,000	
San Diego Campus:		
(20) Working drawings and construct energy conservation, step 2	278,000	
provided that notwithstanding the provisions of Section 2.2 of this act, the appropriations made in this item for equipment items shall be available for expenditure only during the 1978–79 and 1979–80 fiscal years.		
479.1—For capital outlay, the Regents of the University of California, subject to the approval of the State Public Works Board, shall allocate the net proceeds received from the sale of university-owned residential properties on the west side of Third Avenue in San Francisco and designated by the regents for capital outlay purposes, for expenditures as set forth in the following schedule		(1,307,000)
Schedule:		
San Francisco Campus:		
(1) Working drawings and construct center for Education Development Building alterations, step 1	1,307,000	

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480—For capital outlay, University of California, minor projects to be allocated to the University of California, payable from the Capital Outlay Fund for Public Higher Education		4,400,000
481—For capital outlay, University of California, subject to the approval of the State Public Works Board, and pursuant to the agreement dated August 17, 1977 between the County of Sacramento and the University of California relating to the Sacramento Medical Center (Medical Center Complex), payable from the Capital Outlay Fund for Public Higher Education; provided that withdrawals shall be as required to meet current obligations as certified by the University of California, in accordance with the following schedule		200,000
Schedule:		
Davis Health Sciences:		
(1) Annual payment toward the purchase of Sacramento Medical Center	200,000	
482—For capital outlay, University of California, subject to the approval of the State Public Works Board, payable from the Capital Outlay Fund for Public Higher Education, in anticipation of federal funds being available for the construction phase of the projects listed in the following schedule		224,000
Schedule:		
Berkeley Campus:		
(1) Working drawings for California Administrative Code deficiencies, elevators, step 1	21,000	
(2) Working drawings for California Administrative Code deficiencies, handicapped, step 1	28,000	
Davis Campus:		
(3) Working drawings for California Administrative Code deficiencies, elevators	20,000	
(4) Working drawings for California Administrative Code (CAL-OSHA), step 2	31,000	
Los Angeles Campus:		

ITEM		AMOUNT
(5) Working drawings for California Administrative Code deficiencies (CAL-OSHA), step 1	38,000	
(6) Working drawings for California Administrative Code deficiencies (handicapped)	30,000	
San Diego—Health Sciences:		
(7) Working drawings for California Administrative Code deficiencies, step 2, University Hospital ventilation	23,000	
Irvine Campus:		
(8) Working drawings for addition of controls to air conditioning systems in 10 campus buildings	11,000	
Santa Barbara Campus:		
(9) Working drawings for energy conservation improvements, 1978–79	22,000	
provided, that withdrawals shall be as required to meet current obligations as certified by the University of California.		
483—For capital outlay, Hastings College of Law, subject to the approval of the State Public Works Board; payable from the Capital Outlay Fund for Public Higher Education, provided, that withdrawals shall be as required to meet current obligations as certified by Hastings College		7,405,000
Schedule:		
(1) Working drawings for academic facilities building	106,000	
(2) Construct academic facilities building	7,299,000	
484—For capital outlay, Trustees of the California State University and Colleges, subject to the approval of the State Public Works Board, the sum of $3,682,000 is appropriated from the Capital Outlay Fund for Public Higher Education, and shall be applied to the projects specified in the following schedule in the order in which they appear in the schedule, which amount shall be repaid, in part or in full, to the fund from and to the extent of, moneys received from the sale of real property in San Mateo County as authorized by Section 1 of Chapter 23 of the Statutes of 1976, as amended by Chapter 1256 of the Statutes of 1976		3,682,000

ITEM		AMOUNT
	Schedule:	
	Statewide—Trustees of the California State University and Colleges:	
(1)	General studies	25,000
(2)	Master planning	100,000
(3)	Preliminary planning—1979–80 projects	100,000
	provided, that the funds appropriated in this subitem shall be released only for those major capital outlay projects for working drawings or working drawings and construction, which are anticipated to be included in the 1979–80 Governor's Budget, except that a maximum of $30,000 shall be available for expenditure on July 1, 1978, for utility and site development of major capital outlay projects.	
	State University, Fresno:	
(4)	Construct utilities 1978 (Library III)	557,000
	State College, Bakersfield:	
(5)	Equip fine arts building	178,000
	State University, Dominguez Hills:	
(7)	Equip physical education facility	139,000
	State University, Sacramento:	
(9)	Equip classroom office building	17,000
	Polytechnic State University, San Luis Obispo:	
(10)	Equip life science building	544,000
	Statewide—Trustees of the California State University and Colleges:	
(12)	Preliminary plans, working drawings, construction and equipment to remove architectural barriers to the handicapped	500,000
(12.1)	Preliminary plans and working drawings for energy conservation retrofit projects, subject to the approval of the Department of Finance	40,000

ITEM		AMOUNT
	Polytechnic State University, San Luis Obispo:	
	(15) Working drawings and construct for energy conservation system-retrofit	136,000
	(15.1) Preliminary plans and working drawings for conversion Science II	30,000
	Humboldt State University:	
	(17) Preliminary plans and working drawings for science building	200,000
	State University, Long Beach:	
	(20) Preliminary plans and working drawings for music building	286,000
	State College, San Bernardino:	
	(21) Working drawings and construct conversion of initial building (fine arts)	250,000
	State College, Bakersfield:	
	(23) Construct corporation yard	515,000
	San Diego State University:	
	(24) Preliminary plans to convert old library	65,000

provided, that funds for preliminary planning for this project shall not be expended until the scope of the conversion project is approved by the Chancellor's Office, the Department of Finance, and the Legislative Analyst's Office; provided further, that the funds appropriated for this project are in anticipation of federal funds being available for the construction phase of the project.

Provided further, that notwithstanding the provisions of Section 2.2 of this act, the appropriations made in this item for equipment items shall be available for expenditure only during the 1978–79 and 1979–80 fiscal years.

484.1—For capital outlay, Trustees of the California State University and Colleges, subject to the approval of the State Public Works Board, payable from the Capital Outlay Fund for Public Higher Education, provided, that withdrawals shall be as required to meet current obligations as certified by the Trustees of the California State University and Colleges 3,783,000

Schedule:

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	State University, Chico	
	(1) Land acquisition, 1978 1,800,000	
	(2) Preliminary plans and working drawings for site development, 1978 (relocation of Warner Street) 132,000	
	Humboldt State University:	
	(3) Land acquisition, 1978 351,000	
	San Diego State University:	
	(4) Land acquisition, 1978 1,500,000	
485—For capital outlay, Trustees of the California State University and Colleges, minor projects to be allocated to the California State University and Colleges, payable from the Capital Outlay Fund for Public Higher Education ..... provided, that prior to the allocation of funds from this item, the Chancellor's office shall submit to the Department of Finance, for approval, a statewide priority listing of the projects proposed to be funded; provided further, that changes to the approved list may be authorized by the Chancellor's Office and any such changes shall be reported to the Department of Finance.		4,400,000
486—For capital outlay, Trustees of the California State University and Colleges, subject to the approval of the State Public Works Board, the sum of $1,210,000 is appropriated from the Capital Outlay Fund for Public Higher Education for construction of a corporation yard at San Jose State University, which amount shall be repaid, in part or in full, to the fund from, and to the extent of, moneys received from the sale of property authorized by Chapter 1391, Statutes of 1976		1,210,000
487—For capital outlay, Trustees of the California State University and Colleges, subject to the approval of the State Public Works Board, payable from the Capital Outlay Fund for Public Higher Education, in anticipation of federal funds being available for the construction phase of the projects listed in the following schedule		311,000
Schedule:		
San Jose State University:		
(1) Working drawings for modifications to new science building and business tower to meet fire code 22,000		
State University, Hayward:		

ITEM		AMOUNT
(2) Working drawings for modification to art laboratory ventilation systems	11,000	
Statewide—Trustees of the California State University and Colleges:		
(3) Working drawings to modify fume hoods to meet safety code	60,000	
State Polytechnic University, Pomona:		
(4) Working drawings for science building vacuum system to meet safety code	4,000	
State University, Los Angeles:		
(5) Working drawings for modification to elevators to meet safety code	14,000	
State Polytechnic University, Pomona:		
(6) Working drawings for water and energy conservation system	36,000	
State College, Sonoma:		
(7) Working drawings for theater arts building	109,000	
State Polytechnic University, Pomona:		
(8) Preliminary plans and working drawings for underground drainage system	44,000	
State College, Stanislaus:		
(9) Working drawings for auxiliary fuel system	11,000	
488—For capital outlay, California Maritime Academy, subject to the approval of the State Public Works Board, payable from the Capital Outlay Fund for Public Higher Education		390,740
Schedule:		
(1) Preliminary plans, working drawings, and construct radar simulation and computer science laboratory addition	125,740	

ITEM		AMOUNT
(1.1) Equip radar simulator and computer science laboratory addition	265,000	

provided that, notwithstanding the provisions of Section 2.2 of this act, the appropriations made in this item for equipment items shall be available for expenditure only during the 1978–79 and 1979–80 fiscal years.

489—For capital outlay, California Maritime Academy, minor projects to be allocated to the Maritime Academy, payable from the Capital Outlay Fund for Public Higher Education 10,000

490—For capital outlay, Board of Governors of the California Community Colleges, to be allocated, subject to the prior approval of the State Public Works Board, by the Board of Governors of the California Community Colleges to community college districts for expenditure by such districts, as set forth in the schedule below, payable from the Capital Outlay Fund for Public Higher Education 9,722,300

Schedule:

Grossmont Community College District, Cuyamaca College:		
(1) Equip powerplant and maintenance facility, phase I	9,900	
(2) Equip vocational technical and arts building, phase I	260,100	
Sonoma County Community College District, Santa Rosa Junior College:		
(3) Equip trade technical center	260,400	
(4) Equip music building, phase I	52,600	
(5) Equip remodel Analy Hall	75,400	
Sweetwater Community College District, Southwestern College:		
(6) Equip photography addition	50,800	
(7) Equip classroom building	29,100	
Palomar Community College District, Palomar College:		
(8) Equip art and music building addition	56,100	
Contra Costa Community College District, Los Medanos College:		

ITEM		AMOUNT
(9) Equip administration of justice building		19,700
Ventura County Community College District, Oxnard College:		
(10) Equip classroom building		227,800
Santa Barbara Community College District, Santa Barbara City College:		
(11) Equip remodel administration building		79,900
(12) Equip physical science addition and remodel		66,000
(13) Equip campus center addition and remodel		43,700
Coast Community College District, Golden West College:		
(14) Equip educational unit #2A		90,000
Lassen Community College District, Lassen College:		
(15) Equip creative arts building, phase I		411,600
Solano County Community College District, Solano College:		
(16) Equip multidiscipline building		130,100
Cabrillo Community College District, Cabrillo College:		
(17) Equip music facilities		73,800
San Diego Community College District, San Diego City College:		
(18) Equip remodeling, phase III		16,200
San Diego Mesa College:		
(19) Equip art addition		29,800
Redwoods Community College District, College of the Redwoods:		
(20) Equip science laboratory facilities		34,500
Peralta Community College District, Laney College:		

ITEM		AMOUNT
(21)	Equip convert labs A202 and F254	40,700
	Merritt College:	
(22)	Equip horticulture building	99,600
	Compton Community College District, Compton College:	
(23)	Equip remodel classrooms	26,400
	Grossmont Community College District, Cuyamaca College:	
(24)	Equip initial complement of library books	126,200
	Ventura County Community College District, Oxnard College:	
(25)	Equip learning resources center	270,800
	San Jose Community College District, Evergreen Valley College:	
(26)	Equip library building	231,500
	Los Angeles Community College District, Los Angeles Trade-Technical College:	
(27)	Equip library building	49,200
	East Los Angeles College:	
(28)	Equip library building	49,700
	College of the Sequoias Community College District, College of the Sequoias:	
(29)	Equip instructional media center	79,700
	Kern Community College District, Porterville College:	
(30)	Equip library instructional materials center	55,700
	Palomar Community College District, Palomar College:	
(31)	Equip educational theater	240,000
	Ventura County Community College District, Oxnard College:	

ITEM		AMOUNT
(32) Equip physical education building, phase "A"		36,200
(33) Equip outdoor physical education facility		23,100
Grossmont Community College District, Cuyamaca College:		
(34) Working drawings and construct off-site development, phase II		448,600
San Jose Community College District, San Jose City College:		
(35) Working drawings and construct central utility plant		452,100
Lassen Community College District, Lassen College:		
(36) Working drawings and construct fire and safety project		208,400
Marin Community College District, College of Marin:		
(38) Working drawings and construct ventilation hoods for OSHA requirements		92,700
Sonoma County Community College District, Santa Rosa Junior College:		
(41) Working drawings and construct Bussman Hall remodel and expansion		732,500
Los Rios Community College District, Sacramento City College:		
(44) Working drawings and construct administration of justice and fine arts remodel		400,700
Peralta Community College District, College of Alameda:		
(45) Working drawings and construct convert former library		172,200
West Valley Joint Community College District, Mission College:		

ITEM		AMOUNT
(46.1)	Working drawings for environmental and applied sciences building, phase II	102,300
	Merced Community College District, Merced College:	
(47)	Construct and equip allied health center	858,400
	San Diego Community College District, San Diego Miramar College:	
(49)	Working drawings and construct site development, phase I	773,300
(50)	Working drawings for central utility plant	28,500
	Lassen Community College District, Lassen College:	
(53)	Working drawings and construct trade building	920,600
	San Jose Community College District, San Jose City College:	
(55)	Working drawings and construct outdoor construction technical laboratory	94,900
	West Valley Joint Community College District, West Valley College:	
(59.1)	Working drawings and construct energy conservation	76,800
	Mendocino Community College District, Mendocino College:	
(59.2)	Working drawings and construct offsite development, phase I	498,000
(59.3)	Working drawings and construct on-site development, Phase I	516,000

ITEM		AMOUNT
provided, that the funds appropriated under (59.2) and (59.3) of this item shall not be expended and shall revert to the Capital Outlay Fund for Public Higher Education on December 1, 1978, unless prior to that date the electorate in the Mendocino Community College District approves a local bond issue to provide, at a minimum, the district's required contribution for completion of all permanent facilities in the district's 1979–80 five-year construction program.		
Provided further, that notwithstanding the provisions of Section 2.2 of this act, the appropriations made in this item for equipment items shall be available for expenditure only during the 1978–79 and 1979–80 fiscal years.		
GENERAL GOVERNMENT		
General Administration		
491—For minor capital outlay, Agricultural Labor Relations Board		10,000
492—For capital outlay, Department of Food and Agriculture		770,350
(a) Land acquisition, Meadowview Road	62,000	
(b) Truckee inspection station recondition, phase II	227,650	
(c) Working drawings and remodel chemistry laboratory to office space	311,700	
(d) Preliminary plans and working drawings, relocate San Gabriel veterinary laboratory	97,800	
(e) Preliminary plans, convert Long Valley inspection station	34,600	
(f) Minor capital outlay	36,600	
493—For minor capital outlay, Department of Industrial Relations		25,000
494—For capital outlay, Military Department		854,460
Schedule:		
(a) Project planning, working drawings and supervision of construction financed from federal funds	164,900	
(b) Armory building—Fresno	631,260	
(1) Project cost 1,865,400		
(2) Federal funds —1,234,140		
(c) Minor capital outlay	58,300	

ITEM	AMOUNT
494.1—For minor capital outlay, Public Utilities Commission	55,970
495—For minor capital outlay, State Public Defender	65,000

Unallocated

496—For project planning, to be allocated by the Department of Finance, to state agencies 300,000
The amount appropriated in this item is not to be construed as a commitment by the Legislature as to the amount of capital outlay funds it will appropriate in any future fiscal year.

Notwithstanding the provisions of Section 2.2, the amount appropriated by this item is available for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years.

496.1—Notwithstanding the provisions of Sections 66100 and 66102 of the Education Code, for increased cost of construction, for allocation by the Department of Finance, to the Department of Education, for Schools for the Blind, Deaf and Multihandicapped, Fremont, in accordance with the provisions of Section 16352 of the Government Code, payable from the Capital Outlay Fund for Public Higher Education, in accordance with the following schedule 7,250,860

Schedule:

(1) School for the Blind 2,084,700
(2) School for the Deaf and Multihandicapped 5,166,160

provided, that all moneys received from the sale of the property presently occupied by the Schools for the Blind, Deaf and Multihandicapped, Berkeley, shall be deposited in the Capital Outlay Fund for Public Higher Education, and shall be available as may be authorized by subsequent legislation.

SEC. 2.4. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1978–79, 1979–80, and 1980–81 fiscal years for expenditure only for the programs which have been approved pursuant to the provisions of the Community College Construction Act of 1967 (Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code) as contemplated by the Community College Construction Program Bond Act of 1972 (Sections 1 to 10, inclusive, of Chapter 937 of the Statutes of 1971); except that appropriations made by this section for preliminary plans or working drawings that have not been approved

ITEM AMOUNT

by the State Public Works Board on or before June 30, 1979, shall revert as of that date. All such appropriations shall be paid out of the State Construction Program Fund.

497.1—For capital outlay, Board of Governors of the California Community Colleges, to be allocated, subject to the prior approval of the Public Works Board, by the Board of Governors of the California Community Colleges to community college districts for expenditure by such districts as set forth in the schedule below, payable from the State Construction Program Fund, in anticipation of federal funds being available for construction phase 138,200

Schedule:

Statewide—Board of Governors of the California Community Colleges

(1) Preliminary plans, working drawings to remove architectural barriers to the handicapped 138,200

provided that withdrawals shall be as required to meet current obligations as certified by the Chancellor's Office of the California Community Colleges.

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1964 PROGRAM

SEC. 2.5. The following sums of money, or so much thereof, as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1978–79 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

498—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivision (b) of Section 5096.15 of the Public Resources Code, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1964 1,689,155

ITEM		AMOUNT
	Schedule:	
	(a) Design and construction planning	42,155
	(b) Salt Point SP—campground and day use areas, working drawings and construction	1,397,000
	provided, that Phase I construction funded by this item for this project shall be consolidated with Phase II funded by Item 503 for project (k) into a single, consolidated project.	
	(c) San Onofre SB—water system buy in charge	100,000
	(d) Sugar Pine Point SB—acquisition	150,000

Reappropriation

499—Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes (and subject to the limitations) provided in such appropriations (and any reappropriations), and shall be available for expenditure until June 30, 1979:

(a) Item 362(a), Budget Act of 1965
Land acquisition

(b) Item 423(t), Budget Act of 1966
Santa Monica Mountains—land acquisition

(d) Item 323A(a), Budget Act of 1972 as added by Chapter 955, Statutes of 1972
San Onofre State Beach, for development

(e) Item 367(e), Budget Act of 1973
relocation costs

(g) Section 2.5A, Item 403.1A, Budget Act of 1976, as added by Chapter 1325, Statutes of 1976—Acquisition and development of South County Park, County of San Joaquin, for the state park system.

ITEM AMOUNT

LOCAL ASSISTANCE

Reversions

500—As of June 30, 1978, the unencumbered balance of the appropriations made by the following items shall revert to the unappropriated balance of the State Beach, Park, Recreational and Historical Facilities Fund of 1964.

(a) Item 311(w) Budget Act of 1971: County of Mendocino, Low Gap Regional Park, for development.

(b) Item 365.1(b) Budget Act of 1973: Tuolumne Park, Parkways and Recreation District, Basin Creek Park, for acquisition and development.

(c) Item 365.1(c) Budget Act of 1973: Twain Harte Recreation and Park District, Twain Harte Park, for acquisition and development.

RECREATION AND FISH AND WILDLIFE ENHANCEMENT BOND ACT PROGRAM

SEC. 2.6. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years for expenditure only for programs contemplated by the Recreation and Fish and Wildlife Enhancement Bond Act, except that appropriations for studies, planning, working drawings and minor capital outlay shall be available for expenditure only during the 1978–79 fiscal year. All such appropriations shall be paid out of the Recreation and Fish and Wildlife Enhancement Fund.

CAPITAL OUTLAY

RESOURCES

501—For capital outlay, Department of Parks and Recreation, for purposes of the Recreation and Fish and Wildlife Enhancement Bond Act, payable from the Recreation and Fish and Wildlife Enhancement Fund 216,192

Schedule:

(a) Silverwood Lake SRA—landscaping, water system and sewage system, construction..... 157,250

ITEM		AMOUNT
(b)	Design and construction planning	58,942

Reappropriation

502—Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes (and subject to the limitations) provided in such appropriations (and any reappropriations), and shall be available for expenditure until June 30, 1979:

(a) Department of Parks and Recreation:

(1) Item 327 (g), Budget Act of 1972 Sawpit Canyon Area, for development

(3) Item 375(c), Budget Act of 1973 Silverwood Lake, West Fork and Mesa Areas, for development

(4) Item 405(a), Budget Act of 1974 Bethany Reservoir, tree planting

(6) Item 405(f), Budget Act of 1974 Ritter Canyon, for development

(7) Item 405(h), Budget Act of 1974 Silverwood Lake State Recreation Area, for development

(8) Item 383(a), Budget Act of 1975 Silverwood Lake State Recreation Area bicycle and hiking trails

STATE BEACH, PARK, RECREATIONAL AND HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

SEC. 2.8. The following sums of money, or so much thereof as may be necessary, unless otherwise provided herein, are hereby appropriated for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years. Appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1978–79 fiscal year. All such appropriations shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

ITEM		AMOUNT
CAPITAL OUTLAY		
RESOURCES		
503—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (b), (c), and (e) of Section 5096.85 of the Public Resources Code, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974		9,898,256
Schedule:		
(b) Clear Lake SP—campground, working drawings	89,925	
(c) Fort Humboldt SHP—Hospital Building, working drawings	50,000	
(d) Monterey SHP—Cooper-Molera restoration	1,294,556	
(e) Old Sacramento SHP—49r Scene, working drawings	162,500	
(f) Old Town San Diego SHP—working drawings and construction	653,848	
(i) Plumas Eureka SP—stamp mill restoration	209,150	
(j) Point Mugu SP—working drawings and construction	3,165,772	
(k) Salt Point SP—campground and day use areas, working drawings and construction	1,266,200	
provided, that phase I and phase II construction at Salt Point State Park shall be implemented simultaneously.		
(*l*) San Juan Bautista SHP—Plaza Hotel—restoration	1,006,185	
(m) Design and construction planning	1,970,120	
(o) State Indian Museum—preliminary planning	30,000	
504—For capital outlay, Wildlife Conservation Board, for purposes set forth in subdivision (d) of Section 5096.85 of the Public Resources Code, for expenditure during fiscal year 1978–79, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974		40,000
Schedule:		
(a) Project planning	40,000	

ITEM AMOUNT

Reappropriation

505—Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes (and subject to the limitations) provided in such appropriations (and any reappropriations), and shall be available for expenditure until June 30, 1979:

(a) Department of Parks and Recreation:

(1) Item 379(a), Budget Act of 1973
Stanford Home, land acquisition

(2) Item 379(c), Budget Act of 1973
Century Ranch, land acquisition

(4) Item 379(g), Budget Act of 1973
Old Town San Diego, land acquisition

(6) Section 9.3(a), Chapter 1064, Statutes of 1973
Burton Creek Area, land acquisition

(7) Item 410(a), Budget Act of 1974
Historical restoration

(8) Item 410.1(a), Budget Act of 1974
Old Sacramento State Historic Park, State Railroad Museum, for working drawings and construction

(9) Item 410.2(a), Budget Act of 1974
Lands located between Newport Beach and Laguna Beach for acquisition

(10) Item 410.7B(a), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974
Project planning and acquisition costs

ITEM		AMOUNT
(11)	Item 410.7B(b), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Patricks Point State Park, land acquisition	
(12)	Item 410.7B(c), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Pygmy Forest Ecological Staircase, land acquisition	
(13)	Item 410.7B(d), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Van Damme Beach State Park, land acquisition	
(14)	Item 410.7B(f), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Pomponio State Beaches, land acquisition	
(15)	Item 410.7B(g), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Pescadero State Beach, land acquisition	
(16)	Item 410.7B(h), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Año Nuevo State Reserve, land acquisition	
(17)	Item 410.7B(i), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Julia P. Burns State Park, land acquisition	
(18)	Item 410.7B(k), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 El Capitan State Beach, land acquisition	
(19)	Item 410.7B(*l*), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Leo Carrillo State Beach, land acquisition	

ITEM		AMOUNT
(20)	Item 410.7B(m), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Malibu Lagoon State Beach, land acquisition	
(21)	Item 410.7B(n), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 San Elijo-Cardiff State Beaches, land acquisition	
(22)	Item 410.7B(o), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Border Field State Park, land acquisition	
(23)	Item 410.7B(p), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Santa Monica Mountains, Topanga Canyon land acquisition	
(24)	Item 410.7B(r), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Cuyamaca Rancho State Park, land acquisition	
(25)	Item 410.7B(s), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Mount Diablo State Park, land acquisition	
(26)	Item 410.7B(t), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974, Cosumnes River State Project, land acquisition provided, that not more than $1,000,000 of the undisbursed balance of the appropriation for this project is hereby reappropriated and transferred to the proposed Delta Meadows State Park Project and for acquisition of development rights necessary to preserve those riparian and natural wildlife habitats which exist near the	

ITEM		AMOUNT
	confluence of the Mokelumne and Cosumnes Rivers without creating a state park at such confluence; and provided further, that the Department of Parks and Recreation shall also utilize land and water conservation funds where possible in the acquisition of development rights.	
(27)	Item 410.7B(u), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Delta Channel Islands Project, land acquisition	
(28)	Item 410.7B(w), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Anza-Borrego Desert State Park, Coyote Canyon, land acquisition	
(29)	Item 410.7B(x), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Bothe-Napa, land acquisition	
(30)	Item 410.7B(z), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 South Carlsbad State Beach, land acquisition	
(31)	Item 410.7B(aa), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Bodie State Historic Park, land acquisition	
(32)	Item 410.7B(cc), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Big Basin Redwoods State Park, land acquisition	
(33)	Item 410.7B(dd), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Horr Ranch Project, land acquisition	
(34)	Item 410.7B(gg), Budget Act	

ITEM		AMOUNT
	of 1974 as added by Chapter 1484, Statutes of 1974 Columbia State Historic Park, land acquisition	
(35)	Item 410.7B(hh), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Old Town San Diego State Park, land acquisition	
(36)	Item 410.7B(ii), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 Carmel River Project, land acquisition	
(37)	Item 410.7B(jj), Budget Act of 1974 as added by Chapter 1484, Statutes of 1974 San Luis Island, land acquisition	
(38)	Item 410.3H(a), Chapter 1514, Statutes of 1974 Morro Bay State Park, approximately 710 acres adjacent to state-owned wetlands in the Morro Bay estuary, land acquisition	
(39)	Item 387.1G(a), Budget Act of 1975 as added by Chapter 212, Statutes of 1976 Watts Towers, Simon Roddia Park, development	
(40)	Item 387.4(c), Budget Act of 1975 San Onofre State Beach: working drawings and hookup fees for sewage system and sanitary facilities	
(41)	Item 387.4(e), Budget Act of 1975 Col. Allensworth State Historic Park: restoration and reconstruction	
(42)	Item 387.4(j), Budget Act of 1975 Old Sacramento State Historic Park: Big Four Building	
(43)	Item 387.4(k), Budget Act of	

ITEM		AMOUNT
	1975 San Juan Bautista State Historic Park: Plaza Hotel, working drawings	
(44)	Item 387.4(*l*), Budget Act of 1975 Sonoma State Historic Park: Barracks, construction	
(45)	Item 387N(a), Budget Act of 1975 as added by Chapter 1201, Statutes of 1975 Indian Grinding Rock State Historic Park, all or part of approximately 220 acres of adjacent lands described as areas A and B in the State Beach, Park, Recreational, and Historical Facilities Bond Act of 1974 Studies of the Department of Parks and Recreation, acquisition and development.	
(46)	Item 435(d), Budget Act of 1977 Columbia State Historic Park—Fallon Hotel working drawings and research.	
(47)	Item 435(p), Budget Act of 1977 Point Mugu State Park—continuing development working drawings.	
(48)	Item 435(r), Budget Act of 1977 Columbia State Historic Park—Fallon Theater—research and working drawings.	
(49)	Item 435(s), Budget Act of 1977 State Indian Museum—research and program planning	
(b)	Wildlife Conservation Board:	
(1)	Item 387.5(a), Budget Act of 1975 Deer winter range acquisition	
(2)	Item 387.5(b), Budget Act of	

ITEM AMOUNT

1975
Bighorn sheep range acquisition
(3) Item 387.5(c), Budget Act of 1975
Coastal wetlands acquisition
(4) Item 387.5(d), Budget Act of 1975
Interior wetlands and riparian habitat acquisition.

Reversion

506—As of June 30, 1978, the unencumbered balance of the appropriations made by the following items shall revert to the unappropriated balance of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.
(a) Section 9.3(a), Chapter 1064, Statutes of 1973, Burton Creek Area, land acquisition provided, that not more than $2,700,000 of the unencumbered balance of the appropriation for this project shall revert.
(b) Item 410.7B(n), Budget Act of 1974, as added by Chapter 1484, Statutes of 1974, San Elijo-Cardiff State Beaches, land acquisition provided, that not more than $1,500,000 of the unencumbered balance of the appropriation for this project shall revert.
(c) Item 410.7B(m), Budget Act of 1974, as added by Chapter 1484, Statutes of 1974, Malibu Lagoon State Beach, land acquisition.

LOCAL ASSISTANCE

RESOURCES

507—For project review for purposes set forth in subdivision (a) of Section 5096.85 of the Public Resources Code, Department of Parks and Recreation, for expenditure during the 1978–79 fiscal year, payable from the State Beach, Park, Recreational and Historical Facilities Fund of 1974 192,489

ITEM		AMOUNT
508—For grants to counties, cities, cities and counties, and 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		5,711,233
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 Alameda County		
(0.1) Hayward Area Recreation and Park District and City of Hayward, Hayward Shoreline Park	104,138	
(0.2) City of Oakland, East Oakland Sports Center	519,690	
Projects in Alpine County		
(1) County of Alpine, Kirkwood Tennis Facility	120,000	
Projects in Del Norte County		
(2) Del Norte County, Pyke Field	16,420	
Projects in Fresno County		
(3) Coalinga-Huron Recreation and Park District, Recreation Softball Park	42,790	
Projects in Glenn County		
(3.1) City of Willows, North Willows/ Murdock Park	30,000	
Projects in Humboldt County		
(4) City of Fortuna, Rohner Park	18,562	
(5) County of Humboldt, A. W. Way Park	22,000	
Projects in Inyo County		
(5.1) County of Inyo, Starlight Estates Neighborhood Park	45,000	
Projects in Kern County		
(6) Elk Hills School District, Tupman Community Park	3,437	
(7) County of Kern, Belle Terrace Park	10,670	

ITEM	AMOUNT
(8) County of Kern, Buena Vista Aquatic Recreation Area	16,718
(9) County of Kern, Buttonwillow Park	19,140
(10) County of Kern, Franklin Field..	21,890
(11) County of Kern, Kern River County Park	8,580
(12) County of Kern, Lamont Park....	12,800
(13) County of Kern, Six County Parks	16,412
(14) Kern Union High School District, McFarland Park	100,072
(15) City of Maricopa, Maricopa Playground	2,162
(16) North Bakersfield Recreation and Park District, Greenacres Park	20,112
(17) Rosedale Union School District, Rosedale Park School	7,164
(18) Southern Kern Unified School District, Rosamond High School Tennis Courts	5,964
(19) Wasco Recreation and Park District, Westside Park	29,603
Projects in Kings County	
(20) City of Lemoore, 19th Avenue Park	30,000
Projects in Lassen County	
(21) County of Lassen, Clear Creek Park	5,000
(22) County of Lassen, Doyle Fire District Park	7,500
(23) County of Lassen, Janesville Park	10,000
(24) County of Lassen, Little Valley Park	5,000
(25) County of Lassen, Shaffer Union School District Park	5,000
Projects in Los Angeles County	
(26) City of Bellflower, John S. Simms Park	14,880
(27) City of El Monte, Parks Outdoor Lighting	84,389
(28) City of Los Angeles, Santa Barbara-Western Area	25,070
(29) City of Rancho Palos Verdes, Fred Hesse Jr. Memorial Park	119,417

ITEM	AMOUNT
(29.1) County of Los Angeles, Redondo/Torrance Beach	185,000
(29.2) City of Los Angeles, Ardmore Recreation Center	636,596
(29.3) City of South Pasadena, Orange Grove Park	73,656
(29.4) City of Inglewood, Darby Park	13,000
(29.5) City of Duarte, Beardslee Park	12,265
(29.6) City of Monrovia, Liberty Park tot lot	13,000
Projects in Madera County	
(30) County of Madera, Courthouse Museum	8,000
(31) County of Madera, Fresno Flats Historic Park	10,000
(32) County of Madera, Jackass Rock	9,000
(33) County of Madera, Parksdale Park	21,000
(34) County of Madera, Parkwood Park	6,000
Projects in Marin County	
(34.1) Marin City Community Services District, Marin City Park	4,318
(34.2) Town of Corte Madera, Town Park	23,970
Projects in Napa County	
(35) City of Calistoga, Youth Recreation Center	5,100
(36) Napa Valley Unified School District, North Napa recreation complex, phase II	6,670
Projects in Orange County	
(37) City of Irvine, Bommer Canyon	169,873
Projects in Placer County	
(38) City of Lincoln, Lincoln City Park	25,000
(38.1) County of Placer, Griffith Quarry Restoration	200
Projects in Riverside County	
(39) City of Desert Hot Springs, Arroyo/Wardman Parks	10,000

ITEM	AMOUNT
(40) Lake Elsinore Recreation and Park District, Swick Park	24,363
(41) County of Riverside, Gilman Ranch acquisition	97,500
(41.1) City of Riverside, Villegas Park	42,418
(41.2) County of Riverside, Gilman Ranch Acquisition	25,000
(41.3) City of Corona, Cresta Verda	53,221
Projects in Sacramento County	
(42) Sacramento County, Sacramento Northern Railroad bikeway	146,124
(43) Sunrise Recreation and Park District, Orangevale Community Park	5,904
(43.1) City of Sacramento, Oak Park Community Center	65,381
(43.2) County of Sacramento, Indian Stone Corral	50,000
Projects in San Bernardino County	
(44) Daggett Community Services District, Daggett Park	5,500
(45) City of San Bernardino, Del Vallejo School Park	74,317
(46) City of San Bernardino, Rio Vista School Park	56,600
(47) San Bernardino County, Calico Ghost Town	29,548
(47.1) City of Rialto, Lilac Park	7,750
(47.2) City of Rialto, Rialto City Park	13,000
(47.3) City of Rialto, Frisbee Park	1,000
(47.4) City of Montclair, Zone of Influence	29,007
Projects in San Diego County	
(48) City of Coronado, Coronado Cays Park/Glorietta Bay	86,121
(49) County of San Diego, Lakeview Park	34,900
(49.1) City of Lemon Grove, Berry Street Park	45,555
Projects in San Francisco County	
(50) City and County of San Francisco, Golden Gate Park Conservatory	375,000

ITEM	AMOUNT
(51) City and County of San Francisco, neighborhood parks	442,701
Projects in San Luis Obispo County	
(52) City of Pismo Beach, Spyglass Park	615
(53) County of San Luis Obispo, Oceano County Park	1,000
Projects in San Mateo County	
(54) City of Redwood City, Red Morton Community Park	204,600
(55) Town of Woodside, Independence Hall	18,000
(55.1) City of Half Moon Bay, Kelly Avenue Mini-Park	19,300
(55.2) Ladera Recreation District, Ladera Recreation Area	3,470
Projects in Santa Barbara County	
(55.3) City of Santa Barbara, Dwight Murphy Field	20,000
(55.4) City of Santa Barbara, Cabrillo Ball Park	45,000
(55.5) City of Santa Barbara, East Beach	13,984
(55.6) City of Santa Barbara, Oak Park	85,000
(55.7) City of Santa Barbara, Hidden Valley Park	78,000
(55.8) City of Santa Barbara, East and Ledbetter Beaches	2,000
(55.9) City of Santa Barbara, Santa Barbara Jr. High Soccer Field	50,000
Projects in Santa Clara County	
(56) City of Palo Alto, Bol Park	16,621
(57) County of Santa Clara, Ed R. Levin County Park	124,665
Projects in Santa Cruz County	
(58) Boulder Creek Recreation and Park District, Boulder Creek Tennis Court	13,888
(59) City of Santa Cruz, Ocean View Park	50,000
Projects in Shasta County	

ITEM	AMOUNT
(60) Shasta Union High School District, Central Valley High tennis courts	39,540
(60.1) Oak Run School District, Oak Run School Park and Playground	6,000
(60.2) City of Redding, Enterprise Park No. 1	30,880
(60.3) Shasta Dam Area Public Utilities District, Vallecito Street Park	6,900
(60.4) Happy Valley Union School District, Community Center Park	9,740
(60.5) Cottonwood Union School District, West Cottonwood School play area	17,360
(60.6) County of Shasta, Buckeye Regional Park	27,190
(60.7) Summit City Public Utility District, Bizz Johnson Park	6,000
Projects in Sierra County	
(60.8) County of Sierra, Kentucky Mine	3,500
Projects in Solano County	
(61) City of Fairfield, Mankas Park. ..	85,696
(62) City of Fairfield, Rockville Hills Park	75,000
Projects in Sonoma County	
(63) Valley of the Moon Recreation and Park District, Larson Park	25,824
Projects in Sutter County	
(64) City of Yuba City, Greenwood Park	68,900
(65) City of Live Oak, Live Oak Memorial Park	12,300
Projects in Trinity County	
(65.1) County of Trinity, Lowden Park	15,000
Projects in Tulare County	
(65.2) Kings River Union School District, Kings River Elementary School play area	1,221
(65.3) Buena Vista School District, Buena Vista School Play Area	1,027

ITEM		AMOUNT
(65.4)	Lindsay Unified School District, Steve Garvey Jr. High Park	9,952
	Projects in Ventura County	
(65.5)	Casitas Municipal Water District, Lake Casitas	60,423
	Projects in Yolo County	
(66)	County of Yolo, Gibson House Museum	19,499

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.

Reappropriation

508.1—Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes (and subject to the limitations) provided in such appropriations (and any reappropriations), and shall be available for expenditure until June 30, 1979:

(a) Item 412A(103), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, County of Los Angeles, Pan Pacific Park acquisition, development, or both.

(b) Item 412A(180), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Laguna Beach, Crescent Bay Point Open Space Beach Access, acquisition, development, or both.

(c) Item 412A(194), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Coachella, Bagdouma Park, acquisition, development, or both.

ITEM	AMOUNT
(cc) Item 412A(228), Budget Act of 1974, as added by Chapter 1522, Statutes of 1974, County of Sacramento, Sacramento City-County Historical Museum, acquisition, development, or both.	
(d) Item 412A(295), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Santa Rosa, Bennett Valley Park, acquisition, development, or both.	
(e) Item 390(18), Budget Act of 1975, Richvale Recreation and Park District, Richvale Elementary School Park.	
(f) Item 390(20), Budget Act of 1975, City of Colusa, Colusa Levee Scenic Park.	
(g) Item 390(60), Budget Act of 1975, City of Selma, North Selma Park.	
(h) Item 390(61), Budget Act of 1975, City of Selma, Floral Storm Basin Park.	
(i) Item 390(159), Budget Act of 1975, County of Napa, Skyline Park.	
(j) Item 390(163), Budget Act of 1975, Napa Valley Unified School District, Donaldson Way Ecology Center.	
(k) Item 390(173), Budget Act of 1975, City of Los Alamitos, Stansbury Park.	
(*l*) Item 390(198), Budget Act of 1975, Valley-Wide Recreation and Park District, Valley-Wide Regional Park.	
(m) Item 390(213), Budget Act of 1975, City of San Bernardino, Patton Property.	
(n) Item 390(249), Budget Act of 1975, County of San Diego, Spring Valley Park.	
(o) Item 390(256.3), Budget Act of 1975, County of San Diego Central Park.	

ITEM	AMOUNT
(p) Item 390(257), Budget Act of 1975, City and County of San Francisco, Golden Gate Park recreation development.	
(q) Item 390(265), Budget Act of 1975, City of Daly City, Bayshore Park.	
(r) Item 390(280), Budget Act of 1975, City of San Mateo, Bayfront Marina Lagoon.	
(s) Item 390(297), Budget Act of 1975, Opal Cliffs Recreation District, Opal Cliffs Beach.	
(t) Item 390(299), Budget Act of 1975, City of Santa Cruz, Ocean View Park.	
(u) Item 390(316), Budget Act of 1975, City of Santa Rosa, Hidden Valley Park.	
(v) Item 390(317), Budget Act of 1975, City of Santa Rosa, Yulupa Park.	
(w) Item 390(377), Budget Act of 1975, County of Yolo, Elkhorn Regional Park.	
(x) Item 390.2D(1), Budget Act of 1975, as added to by Chapter 984, Statutes of 1975, County of Amador, Pine Grove Park.	
(y) Item 390.2D(2), Budget Act of 1975, as added to by Chapter 984, Statutes of 1975, County of Amador, Pioneer Park.	
(z) Item 390.2D(3), Budget Act of 1975, as added to by Chapter 984, Statutes of 1975, County of Amador, Fiddletown Park.	
(aa) Item 390.2D(4), Budget Act of 1975, as added to by Chapter 984, Statutes of 1975, City of Plymouth, District Five Community Park.	
(bb) Item 390.2D(5), Budget Act of 1975, as added to by Chapter 984, Statutes of 1975, City of Amador, Amador City Park.	

ITEM AMOUNT

508.2—For grants to counties, cities, cities and counties, and districts, as defined in Section 5096.84 of, and 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 5,232

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 Napa County

(1) Howell Mountain School District, Playground Equipment 5,232

Reversions

509—As of June 30, 1978, 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.

(a) Item 412A(55), Budget Act of 1974, as added by Chapter 1522, Statutes of 1974 City of Avalon, Avalon School Tennis Courts, acquisition, development or both.

(b) Item 412A(77), Budget Act of 1974, as added by Chapter 1522, Statutes of 1974 City of Los Angeles, Watts Mini-Park, acquisition, development or both.

(c) Item 412A(207), Budget Act of 1974, as added by Chapter 1522, Statutes of 1974 City of Riverside, Riverside City College Park, acquisition, development or both.

(d) Item 390(102), Budget Act of 1975, City of Hidden Hills, City Hall tennis courts.

(e) Item 390(158), Budget Act of 1975, City of Calistoga, Pioneer Park.

(f) Item 390(161), Budget Act of 1975, Napa Valley Unified School District, Bumpy Camp.

ITEM	AMOUNT
(g) Item 390(162), Budget Act of 1975, Napa Valley Unified School District, Skyline Park Ecology Center.	
(h) Item 390(234), Budget Act of 1975, City of Coronado, Tidelands Park.	
(i) Item 390(256.1), Budget Act of 1975, County of San Diego, Royal Road Park.	
(j) Item 390(267), Budget Act of 1975, City of Daly City, Lincoln Park.	
(k) Item 390(286), Budget Act of 1975, County of Santa Clara, The Casa Grande.	
(*l*) Item 390(287), Budget Act of 1975, County of Santa Clara, Montebellow Historical School.	
(m) Item 390(288), Budget Act of 1975, County of Santa Clara, Machado School.	
(n) Item 390(289), Budget Act of 1975, County of Santa Clara, Uvas Creek Historic Indian Village and Bedrock Mortars Area.	
(o) Item 390(291), Budget Act of 1975, County of Santa Clara, Rengstorff House.	
(p) Item 390(292), Budget Act of 1975, County of Santa Clara, The Roberto Adobe.	
(q) Item 390(293), Budget Act of 1975, County of Santa Clara, San Antonio Historical School.	
(r) Item 390(295), Budget Act of 1975, Boulder Creek Recreation and Park District, Forest Pool.	
(s) Item 390(327), Budget Act of 1975, Hyampon Community Services District, Hyampon Park.	
(t) Item 414(48), Budget Act of 1976, North Bakersfield Recreation and Park District, Riverview Park.	
(u) Item 414(103.2), Budget Act of 1976, Napa Valley Unified School District, Bumpy Camp.	

ITEM	AMOUNT
(v) Item 414(133), Budget Act of 1976, Lake Elsinore Recreation and Park District, Crescent Bath House (Chimes).	
(w) Item 414.1J(144.2), Budget Act of 1976, as added by Chapter 1379, Statutes of 1976 County of Sacramento, Natomas East Main Drain Trail.	
(x) Item 438(34), Budget Act of 1977, Kern Union High School District, Foothill High Swimming Pool.	
(y) Item 438(57), Budget Act of 1977, City of Irvine, Edison ROW Jeffrey I.	
(z) Item 438(76), Budget Act of 1977, County of San Luis Obispo, Cordova Residence.	
(aa) Item 438(79), Budget Act of 1977, City of Daly City, Lincoln Park.	
(bb) Item 438(80), Budget Act of 1977, City of Santa Cruz, Natural Bridges Park.	
(cc) Item 412A(6), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Oakland, Holy Redeemer Park, acquisition, development, or both.	
(dd) Item 412A(87), Budget Act of 1974, as added by Chapter 1522, Statutes of 1974, City of Los Angeles, Pico-Hauser Areas, acquisition, development, or both.	
(ee) Item 412A(201), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Riverside, School Site Turfing, acquisition, development, or both.	
(ff) Item 412A(202), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Riverside, Alvord Unified School District Park, acquisition, development, or both.	

ITEM	AMOUNT
(gg) Item 412A(203), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Riverside, Arlington Park, acquisition, development, or both.	
(hh) Item 412A(208), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Riverside, Riverside Unified School District Park, acquisition, development, or both.	
(ii) Item 412A(209), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Riverside, Shamel Park, acquisition, development, or both.	
(jj) Item 412A(244), Budget Act of 1974, as added to by Chapter 1522, Statutes of 1974, City of Rialto, Cactus Basin Park, acquisition, development, or both.	
(kk) Item 390(5), Budget Act of 1975, Hayward Area Recreation and Park District and City of Hayward, Hayward Shoreline Park.	
(*ll*) Item 390(103), Budget Act of 1975, City of Inglewood, 104th Street/Crenshaw Park.	
(mm) Item 390(109), Budget Act of 1975, City of Monrovia, Olive Park tot lot.	
(nn) Item 390(141.5), Budget Act of 1975, Town of Corte Madera, Triangular Marsh.	
(oo) Item 390(185), Budget Act of 1975, County of Placer, historical sites marking.	
(pp) Item 390(206.2), Budget Act of 1975, City of Sacramento, Del Paso Heights Community Center Park.	
(qq) Item 414(79), Budget Act of 1976, City of South Pasadena, Garfield Park.	
(rr) Item 414(79.3), Budget Act of 1976, County of Los Angeles, Point Vicente Beach.	

ITEM	AMOUNT
(ss) Item 414(79.4), Budget Act of 1976, County of Los Angeles, El Pescador Beach.	
(tt) Item 414(140), Budget Act of 1976, County of Riverside, San Jacinto Trail.	
(uu) Item 414(142), Budget Act of 1976, Sunrise Recreation and Park District, Robbers Roost.	
(vv) Item 414(146), Budget Act of 1976, City of Montclair, Kingsley Area (High Density) Park.	
(ww) Item 414(177), Budget Act of 1976, Enterprise Public Utility District, Hawn Avenue Park.	
(xx) Item 414(178), Budget Act of 1976, Enterprise Public Utility District, Park No. 1.	
(yy) Item 414(212.2), Budget Act of 1976, County of Trinity, Helena Historical Post Office.	
(zz) Item 438(13), Budget Act of 1977, County of Inyo, Mill Pond Recreation Area.	
(aaa) Item 438(45), Budget Act of 1977, City of Duarte, Duarte Bradbury Trail.	
(bbb) Item 438(85.1), Budget Act of 1977, Sierra-Plumas Joint Unified School District, Kentucky Mine.	
(ccc) Item 390(250), Budget Act of 1975, County of San Diego, Skyline Drive Park.	

NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

SEC. 2.9. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.124 of the Public Resources Code, except that appropriations for studies, planning and working drawings shall be available for expenditure only during the 1978–79 fiscal year. All such appropriations shall be paid out of the State, Urban and Coastal Park Fund.

ITEM		AMOUNT

CAPITAL OUTLAY

RESOURCES

510—For capital outlay, Wildlife Conservation Board, Department of Fish and Game, for purposes set forth in subdivision (d) of Section 5096.124 of the Public Resources Code, payable from the State, Urban, and Coastal Park Fund 14,900,000

Schedule:

(a) Coastal wetlands, acquisition	10,000,000
(b) Big game habitat, acquisition.....	2,400,000
(c) Interior wetlands and raparian habitat, acquisition	1,500,000
(d) Wild trout, salmon and steelhead habitat, acquisition	1,000,000

provided, that upon receipt of any federal reimbursements applicable to any of the projects in this item, such reimbursements specified are appropriated for expenditure by the Wildlife Conservation Board for the types of projects specified in this item.

511—For capital outlay, Department of Navigation and Ocean Development, for purposes set forth in paragraph (3) of subdivision (e) of Section 5096.124 of the Public Resources Code, payable from the State, Urban, and Coastal Park Fund.... 2,554,700

Schedule:

(a) Castaic Lake, Laura's Landing—Los Angeles County	1,149,400
(b) Davis Lake—Plumas County	338,000
(c) Perris Lake—Riverside County	864,300
(d) Minor capital outlay	153,000
(e) Preliminary planning	50,000

provided, that upon receipt of any reimbursements applicable to any of the projects specified in this item from federal land and water conservation funds, such reimbursement shall be deposited in the 1976 State, Urban, and Coastal Park Fund to the credit of the Department of Navigation and Ocean Development.

512—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (b) and (c) of Section 5096.124 of the Public Resources Code, payable from the State, Urban, and Coastal Park Fund..... 15,830,857

Schedule:

ITEM		AMOUNT
(a)	Empire Mine SHP—working drawings and construction	639,100
(b)	Huntington SB—phase I, construction	81,400
(c)	Huntington SB—phase II, working drawings	317,550
(d)	Malibu Creek SP—phase I, construction	1,189,600
(e)	Design and construction planning	1,153,207
(f)	Humboldt Lagoons—acquisition	1,000,000

Provided, that the first acquisition phase for the Humboldt Lagoons project as funded by this item shall involve willing sellers only and the second phase shall be pursuant to an acquisition plan developed in cooperation with Humboldt County and the North Coast Regional Coastal Commission.

(i)	Point Dume—acquisition as either a state reserve unit of the state park system or as a natural preserve addition to Point Dume State Beach and for the construction of adequate fencing and other development necessary to insure protection of the unit	6,250,000

provided, that any funds appropriated or otherwise available for encumbrance for the acquisition of real property for the state park system at Point Dume may not be encumbered for the purchase of any portion of Parcels 3 to 6, inclusive, as shown on the Record of Surveys recorded in Map Book 57 at pages 47 to 50, inclusive, of the Official Records of the County Recorder of the County of Los Angeles.

Provided, further, that the Department of Parks and Recreation shall construct the fencing and other development necessary to insure protection of the unit as soon as possible after acquisition in recognition of the fact that any delay in providing such security could result in irreparable damage to the property.

ITEM		AMOUNT
	Provided further, that, in order to expedite construction of fencing and other necessary development, it is the intent of the Legislature that the California Coastal Commission shall consider, pursuant to Section 30333.5 of the Public Resources Code, removal of the coastal development permit application from the regional coastal commission.	
	(*l*) Statewide—historical and archeological research	200,000
	(m) Oxnard Beach—acquisition	3,500,000
	(n) El Pescado Beach Extension—acquisition	1,000,000
	(o) Lario Trail—development	1,000,000
	(p) Reimbursements—Federal Land and Water Conservation Fund	−500,000
	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.	
513—For capital outlay, Department of Water Resources, for purposes set forth in paragraph (2) of subdivision (e) of Section 5096.124 of the Public Resources Code, payable from the State, Urban, and Coastal Park Fund		406,000
	Schedule:	
	(a) California Aqueduct Bikeway—project planning and construction	250,000
	(b) Frenchmen's Flat Recreation Lake—project design	156,000

ITEM AMOUNT

Reappropriation

514—Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes (and subject to the limitations) provided in such appropriations (and any reappropriations), and shall be available for expenditure until June 30, 1979:

(a) Wildlife Conservation Board:

(1) Item 441(a), Budget Act of 1977 project planning.

515—Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes (and subject to the limitations) provided in such appropriation (and any reappropriations), and shall be available for expenditure until June 30, 1979:

(a) Department of Parks and Recreation:

(1) Item 443(m), Budget Act of 1977 Malibu Creek State Park—campground development and working drawings.

Reversion

516—As of June 30, 1978, the unencumbered balance of the appropriations made by the following items shall revert to the unappropriated balance of the State, Urban, and Coastal Park Fund:

(a) Department of Parks and Recreation:

(1) Item 443(d), Budget Act of 1977 Garner Valley—acquisition.

LOCAL ASSISTANCE

RESOURCES

517—For project review for purposes set forth in subdivision (a) of Section 5096.124 of the Public Resources Code, Department of Parks and

ITEM		AMOUNT
	Recreation, for expenditure during the 1978–79 fiscal year, payable from the State, Urban, and Coastal Park Fund	247,552
518—For grants to counties, cities, and districts, as defined in Section 5096.123, pursuant to subdivision (a) of Section 5096.124, of the Public Resources Code, Department of Parks and Recreation, payable from the State, Urban, and Coastal Park Fund		22,832,032
	Unless otherwise provided herein, funds appropriated for each of the local grant projects in this item are for acquisition, development, or restoration, or any combination thereof.	
	Schedule:	
	Projects in Alameda County	
	(1) City of Emeryville, Temescal Creek Park	13,187
	(2) City of Newark, Birch Grove Community Park	30,000
	(3) City of Newark, Bridgepointe Park	20,000
	(4) City of Newark, Mayhews Landing Park	15,000
	(5) City of Newark, Mirabeau Park	15,000
	(6) City of Newark, Newark, Lakeshore and Birch Grove Parks lighting	68,356
	(7) City of Pleasanton, Sports Park	118,685
	(7.1) City of Oakland, East Oakland and Sports Center	150,000
	(7.2) City of Hayward and Hayward Area Recreation and Park District, Hayward Shoreline Park	593,425
	Projects in Alpine County	
	(8) County of Alpine, Bear Valley community recreation building	200,000
	Projects in Amador County	
	(9) City of Ione, Howard Park	40,000
	(10) City of Sutter Creek, Old Sutter Creek grammer school	40,000
	(10.1) City of Jackson, Jackson High Recreation Area	40,000
	Projects in Butte County	
	(11) City of Biggs, Municipal Park	24,396

ITEM	AMOUNT
(12) Durham Recreation and Park District, Louis Edwards Park	15,371
(13) Feather River Recreation and Park District, Nelson Park	86,239
(14) City of Oroville, Thermalito Park	30,000
(14.1) Paradise Recreation and Park District, Paradise Park	104,231
(14.2) Richvale Recreation and Park District, Richvale Elementary School Park	10,000
Projects in Calaveras County	
(15) County of Calaveras, Mountain Ranch Park	13,452
Projects in Colusa County	
(16) City of Colusa, Colusa Fairgrounds Ballfield	29,150
(17) City of Colusa, Colusa Historical School	28,850
(18) City of Colusa, Wescott Road Bicycle Path	12,000
(18.1) County of Colusa, Maxwell Baseball Park	20,000
(18.2) County of Colusa, Princeton Tennis Courts	20,000
(18.3) City of Williams, Museum Park	40,000
(18.4) City of Colusa, Colusa Kindergarten Ghost Town	10,000
Projects in Contra Costa County	
(19) City of Brentwood, McClarren Park	23,050
(20) City of Lafayette, Briones-Las Trampas Regional Trail	61,550
(21) City of San Pablo, Davis Park	60,700
(22) City of Pittsburg, Buchanan Park	76,400
Projects in Del Norte County	
(23) City of Crescent City, Beachfront Park	65,000
(24) City of Crescent City, Peterson Park	25,000
(25) County of Del Norte, Kellogg Beach	12,000
(26) County of Del Norte, Klamath City Park	15,000

ITEM		AMOUNT
(27)	County of Del Norte, Recreation Center Gym	25,000
	Projects in El Dorado County	
(28)	Cameron Park Community Service District, Cameron Park athletic complex	27,067
(29)	County of El Dorado, El Dorado County Parks	12,128
(30)	El Dorado Hills Community Services District, El Dorado Hills Community Park	27,067
(31)	City of South Lake Tahoe, city bikeways	110,705
(32)	City of Placerville, Lions Park	42,451
	Projects in Fresno County	
(33)	Coalinga-Huron Recreation and Park District, Huron Park	37,841
(34)	County of Fresno, McKenzie Avenue recreation trail	40,000
(35)	Malaga County Water District, Malaga recreational park	20,000
(36)	City of Sanger, Greenwood Park	18,000
(37)	City of Sanger, Sanger City Park	27,804
(37.1)	City of Fowler, Fowler Park	20,000
(37.2)	City of Selma, Floral Storm Basin Park	37,397
(37.3)	City of Parlier, Parlier City Park	20,000
(37.4)	City of Fresno, Roeding Park	150,000
(37.5)	City of Orange Cove, Santa Fe Depot	22,481
	Projects in Glenn County	
(38)	Ord Community Service District, Ord Community recreation hall	12,000
(39)	City of Orland, Aquatic Park	94,000
	Projects in Humboldt County	
(40)	City of Eureka, Sequoia Park	97,300
(41)	County of Humboldt, Fields Landing	70,000
(42)	North Humboldt Recreation and Park District, North Humboldt Recreation and Park District Natatorium	10,800

ITEM	AMOUNT
(42.1) City of Blue Lake, Day-Night Recreation Area	15,000
Projects in Imperial County	
(43) City of Holtville, Mack Park	17,006
(44) Salton Community Services District, Desert Shores Community Park	10,933
(44.1) City of Imperial, Evans Park	12,032
Projects in Kern County	
(45) City of Arvin, Smothermon Park	21,537
(46) County of Kern, Buttonwillow Park	28,000
(47) County of Kern, Five County Parks	105,363
(48) County of Kern, Hart Memorial Park	58,850
(49) County of Kern, Heritage Park	18,430
(50) County of Kern, Lake Woollomes	22,500
(51) County of Kern, Pioneer Park	25,465
(52) County of Kern, Sears Park	12,320
(53) McFarland Recreation and Park District and City of McFarland, McFarland Park	25,707
(54) North Bakersfield Recreation and Park District, Greenacres Park	122,785
(55) City of Taft, East Kern Street Community Park	16,396
(56) City of Wasco, Westside Park	32,437
(57) Wasco Recreation and Park District, Westside Park	10,000
(57.1) City of Bakersfield, University Park	49,000
(57.2) City of Bakersfield, Castle Park	30,000
(57.3) City of Bakersfield, Quailwood Park	60,000
Projects in Kings County	
(58) City of Lemoore, 19th Avenue Park	28,202
Projects in Lassen County	
(59) County of Lassen, Bieber Park	15,000
Projects in Los Angeles County	
(60) City of Covina, 5 City Parks	102,102

ITEM	AMOUNT
(61) City of Hawaiian Gardens, Killingsworth Sports Facility	29,859
(62) City of Inglewood, Centinela Park	25,000
(63) City of Inglewood, Darby Park	139,338
(64) City of Inglewood, 5 City Parks	58,500
(65) City of San Marino, Lacy Park	42,080
(66) City of Inglewood, Rogers Park	48,500
(67) City of Irwindale, Irwindale City Park	10,000
(68) City of La Puente, La Puente City Park	95,140
(69) City of Monrovia, Olive Avenue Park	91,582
(70) City of Pomona, Ganesha Park	25,000
(71) City of Pomona, Kennedy Park	127,775
(72) City of Pomona, Palomares Park	100,000
(73) City of Torrance, Columbia Park	415,204
(74) City of West Covina, Woodside Community Park	237,305
(74.1) City of Los Angeles, Canterbury Avenue Park	200,000
(74.2) City of Los Angeles, Pepperdine University Park	750,000
(74.3) County of Los Angeles, White Point/Royal Palms State Beach	217,500
(74.4) County of Los Angeles, Dockweiler State Beach	196,700
(74.5) City of Santa Monica, Clover Park	282,476
(74.6) City of Gardena, Rowley Park Gymnasium	138,764
(74.7) City of Azusa, Memorial Park Recreation Center	40,438
(74.8) City of Commerce, Bristow Park	31,561
Projects in Madera County	
(75) City of Madera, Madera Senior Citizens Area	80,000
(76) County of Madera, Madera Parkwood Park	15,000
(77) County of Madera, North Fork School Tennis Court Lighting	15,000
(78) County of Madera, Oakhurst Community Center	40,000
(78.1) County of Madera, Chowchilla Sports and Leisure Park	15,000

ITEM	AMOUNT
Projects in Marin County	
(79) County of Marin, Bolinas Lagoon Interpretive Area	27,595
(80) Strawberry Recreation District, Belloc Lagoon Park	10,859
(81) Tamalpais Community Services District, Eastwood Park	13,542
(82) City of Tiburon, Richardson Bay Lineal Park	24,426
Projects in Mendocino County	
(83) City of Ukiah, Nokomis School Park	50,000
Projects in Merced County	
(84) City of Dos Palos, Little League Park	10,887
(85) City of Gustine, Harry P. Schmidt Park	11,295
(86) City of Merced, Ada Givens Park	115,223
(87) County of Merced, Hagaman Park	40,000
(88) County of Merced, Henderson Park	28,000
(89) County of Merced, Merced County Old Courthouse	72,032
(90) County of Merced, Lake Yosemite Park	70,000
Projects in Modoc County	
(91) City of Alturas, Alturas Community Pavilion	10,000
(92) City of Alturas, Alturas Golf Course	55,000
(93) City of Alturas, Alturas Roping Arena	10,000
(94) City of Alturas, Alturas Swimming Pool	60,000
(95) City of Alturas, Alturas Tennis Courts	25,000
(96) County of Modoc, Adin Park	10,000
(97) County of Modoc, Canby Park	20,000
(98) County of Modoc, Modoc County Fairgrounds	10,000
Projects in Monterey County	
(99) City of Carmel-by-the-Sea, Forest Hill Park	15,923

ITEM	AMOUNT
(100) City of Del Rey Oaks, Del Rey Oaks Park	10,000
(101) Greenfield Recreation District, Greenfield Parkland	10,000
(102) City of Greenfield, Greenfield Parkland	11,336
(103) City of Gonzales, Centennial Park	10,000
(104) City of King, City Park	16,797
(107) City of Marina, Marina Vista-Los Arboles Baseball Complex	12,000
(112) County of Monterey, Laguna Seca Recreation Area	95,000
(113) County of Monterey, Manzanita Regional Park	143,490
(114) Monterey Peninsula Regional Park District, Laguna Grande Park	71,626
(115) City of Pacific Grove, Lover's Point	54,264
(116) City of Salinas, Rossi-Rico Community Park	245,870
(117) City of Seaside, Seaside Tennis Courts	115,037
(118) Soledad-Mission Recreation District, Solar Pool Heating	10,000
(118.1) City of Monterey, El Estero Park	92,007
(118.2) City of Marina, Marina City Park	64,281
Projects in Napa County	
(119) City of Calistoga, Youth Recreation Center	10,716
(120) City of St. Helena, Crane Park	14,409
(120.1) City of Napa, Alston Park	177,344
Projects in Nevada County	
(121) Truckee-Donner Recreation and Park District, Truckee River Regional Park	45,000
Projects in Orange County	
(122) City of Brea, Arovista Elementary School Park	60,950
(123) Cypress Recreation and Park District, Morris Playground	97,200

ITEM	AMOUNT
(124) City of Fountain Valley, Southern California Edison Park	146,854
(125) City of Irvine, Bommer Canyon	98,413
(126) City of Los Alamitos, Oak Jr. High School Ball Diamond	30,316
(127) County of Orange, Arovista School Park	90,000
(128) County of Orange, Boisseranc Park	15,000
(129) County of Orange, Centennial Regional Park	100,000
(130) County of Orange, Columbus Tustin Park	70,000
(131) County of Orange, Hare School Park	130,000
(132) County of Orange, Lake School Park	60,000
(133) County of Orange, Linda Lane Park	70,000
(134) County of Orange, Moulton Meadows Park	150,000
(135) County of Orange, Oak Jr. High School Ball Diamond/Handball Courts	50,000
(136) County of Orange, Oso-Viejo Community Park	250,000
(137) County of Orange, Peralta Canyon Park	110,000
(138) County of Orange, San Gorgonio Park	100,000
(139) County of Orange, San Marino Park	13,000
(140) County of Orange, Serra Community Center	77,000
(141) County of Orange, Tri-City Park	350,000
(142) County of Orange, Twin Lakes Freedom Park	35,000
(143) County of Orange, Westminster High School Park	250,000
(144) County of Orange, Yorba Linda Tennis Courts	80,000
(145) City of Placentia, Goldenrod/Tuffree Hill Parks	28,600
(146) City of Placentia, Placentia Tennis Courts	15,379
(147) City of Placentia, Wagner Park	28,000
(148) City of Placentia, Tynes Gym	15,000

ITEM	AMOUNT
(149) City of Santa Ana, La Bonita Park	270,000
Projects in Placer County	
(150) Auburn Area Recreation and Park District, Regional Park	31,600
(151) Auburn Area Recreation and Park District, Sierra Pool	33,800
(152) City of Lincoln, Lincoln City Park	26,699
(153) County of Placer, Foresthill Memorial Park	10,000
(154) County of Placer, Granite Bay Neighborhood Park	15,000
(155) County of Placer, Griffith Quarry	17,000
(155.1) City of Colfax, Miles Community Park	13,354
Projects in Plumas County	
(156) City of Portola, Swim Pool Rehabilitation	25,000
(157) City of Portola, Ski Hill Restoration	16,000
Projects in Riverside County	
(158) City of Blythe, Todd Park	19,055
(159) Coachella Valley Recreation and Park District, Palm Desert Community Center Park	49,132
(160) Lake Elsinore Recreation and Park District, Swick Park	10,000
(161) City of Lake Elsinore, Swick Park	10,000
(162) County of Riverside, Lake Cahuilla	150,000
(163) City of Riverside, Mockingbird Canyon Park	476,063
(164) County of Riverside, Mockingbird Canyon	197,646
(165) County of Riverside, Park El Moreno	67,641
(166) County of Riverside, Swick Park	13,000
(167) County of Riverside, Trujillo Adobe	20,000
(167.1) City of Banning, Eastside Park	32,528
(167.2) City of Perris, Civic Center Parks	14,838

ITEM	AMOUNT
(167.3) City of Corona, Cresta Verde	103,025
(167.4) City of Beaumont, Civic Center Park	17,286
(167.5) City of Norco, Wayne Makin Park	59,475
Projects in Sacramento County	
(168) Carmichael Recreation and Park District, Carmichael Park	70,553
(168.1) City of Folsom, Folsom City Park	18,655
Projects in San Benito County	
(168.2) City of San Juan Bautista, City Community Hall	45,000
Projects in San Bernardino County	
(169) Apple Valley Recreation and Park District, Community Center Park	35,995
(170) Hesperia Recreation and Park District, Lime Street Park	32,995
(171) City of Loma Linda, Loma Linda Community Park	39,311
(172) County of San Bernardino, Anna Hobkirk Park	26,050
(173) County of San Bernardino, Barstow—Two Parks	30,000
(174) County of San Bernardino, Bloomington—Two Parks	53,653
(175) County of San Bernardino, Cucamonga-Guasti Regional Park	103,000
(176) County of San Bernardino, Dana Point Park	24,920
(177) County of San Bernardino, Glen Helen Regional Park	60,360
(178) County of San Bernardino, Glenmeade Park Bike Path	17,534
(179) City of Rancho Cucamonga, Heritage Park	141,341
(180) County of San Bernardino, Luckie Park	47,695
(181) County of San Bernardino, Prado Regional Park	586,640
(182) County of San Bernardino, Yucca Valley—8 Parks	22,882
(183) County of San Bernardino, Yucaipa Valley—Three Parks	80,364

ITEM	AMOUNT
(183.1) City of Chino, Northside Neighborhood Park	95,264
Projects in San Diego County	
(184) City of Carlsbad, Harding Street Community Center Auditorium	136,332
(185) City of Chula Vista, Park Way Community Center	307,187
(186) City of Coronado, Coronado Parks and Golf Course	136,332
(187) City of El Cajon Wells Park	262,405
(188) City of La Mesa, Adult Recreation Center	25,913
(189) Poway Municipal Water District, Lake Poway	19,400
(190) Valley Center Community Services District, Valley Center Park	50,000
Projects in San Francisco County	
(191) City and County of San Francisco, Golden Gate Park	600,000
(192) City and County of San Francisco, John McLaren Park	500,000
(193) City and County of San Francisco, Kimbell and Lang Playgrounds	119,583
(194) City and County of San Francisco, Neighborhood Parks	500,000
(195) City and County of San Francisco, San Francisco Zoological Gardens	500,000
Projects in San Joaquin County	
(196) City of Stockton, Louis Park Peninsula	65,000
(197) City of Stockton, McKinley Park	60,000
(198) City of Stockton, Otto Sandman Park	210,817
(199) City of Stockton, Senior Citizens Center	88,000
(199.1) City of Tracy, Tracy Community Recreation Center	57,673
Projects in San Luis Obispo County	
(200) City of Arroyo Grande, Strother Community Park	37,529

ITEM	AMOUNT
(201) City of El Paso de Robles, Sherwood Park	32,314
(202) City of Pismo Beach, Spyglass Park	19,787
(203) County of San Luis Obispo, Atascadero Regional County Park	67,609
(204) County of San Luis Obispo, Biddle Regional County Park	27,735
(205) County of San Luis Obispo, El Chorro Regional County Park	30,000
(206) County of San Luis Obispo, Hardie Park Swimming Pool	33,000
(207) County of San Luis Obispo, Shandon County Park	58,702
Projects in San Mateo County	
(208) City of Pacifica, Frontierland Park	130,413
(209) City of Daly City, Hillside Park	45,536
(210) City of Daly City, Hillside Park Acquisition	80,000
(211) City of Daly City, Lincoln Park	80,000
(212) City of Daly City, Westlake Park	50,000
(213) Ravenswood Recreation and Park District, Ravenswood Center/Jack Farrell Park	62,372
(214) City of Redwood City, Canyon Park	191,273
(215) City of San Carlos, Arundel Tennis Courts	77,520
(216) City of San Mateo, Central Park Tennis Courts	80,000
(217) City of San Mateo, Los Prados Park	146,137
(218) City of San Mateo, Mariners Island Park	50,000
(219) Town of Woodside, Independence Hall	18,523
(219.1) Highlands Recreation District, District Play Area	10,206
(219.2) Ladera Recreation District, Ladera Recreation Area	10,000
(219.3) City of Foster City, Edgewater Park	72,956
Projects in Santa Barbara County	
(220) Isla Vista Recreation and Park District, Isla Vista County Park	39,071

ITEM	AMOUNT
(221) City of Lompoc, Beattie Park ..	90,785
(221.1) City of Santa Barbara, Skofield Park	18,250
(221.2) City of Santa Barbara, Stevens Park	30,000
(221.3) City of Santa Barbara, Alameda Park	97,447
(221.4) City of Santa Barbara, Franceschi Park	50,000
(221.5) City of Santa Barbara, La Mesa Park	75,000
Projects in Santa Clara County	
(222) City of Campbell, John D. Morgan Park	53,417
(223) City of Los Altos, Marymeade Park	55,868
(224) City of Morgan Hill, Community Park	18,897
(225) City of Palo Alto, Bol Park	97,400
(226) City of Palo Alto, College Terrace Playgrounds	27,889
(227) City of Santa Clara, Mission Campus Sports Complex	50,000
(228) City of Sunnyvale, Sunnyvale Municipal Tennis Center	217,330
Projects in Santa Cruz County	
(229) Boulder Creek Recreation District, Tennis Courts	25,244
(230) County of Santa Cruz, Lighthouse Field Park	250,000
(231) County of Santa Cruz, Recreational Facilities	13,761
(232) County of Santa Cruz, Thirtieth and Brommer Street Park	78,849
Projects in Shasta County	
(233) Burney County Water District, Washburn Bue and Roadside Rest	20,000
(233.1) City of Redding, Enterprise Community Park	166,000
(233.2) Summit City Public Utility District, Bizz Johnson Park	10,000
(233.3) County of Shasta, French Gulch Park	20,400
(233.4) County of Shasta, Balls Ferry Park	25,000

ITEM	AMOUNT
(233.5) County of Shasta, Hat Creek Park	41,000
Projects in Sierra County	
(234) City of Loyalton, Loyalton Park	10,000
Projects in Siskiyou County	
(235) Dunsmuir Recreation District, Swimming Pool Bath House	20,000
(236) Happy Camp Community Services District, Happy Camp Park	20,000
(237) McCloud Community Services District, Community Swimming Pool	40,000
(238) Mt. Shasta Recreation District, City Park	20,000
(239) County of Siskiyou, Siskiyou County Outdoor Museum	45,000
(240) Weed Recreation and Park District, Carrick Park	25,000
(241.1) City of Montague, Montague Ball Park	15,000
Projects in Solano County	
(242) City of Suisun City, Dover Terrace South Park	36,777
Projects in Sonoma County	
(243) City of Cotati, Myrtle Avenue Park	19,306
(244) City of Healdsburg, Healdsburg Recreation Park	30,236
Projects in Stanislaus County	
(245) City of Ceres, Smyrna Park	38,401
(246) City of Patterson, City-Wide Parks	15,635
(247) City of Riverbank, Rio Altura Park	17,953
(248) City of Turlock, Tegner Park	72,087
(249) City of Waterford, Beard Community Park	10,000
(249.1) City of Newman, Newman Pool	10,000
(249.2) County of Stanislaus, Modesto Reservoir	355,586
Projects in Sutter County	

ITEM		AMOUNT
(250) City of Live Oak, Live Oak Memorial Park	11,500	
Projects in Tehama County		
(251) City of Tehama, Tehama City Parks	12,400	
Projects in Trinity County		
(252) Ruth Lake Community Services District, Community Recreation Building	33,000	
Projects in Tuolumne County		
(253) County of Tuolumne, Columbia Park	40,000	
(254) County of Tuolumne, Sonora Youth Center	25,000	
(255) Twain Harte Recreation and Park District, Twain Harte Tennis Courts	25,000	
(255.1) City of Sonora, Rotary Park	15,000	
Projects in Ventura County		
(256) County of Ventura, 1782 Aqueduct	26,500	
Projects in Yolo County		
(256.1) County of Yolo, Elkhorn Regional Park	69,969	
(256.2) County of Yolo, Yolo County Historical Museum	25,925	
Projects in Yuba County		
(257) City of Marysville, Eastgate Park	40,000	
(258) Olivehurst Public Utility District, Olivehurst Community Park	40,000	
(259) City of Wheatland, Wheatland City Park	40,000	

provided, that none of the funds which are appropriated in this item for the projects set forth herein shall be available for encumbrance unless and until such projects are submitted to, and reviewed and approved by, the Director of Parks and Recreation pursuant to Section 5096.130 of the Public Resources Code. The director may not approve any such project unless the applicant for the project is proposed to be included, or is already

ITEM AMOUNT

included, in the priority plan required by subdivision (c) of Section 5096.127 and unless the project meets the requirements of Section 5096.124, as it relates to local assistance grants, Section 5096.130, and any other provision of the Nejedly-Hart State, Urban, and Coastal Park Bond Act of 1976 (commencing with Section 5096.111 of the Public Resources Code).

Reversions

519—As of June 30, 1978, the unencumbered balance of the appropriation made by the following items shall revert to the unappropriated balance of the State, Urban, and Coastal Park Fund.

(a) Item 443.8(53), Budget Act of 1977, City of South Lake Tahoe, El Dorado campground.

(b) Item 443.8(229), Budget Act of 1977, City of Fountain Valley, Fountain Valley recreation and cultural center.

(c) Item 443.8(249), Budget Act of 1977, City of Santa Ana, Prentice Park Zoo.

(d) Item 443.8(305), Budget Act of 1977, City of Chula Vista, Brandy-wine-Otay Valley site.

(e) Item 443.8(347), Budget Act of 1977, City of Santa Clara, central park.

(f) Item 443.8(349.1), Budget Act of 1977, City of Campbell, Los Gatos Creek recreational area.

(g) Item 443.8(407), Budget Act of 1977, County of Ventura, Camarillo Grove.

(h) Item 443.8(9), Budget Act of 1977, City of Hayward and Hayward Area Recreation and Park District, Hayward shoreline acquisition.

(i) Item 443.8(20), Budget Act of 1977, City of Oakland, Holy Redeemer Park.

(j) Item 443.8(59), Budget Act of 1977, City of Fowler, recreation center.

ITEM		AMOUNT
(k)	Item 443.8(61), Budget Act of 1977, City of Fresno, Lafayette School site.	
(*l*)	Item 443.8(99), Budget Act of 1977, City of Azusa, Slauson Park.	
(m)	Item 443.8(110), Budget Act of 1977, City of Commerce, Bandini Park.	
(n)	Item 443.8(116), Budget Act of 1977, City of Gardena, South Gardena Park.	
(o)	Item 443.8(146), Budget Act of 1977, City of Los Angeles, Santa Barbara-Vermont area.	
(p)	Item 443.8(154), Budget Act of 1977, City of Los Angeles, Van Nuys Senior Citizen Center.	
(q)	Item 443.8(161), Budget Act of 1977, County of Los Angeles, Cabrillo Beach boat facilities.	
(r)	Item 443.8(163), Budget Act of 1977, County of Los Angeles, El Segundo Beach.	
(s)	Item 443.8(165), Budget Act of 1977, County of Los Angeles, La Costa Beach.	
(t)	Item 443.8(294), Budget Act of 1977, City of Chino, Southwestern Park site.	

STATE COASTAL CONSERVANCY

SEC. 3. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.125 and Division 21 (commencing with Section 31000) of the Public Resources Code, except that appropriations for administration and planning shall be available for expenditure only during the 1978–79 fiscal year. All such appropriations shall be paid out of the State Coastal Conservancy.

ITEM		AMOUNT
	STATE OPERATIONS	
	RESOURCES	
520	—For support, State Coastal Conservancy, for the purposes set forth in subdivision (f) of Section 5096.125 of the Public Resources Code, payable from the State Coastal Conservancy	471,579
520.1	—For capital outlay, State Coastal Conservancy, payable from the State Coastal Conservancy, for expenditure in the 1978–79 fiscal year, for the purposes set forth in subdivisions (a), (b), (c), (d), and (e) of Section 5096.125 of the Public Resources Code	7,000,000
	provided, that no funds allocated to this item may be encumbered unless and until each project and the plan therefor is approved by the State Coastal Conservancy and, if required, is reviewed, approved, or certified by the California Coastal Commission pursuant to Sections 31152, 31206, 31208, 31213, 31255, 31258, 31263, or 31304, or any combination thereof, of the Public Resources Code.	
	Provided further, that upon the receipt of any federal reimbursement applicable to any of the projects specified in this item, such reimbursement is hereby appropriated for expenditure by the State Coastal Conservancy for the types of projects specified in this item.	

HEALTH SCIENCE FACILITIES CONSTRUCTION BOND ACT PROGRAM

SEC. 3.2. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1978–79, 1979–80 and 1980–81 fiscal years for expenditures only for the programs contemplated by the Health Science Facilities Construction Program Bond Act of 1971, except that appropriations for studies, planning, working drawings, and minor capital outlay projects shall be available for expenditure only during the 1978–79 fiscal year. In addition, every appropriation made in this section for construction, or working drawings and construction, that has not been approved by the State Public Works Board on or before June 30, 1979, shall revert as of that date to the Health Science Facilities Construction Program Fund. All such appropriations shall be paid out of the Health Science Facilities Construction Program Fund.

ITEM			AMOUNT
	Education		
521—For capital outlay, University of California, subject to approval of the State Public Works Board, payable from Health Sciences Facilities Construction Program Fund; provided, that withdrawals shall be as required to meet current obligations as certified by the University of California			3,608,000
Schedule:			
	Davis—Health Sciences:		
(2)	Working drawings and construct Medical Science alterations	386,000	
(3)	Equip veterinary medicine unit 2	663,000	
(4)	Land acquisition for veterinary medicine expansion, San Joaquin Valley clinical facility	400,000	
	Irvine—Health Sciences:		
(5)	Equip medical surge alterations	110,000	
	San Diego—Health Sciences:		
(7)	Equip university hospital, remodel released clinic areas, 1st floor	114,000	
(8)	Equip university hospital, relocate nuclear medicine	14,000	
(9)	Construct university hospital, radiation therapy expansion, step 3	257,000	
(10)	Working drawings and construct UCMC, San Diego, library expansion	475,000	
	San Francisco—Health Sciences:		
(11)	Equip school of dentistry building	1,009,000	
(12)	Equip clinics and medical sciences buildings alterations, step 2	22,000	
(13)	Preliminary plans and working drawings for clinics and medical sciences building alterations, step 3	158,000	

ITEM		AMOUNT
	provided, that notwithstanding the provisions of Section 3.2 of this act the appropriations made in this item for equipment items shall be available for expenditure only during the 1978–79 and 1979–80 fiscal years.	

STATE CONSTRUCTION BOND ACT PROGRAM

SEC. 3.3. On July 1, 1978, all unappropriated balances remaining in the State Construction Program Fund from the State Construction Program Bond Act of 1955, the State Construction Program Bond Act of 1958, the State Construction Program Bond Act of 1962, and the State Construction Program Bond Act of 1964, except any proceeds from the sale of bonds specifically reserved by Section 2 of the State Construction Bond Act of 1962 (Chapter 23, Statutes of 1962, First Extraordinary Session), or Section 2 of the State Construction Program Bond Act of 1964 (Chapter 143, Statutes of 1964, First Extraordinary Session), are hereby transferred to the State Higher Education Construction Program Bond Act of 1966. All such funds so transferred shall be available for the purposes of the State Higher Education Construction Program Bond Act of 1966.

SEC. 3.4. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1978–79, 1979–80, and 1980–81 fiscal years for expenditures only for the programs contemplated by the State Higher Education Construction Program Bond Act of 1966, except that appropriations for studies, planning, working drawings and minor capital outlay projects shall be available for expenditure only during the 1978–79 fiscal year. In addition, every appropriation made in this section for construction or working drawings and construction, that has not been approved by the State Public Works Board on or before June 30, 1979, shall revert as of that date to the State Construction Program Fund. All such appropriations shall be paid out of the State Construction Program Fund.

EDUCATION

522—For capital outlay, Trustees of the California State University and Colleges, subject to the approval of the State Public Works Board, payable from the State Construction Program Fund provided, that withdrawals shall be as required to meet current obligations as certified by the Trustees of the California State University and Colleges.....		11,387,000
Schedule:		
San Jose State University:		
(1) Working drawings and construct library.....	10,854,000	

ITEM		AMOUNT
	Sonoma State College:	
(2)	Equip library addition	309,000
(3)	Working drawings and construct remodel library	108,000
	State College, Bakersfield:	
(4)	Equip outdoor physical education II	12,000
	State College, Stanislaus:	
(5)	Equip physical education facility	104,000

Provided, that notwithstanding the provisions of Section 3.4 of this act, the appropriations made in this item for equipment items shall be available for expenditure only during the 1978–79 and 1979–80 fiscal years.

GENERAL SECTIONS

SEC. 4. Notwithstanding any other provisions of this act, no appropriations made by this act, or funds obtained from any other source may be expended by any state entity for electronic data-processing services, equipment, facilities, personnel, or supplies for any electronic data-processing activity, unless the procedures, including those relating to confidentiality and security of data, set forth in the State Administrative Manual to implement this section have been met and followed. The Department of Finance is authorized to approve proposed expenditures subject to this section for the purpose of ensuring that required procedures have been followed. The provisions of this section shall not apply to expenditures for continuing previously approved efforts, as defined in the State Administrative Manual, including added costs due to merit salary increases and inflation.

If funds subject to this section are to be encumbered pursuant to a contract, each such contract in excess of $25,000 shall be competitively bid except (a) when the Department of Finance determines that an article or service is the only article or service which can meet the needs of the state entity, or (b) in cases of emergency where immediate acquisition is necessary for the protection of the public health, welfare, or safety, as determined by the Director of Finance, or (c) when the Department of Finance determines that the interests of the state are best served through other competitive methods. The Department of Finance, with the assistance of the Department of General Services, shall maintain in the State Administrative Manual appropriate criteria and procedures to ensure compliance with the contract-letting policies set forth in this section. The Department of Finance shall maintain in the State Administrative Manual procurement and contracting guidelines to be followed by state agencies with respect to expenditures subject to

this section. Such guidelines may be in the form of standard formats or model formats which provide sufficient flexibility to enable the state to obtain contracts which take advantage of the vendor's best financing alternative while at the same time ensuring that reasonable protection for the state is not compromised.

In any procurement subject to this section involving the replacement of a computer central processing unit, if only one bid is received and that bid is from the vendor whose equipment is being replaced, a notification of an intent to award a contract to such sole bidder shall be submitted to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee 30 days prior to an award of contract. The notification of intent to award a contract to such sole bidder shall describe the rationale for the award and the measures taken by the state to elicit more than one bid.

The Department of Finance may impose additional requirements that are more stringent than those set forth in the State Administrative Manual with respect to any particular expenditure if the Director of Finance determines that such requirements will best serve the needs of the state.

The Department of Finance shall identify significant issues which appear to be limiting the state's effective use of electronic data-processing technology, develop, and maintain a plan to address these issues, and report semiannually to the Joint Legislative Budget Committee and the California Information Systems Committee to include progress in resolving such issues.

The provisions of this section shall not apply to the University of California, the State Compensation Insurance Fund, the community college districts, agencies provided for by Article VI of the Constitution, or the Legislature.

SEC. 5. Because it is necessary to insure the availability of adequate equipment for physical facilities constructed for the operation of custodial, mental health, educational, administrative, military, and other agencies of the state government; because uncertainties as to completion dates make precise advance planning of equipment purchases impossible; and since delivery of some kinds of equipment cannot be made for six months or longer from the date of ordering; state agencies are therefore authorized to incur obligations, to be met during the 1979–80 fiscal year, for the purchase of equipment related to capital outlay projects for which the Legislature has appropriated construction funds; provided, that no obligation shall be incurred under the provisions of this section without the approval of the Department of Finance and the State Public Works Board. Purchase orders issued and contracts entered into under the provisions of this section shall not exceed a total of three million dollars ($3,000,000) in estimated cost.

SEC. 5.5. To the Department of Transportation, for advance authority for the department to incur equipment purchase obligations in an amount not to exceed $3,000,000 during the 1978–79

fiscal year, for delivery beginning in the 1979–80 fiscal year, the sum of $3,000,000 is hereby appropriated from the State Highway Account, State Transportation Fund.

SEC. 5.7. No funds made available for highway construction purposes under this act shall be used for the purpose of developing or implementing lanes on highway routes to be used exclusively for high occupancy vehicles. This section applies only to elements of the highway system in county group 1 which were initially included in the National System of Interstate and Defense Highways during the 1978 calendar year.

SEC. 6.1. None of the funds appropriated under Section 2 of this act may be expended for any project for the alteration of a state building requiring total expenditures of $100,000 or more. Any such project requiring total expenditures of $25,000 to $100,000, inclusive, shall be reported by the Director of General Services to the Chairman of the Joint Legislative Budget Committee, or his designee, at least 30 days prior to requesting bids for the project. Any such project requiring total expenditures of $5,000, but less than $25,000, during the 1977–78 fiscal year shall be reported by the Director of General Services to the Chairman of the Joint Legislative Budget Committee, or his designee, by October 1, 1978.

SEC. 7. Any acquisition of land or other real property included in any appropriation made herein except appropriations from the California Water Fund or the State Highway Account, State Transportation Fund or appropriations to the Board of Governors of the California Community Colleges for allocation to the community college districts shall be subject to the provisions of the Property Acquisition Law.

All property acquisitions, notwithstanding other exemptions of this section, shall be reported to the State Public Works Board.

SEC. 8. No money appropriated herein in any item for capital outlay may be expended by any state agency, including the University of California, the California State University and Colleges and the community colleges, except amounts for acquisition of land or other real property, amounts needed for equipment, minor projects and amounts appropriated specifically for preliminary surveys, studies and planning until the State Public Works Board and the Department of Finance have approved preliminary plans for the project to be financed from such item of appropriation for capital outlay and until the Chairman of the Joint Legislative Budget Committee, or his designee, is provided a 20-day review of the preliminary plans or not sooner than such lesser time as the chairman, or his designee, may in each instance determine, with the exception that community college approvals by the State Public Works Board will apply only to the allocation of state capital outlay funds appropriated heretofore and hereafter by the Legislature; including land acquisition and equipment funds; provided further, that unless excepted by the conditions of Section 81844 of the Education Code, the Public Works Board shall not approve for

allocation any appropriated amounts for working drawings or construction where said working drawings or construction have been started by a community college prior to approval of the state-appropriated amounts by the Public Works Board, and all such amounts not approved by the board under this criterion shall be reverted to the unappropriated balance of the appropriate fund; provided further, no major project for which appropriation is made hereunder regarding which the Director of Finance or his authorized representative requests review of working plans shall be put out to bid until the working plans therefor have been approved by the Department of Finance; provided further, that no money appropriated herein may be spent for working drawings for any project as to which there has been made substantial change or changes from the preliminary plans as approved by the State Public Works Board and the Department of Finance unless there has first been obtained the approval of the Department of Finance to make such change or changes; provided further, that no more than one thousand dollars ($1,000) of the money appropriated herein may be spent for any single unit of equipment until prior approval for purchase of such equipment shall have been given by the Department of Finance.

The State Public Works Board shall defer all augmentations in excess of 20 percent of the amount appropriated herein for each capital outlay project until the Legislature makes additional funds available for the specific project.

Nothing in this section shall be construed to limit or control the Department of Transportation in the expenditure of State Highway Account, State Transportation Fund money appropriated for capital outlay purposes.

SEC. 8.1. (a) The Director of Parks and Recreation may not advertise, negotiate, renegotiate, or amend any concession contract, operating lease, or nongovernmental agreement which involves a total investment for any private party in excess of $100,000 or involves projected concessionaire gross receipts in excess of $100,000 on an annual basis under the terms of such agreement unless the director first obtains approval of the State Public Works Board. Prior to granting such approval, the State Public Works Board shall make a finding that the proposed concession operation was approved by the Legislature or could not have reasonably been presented to the Legislature through the annual budgeting process.

(b) In addition, none of the access, picnic, restroom, or camping facilities constructed with funds appropriated by this act shall be operated pursuant to any new or existing concession agreement unless the justification for the appropriation presented to the Legislature has included such concession operation.

(c) This section shall not apply to the California Exposition and State Fair.

SEC. 8.2. No expenditure for park furnishings shall be made from any appropriation contained in this act for expenditure by the

Department of Parks and Recreation unless the department has made reasonable efforts to acquire such furnishings on a consolidated procurement basis. The department shall provide reasonable demonstration of such consolidated procurement to the Public Works Board and the Office of Procurement of the Department of General Services before the board and office authorize an expenditure or approve procurement.

SEC. 8.3. The Controller may not disburse funds from any appropriation or reappropriation for acquisition made to the Department of Parks and Recreation by this act to pay for any property rights, however secured or received, until the State Public Works Board has approved the transaction. In addition, the Attorney General and the Department of General Services shall inform the State Public Works Board of every action in inverse condemnation served upon either or both of them, which pertains to any acquisition for the state park system, by placing an item on the state board's agenda.

SEC. 8.5. In making appropriations to state agencies which are eligible for federal assistance programs, it is the intent and understanding of the Legislature that applications made by such agencies for federal funds under any such programs shall be for the maximum amount allowable under federal law.

SEC. 9. Notwithstanding any other provision of law, the portion of each sum of money heretofore appropriated or allocated, hereby appropriated or hereafter allocated to the Regents of the University of California for capital outlay which remains after the purpose for which each said sum was appropriated or allocated has been accomplished, and which have been or hereafter are withdrawn from the State Treasury by the Regents of the University of California pursuant to the provisions of Section 92100 of the Education Code, together with increments, by way of interest or otherwise, on any such appropriation or allocations, shall be used and expended by the Regents of the University of California in executing and furthering the building and improvement program of the University of California; provided, that no such sums shall be allocated by the Regents of the University of California to projects for the purpose of augmenting those projects without prior approval of the State Public Works Board of the requested augmentation. Such sums shall be available for expenditure in payment of any encumbrances heretofore or hereafter incurred without regard to fiscal years; provided, however, that any unencumbered balances existing as of the date on which each such appropriation or allocation otherwise would lapse, shall then revert.

SEC. 10.05. STATE AND CONSUMER SERVICES

Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the

purposes provided for in said appropriations, and shall be available for expenditure until June 30, 1979:

Department of General Services:

General Fund:

1. Item 373(c), Budget Act of 1976—planning—new state building and parking garage—Sacramento (Site No. 1, Phase B).

2. Item 373(f), Budget Act of 1976—planning—new Department of Justice Building—Sacramento.

3. Item 373(g), Budget Act of 1976—alterations—State Compensation Insurance Fund Building—San Francisco

4. Item 375.1(a), Budget Act of 1974—planning—new state building—Los Angeles.

provided, that these funds shall be expended only for the purpose of planning one building.

5. Item 389(d), Budget Act of 1977—construction—new Department of Justice Building—Sacramento.

6. Item 389(e), Budget Act of 1977—construction—new state building—Sacramento (Site No. 1, Phase B).

7. Item 389(ex), Budget Act of 1977—construction—new parking garage—Sacramento (Site No. 1, Phase B).

8. Item 389(f), Budget Act of 1977—working drawings for alterations—State Compensation Insurance Fund Building—San Francisco

9. Item 389(i), Budget Act of 1977—monitoring system—central heating and cooling plant—Sacramento

10. Item 389(*l*), Budget Act of 1977—planning and working drawings—new state building—Long Beach.

11. Item 389(o), Budget Act of 1977—working drawings—new state building—San Jose.

12. Item 389.1, Budget Act of 1977—alterations—Resources Building—Sacramento.

Fish and Game Preservation Fund:

13. Item 389.4, Budget Act of 1977—alterations—Resources

Building—Sacramento.

SEC. 10.06. BUSINESS AND TRANSPORTATION

Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes provided for in said appropriations, and shall be available for expenditure until June 30, 1979.

a. Department of Motor Vehicles:

Motor Vehicle Account, State Transportation Fund:

1. Item 377(d), Budget Act of 1974—construct office building and parking facilities—San Fernando

2. Item 362 Budget Act of 1975—working drawings for office buildings and parking facilities as shown in the following subitems:

Item 362(b)—San Pedro	$52,500
Item 362(c)—Torrance	61,800
Item 362(d)—Pleasanton	60,000

3. Item 362(a), Budget Act of 1975—site acquisition and working drawings for office building and parking facilities—Oceanside

4. Item 362(e), Budget Act of 1975—site acquisition and working drawings for office building and parking facilities—South Lake Tahoe

5. Item 362(h), Budget Act of 1975—site acquisition and working drawings for office building and parking facilities—Compton

6. Item 362(i), Budget Act of 1975—site acquisition and working drawings for office building and parking facilities—Los Angeles (Southern Headquarters)

7. Item 362(j), Budget Act of 1975—site acquisition and working drawings for office building and parking facilities—Oroville

8. Item 362(k), Budget Act of 1975—site acquisition and working drawings for office building and parking facilities—Woodland/Davis

9. Item 362(*l*), Budget Act of 1975—site acquisition and working drawings for office building and parking

facilities—Santa Barbara

10. Item 378(bx), Budget Act of 1976—construct office building and parking facilities—Santa Rosa

11. Item 394(b), Budget Act of 1975—planning for computer replacement

12. Item 394(d), Budget Act of 1977—construct office building and parking facilities—Oceanside.

b. Department of Transportation:

State Highway Account, State Transportation Fund (State Funds):

1. Item 160.1, Budget Act of 1977—support, highway transportation program

State Highway Account, State Transportation Fund (federal funds):

2. Item 200, Budget Act of 1975—Local assistance—highway safety improvements and federal urban system.

3. Item 360, Budget Act of 1975—Capital outlay—highway safety improvements.

4. Item 205, Budget Act of 1976—Local Assistance—highway safety improvements and federal urban system.

5. Item 376, Budget Act of 1976—Capital outlay—highway safety improvements.

6. Item 160, Budget Act of 1977—Local Assistance—highway safety improvements and federal urban system.

Transportation Planning and Research Account, State Transportation Fund:

7. Section 16(p), Chapter 1130, Statutes of 1975—public transit guideway system, City and County of San Francisco

Environmental Protection Program Fund:

8. Item 222, Budget Act of 1975, as reappropriated to the Department of Transportation by Section 10.06(b)(1), Budget Act of 1977—external combustion engine.

c. Department of California Highway Patrol:

Motor Vehicle Account, State Transportation Fund:

1. $167,971 of the amount appropriated by Item 161 (b), Budget Act of 1977 for lease expenditures.

SEC. 10.07. RESOURCES

Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes provided for in said appropriations, and shall be available for expenditure until June 30, 1979:

(a) Department of Conservation:

General Fund:

(1) Item 378(h), Budget Act of 1974—construct Mattole forest fire station.

(2) Item 378(j), Budget Act of 1974—construct Coarsegold forest fire station.

(3) Item 378(t), Budget Act of 1974—construct Ramona forest fire station.

(4) Item 379(a) Budget Act of 1976—land acquisition and working drawings, Hollister forest fire station.

(5) Item 396(f), Budget Act of 1977—construct Almaden forest fire station.

(6) Item 396(g), Budget Act of 1977—equip Almaden forest fire station.

(7) Item 396(h), Budget Act of 1977—construct materiel service center—San Bernardino ranger unit headquarters.

(8) Item 396(i) Budget Act of 1977—Equip materiel service center—San Bernardino ranger unit headquarters.

(b) Wildlife Conservation Board:

Bagley Conservation Fund:

(1) Item 350.3, Budget Act of 1973—acquisition of coastal wildlife areas and adjacent lands at Tomales Bay in Marin County.

(2) Item 379.5, Budget Act of 1974—acquisition of coastal

wildlife areas and adjacent lands of Tomales Bay in Marin County.

(3) Section 10.15(b), Budget Act of 1977, as amended by Chapter 1155 of the Statutes of 1977—acquisition and development of lands pursuant to Section 29305 of the Public Resources Code.

(c) Department of Parks and Recreation:

General Fund:

(1) Section 1(d), Chapter 983, Statutes of 1973—Hendy Woods State Park—acquisition.

(2) Section 1(i), Chapter 983, Statutes of 1973—Leo Carrillo State Beach—acquisition.

(3) Chapter 1139, Statutes of 1973—North Coastal—acquisition.

(4) Section 2(a), Chapter 1174, Statutes of 1973—Century Ranch—acquisition.

Hostel Facilities Use Fees, General Fund:

(5) Section 2(a), Chapter 1529, Statutes of 1974—acquisition of riding, hiking and bicycle trails.

(6) Item (b), Chapter 1529, Statutes of 1974—development of riding, hiking, and bicycle trails.

(7) Section 2(a), Chapter 744, Statutes of 1975—acquisition of recreational trail rights-of-way.

(8) Section 2(b), Chapter 744, Statutes of 1975—development of recreational trails.

(9) Section 2(a), Chapter 1014, Statutes of 1975—acquisition and development of recreational trail rights-of-way in Los Angeles and Ventura Counties.

(10) Section 2, Chapter 1019, Statutes of 1975—acquisition and development of trails in Santa Barbara and Ventura Counties.

(11) Section 2, Chapter 1020, Statutes of 1975—acquisition and development of trails in Marin County.

Bagley Conservation Fund:

(13) Item 318.2(b)(14), Budget Act of 1972—Angel Island State Park.

(14) Chapter 1423, Statutes of 1972—Santa Cruz Mountains Area, Unit No. 417.

(17) Item 350(aa), Budget Act of 1973—Sonoma Coast State Beach—land acquisition.

(18) Item 350(dd), Budget Act of 1973—Manchester State Beach—land acquisition.

(19) Item 350(ee), Budget Act of 1973—Fort Ross—land acquisition.

(20) Item 350(gg), Budget Act of 1973—Candlestick Park—land acquisition.

(21) Item 350(nn), Budget Act of 1973—Wilder Ranch—land acquisition.

(22) Subdivision (a) of Section 1, Chapter 1521, Statutes of 1974—project planning and acquisition costs.

(24) Section 1(d), Chapter 1521, Statutes of 1974—augmentation for land value increases, land acquisition, for Bagley Conservation Fund projects; provided, that such reappropriation is limited to such amounts as are approved by the State Public Works Board.

(25) Section 1(f), Chapter 1521, Statutes of 1974—Bear Harbor project augmentation—land acquisition.

(27) Section 1(h), Chapter 1521, Statutes of 1974—Mendocino Headlands augmentation—land acquisition.

(28) Section 1(*l*), Chapter 1521, Statutes of 1974—Fort Ross State Historical Monument augmentation—land acquisition.

(29) Section 1(m), Chapter 1521, Statutes of 1974—Tomales Bay—land acquisition.

(31) Section 1(r), Chapter 1521, Statutes of 1974—Doheny State Beach—land acquisition.

(32) Section 1(s), Chapter 1521, Statutes of 1974—Salt Point State Park—land acquisition.

(33) Section 1(t), Chapter 1521, Statutes of 1974—Century Ranch extension—land acquisition.

(34) Section 1(v), Chapter 1521, Statutes of 1974—Red Rock Canyon State Recreation Area—land acquisition.

(35) Section 1(w), Chapter 1521, Statutes of 1974—Poppy Preserve project—land acquisition.

(36) Section 1(cc), Chapter 1521, Statutes of 1974—Leo Carrillo State Beach extension—land acquisition.

(37) Section 1(ff), Chapter 1521, Statutes of 1974—Las Tunas Beach project—land acquisition.

(40) Item 383.5, Budget Act of 1974 as reappropriated by Section 1(a), Chapter 901, Statutes of 1975 for development at San Buenaventura State Beach.

(41) Item 350(m), Budget Act of 1973 as reappropriated by Section 1(b), Chapter 901, Statutes of 1975 for development at San Buenaventura State Beach.

(42) Item 401(b), Budget Act of 1977—Seacliff State Beach, day use and sanitary facilities, working drawings and construction.

(42.1) Section 6(a), Chapter 1379, Statutes of 1976—for construction of slots at Benbow Dam; provided, that any funds not encumbered for such construction may be encumbered for the acquisition of lands as an addition to Benbow Lake State Recreation Area.

Collier Park Preservation Fund:

(43) Section 1, Chapter 775, Statutes of 1975—for repairs to the School Street Adobe in the City of Santa Cruz for the State Park System.

(44) Section 1(a), Chapter 853, Statutes of 1975—for the acquisition of beach land in the City of Pacifica for the state Park System.

(45) Item 369(d), Budget Act of 1975—Folsom Lake State Recreation Area, for acquisition of approximately 250 acres at Monte Vista Campground.

(47) Item 386(p), Budget Act of 1976—American River Trail, acquisition and development.

(48) Item 402(d), Budget Act of 1977—Huntington State Beach, day use, working drawings.

(49) Item 402(g), Budget Act of 1977—McGrath State Beach, sewer system, development.

(50) Item 402(k), Budget Act of 1977—Saddleback Butte State Park, facility improvements.

(51.01) Section 5(a), Chapter 946, Statutes of 1977—for the acquisition of land for the South Yuba River Trail Project.

(51.02) Section 6(b), Chapter 1379, Statutes of 1976—for the construction of slots at Benbow Dam; provided, that any funds not encumbered for such construction may be encumbered for the acquisition of lands as an addition to Benbow Lake State Recreation Area.

Off-Highway Vehicle Fund:

(51.1) Item 277.1(b), Budget Act of 1974—off-highway motor vehicle facility, City of Davis, for acquisition and development.

(52) Section 2(a), Chapter 542, Statutes of 1974—the sum of one million four hundred thousand dollars ($1,400,000) to the Department of Parks and Recreation for the acquisition of an interest in real and personal property located in San Benito County.

(53) Section 1, Chapter 54, Statutes of 1975—Highway Vehicle Park, County of Sacramento, for acquisition and development.

(54) Item 257(a), Budget Act of 1975, La Grange Off-Highway Vehicle Park County of Stanislaus, for acquisition and development.

(55) Item 257(c), Budget Act of 1975, Tulare City Off-Highway Vehicle Recreation Area, City of Tulare, for acquisition and development.

(56) Section 2(a), Chapter 741, Statutes of 1975 For the acquisition of an interest in real and personal property in San Diego County.

(57) Section 2(b), Chapter 741, Statutes of 1975 For development and for administrative costs, including, but

not limited to, rental, leasing costs, archeological investigation, operating expenses and equipment, and personal services.

(58) Item 403.5(b), Budget Act of 1977 Hungry Valley-planning and operations.

Park and Recreation Revolving Account, General Fund:

(59) Section 1(a), Chapter 927, Statutes of 1975—For acquisition of lands as an addition to the Border Field Area in the County of San Diego for the State Park System.

(60) Section 1, Chapter 1077, Statutes of 1975—For the acquisition of no more than 32 acres of the Los Liones Canyon in the Santa Monica Mountains for the State Park System.

(61) Item 400(f), Budget Act of 1977—Old Town San Diego State Historic Park, Mission Playhouse, construction.

(62) Item 400(h), Budget Act of 1977—Clear Lake State Park, sewer buy-in charge.

(63) Item 400(i) Budget Act of 1977—Malakoff Diggins State Historic Park, water turbidity study.

State Park Contingent Fund:

(64) Item 382(a), Budget Act of 1974—Humboldt Redwoods State Park, land acquisition (Land and Water)

(65) Item 382(c), Budget Act of 1974—Ward Creek, land acquisition.

(66) Item 382.1(a), Budget Act of 1974—Humboldt Redwoods State Park, land acquisition.

(67) Item 367(a), Budget Act of 1975—Humboldt Redwoods State Park, land acquisition

(68) Item 367(b), Budget Act of 1975—Standish Hickey State Recreation Area, land acquisition.

(69) Item 367(d), Budget Act of 1975—Castle Rock State Park, land acquisition.

State Park Highway Account, Bagley Conservation Fund:

(70) Section 1, Chapter 646, Statutes of 1975—For the development of a road at Millerton Lake. State Recreation Area.

(d) Division of Exposition and State Fair:

General Fund:

(1) Item 404(a), Budget Act of 1977—concession facilities preliminary planning and working drawings.

(2) Item 404(b), Budget Act of 1977—expo center, preliminary planning and working drawings.

(3) Item 404(c), Budget Act of 1977—stable area roadways and drainage construction.

SEC. 10.08. HEALTH AND WELFARE

Notwithstanding any other provisions of law, the unencumbered balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes provided for in such appropriations, and shall be available for expenditure until June 30, 1979.

(a) Office of Alcoholism:

General Fund:

(1) Item 280.1, Budget Act of 1976—public inebriate demonstration project.

(b) Department of Health Services:

General Fund:

(1) Item 241.3, Budget Act of 1977, as allocated pursuant to Section 9 of Chapter 1066, Statutes of 1977; provided, that of the amount allocated, the sum of $111,972 only is reappropriated for administration of the provisions of Chapter 1066, Statutes of 1977, and shall be transferred to and in augmentation of Item 244 of this act.

(c) Employment Development Department

Unemployment Trust Fund

(1) Item 392(b), Budget Act of 1976, Modesto office—site acquisition

(2) Item 408(b), Budget Act of 1977, Modesto office—construction, building addition

(3) Item 408(c), Budget Act of 1977, Modesto office—parking

lot

(4) Item 408(h), Budget Act of 1977, Santa Rosa office—parking site acquisition and improvement

(5) Item 408(i), Budget Act of 1977, Bakersfield office—parking site acquisition and improvement

(d) Department of Corrections:

General Fund:

(1) Item 410.3(a), Budget Act of 1977, to improve yard security

(2) Item 410.3(b), Budget Act of 1977, to replace laundry equipment

(3) Item 410.3(d), Budget Act of 1977, to upgrade internal security and control

(4) Item 410.3(e), Budget Act of 1977, for elevator replacement, north block and hospital

(5) Item 410.3(f), Budget Act of 1977, to upgrade minimum security housing.

(e) Department of the Youth Authority:

General Fund:

(1) Item 411(b), Budget Act of 1977, for air-condition living units

(2) Item 411(c), Budget Act of 1977, to repair and reroof various structures

(3) Item 411(d), Budget Act of 1977, to repair and reroof various structures

(4) Item 411(e), Budget Act of 1977, to repair and reroof various structures

(5) Item 411(g), Budget Act of 1977, to repair and reroof various structures

(6) Item 411(h), Budget Act of 1977, to air-condition and heat the administration and administration annex buildings

(7) Item 411(i), Budget Act of 1977, to replace security sound systems, various systems.

SEC. 10.09. EDUCATION

Notwithstanding any other provisions of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purposes provided for in said appropriations, and shall be available for expenditure until June 30, 1979.

(a) California State University and Colleges:

Capital Outlay Fund for Public Higher Education:

Statewide—Trustees of the California State University and Colleges, Southern California Ocean Studies Consortium:

(1) Item 419(30), Budget Act of 1977—working drawings for laboratory facility.

provided, that the California Postsecondary Education Commission shall review the Ocean Studies Consortium program and the need for this facility, and report its findings to the Chairman of the Joint Legislative Budget Committee, or his designee, and to the chairman of the committee in each house which considers appropriations, no later than 30 days prior to allocation of these funds by the State Public Works Board.

State University, Long Beach:

(2) Item 378.2(23), Budget Act of 1975—construct science building addition.

Polytechnic State University, San Luis Obispo:

(3) Item 378.2(27), Budget Act of 1975—construct life science building.

State College, Sonoma:

(4) Item 395(5), Budget Act of 1974, as reappropriated by Section 10.09, Budget Act of 1977—construct arts building.

State University, Fullerton:

(5) Item 419(19), Budget Act of 1977—working drawings for science basement conversion.

(b) Department of Education:

General Fund:

(1) Item 300, Budget Act of 1977, as augmented by Section 65 of Chapter 894, Statutes of 1977—preparation and distribution of

frameworks for assessing pupil progress.

(2) Item 322.1, Budget Act of 1975, as reappropriated by Section 10.09(c)(2), Budget Act of 1977—development of a bilingual scholastic achievement test in the Spanish language.

(3) Section 69 of Chapter 894, Statutes of 1977—support of independent evaluation of the school improvement programs and staff development programs and resource centers.

(4) Section 72 of Chapter 894, Statutes of 1977—support of independent evaluation of the California master plan for special education.

(5) Item 286(a), Budget Act of 1977—demonstration programs in reading and mathematics for the purposes of project evaluation and dissemination activities.

(6) To implement the California Library Services Act, the sum of $42,000 is reappropriated to the Department of Education, Division of Libraries, from the unencumbered balance of the appropriation made by Section 4 of Chapter 1255, Statutes of 1977, for the purpose provided for in such appropriation.

(c) University of California:

Capital Outlay Fund for Public Higher Education:

Davis Campus:

(1) Item 415(5), Budget Act of 1977—working drawings and construct CAC deficiencies (handicapped), step 1.

Health Sciences Facilities Construction Program Fund:

Davis Health Sciences

(2) Item 416(9), Budget Act of 1976—working drawings for Sacramento Medical Center improvements (alterations) 1975–76, 1976–77, as reappropriated by Section 10.09(b)(3), Budget Act of 1977.

(3) Item 446(4), Budget Act of 1977—Construct Sacramento Medical Center improvements (alterations) 1975–76, 1976–77.

(4) Item 446(17), Budget Act of 1977—working drawings for Sacramento Medical Center, replacement of seismically deficient patient care facilities.

(5) Item 446(18), Budget Act of 1977—working drawings and construct Sacramento Medical Center, California Administrative Code (CAC) deficiencies, step 1.

SEC. 10.11. GENERAL GOVERNMENT

Notwithstanding any other provisions of law, that portion of the unencumbered balance of Item 35, Budget Act of 1977, as augmented by Chapter 791, Statutes of 1977, which remains available for the Firescope Program, is hereby reappropriated for transfer by the State Controller to and in augmentation of Item 37, Budget Act of 1978 and shall remain available for expenditure until June 30, 1979.

SEC. 10.12. GENERAL GOVERNMENT

Notwithstanding any other provisions of law, the undisbursed balances on the effective date of this act, of the appropriations provided in the following citations, are reappropriated for the purpose provided for in such appropriations, and shall be available for expenditure until June 30, 1979.

(a) Department of Food and Agriculture:

General Fund:

(1) Item 386(b), Budget Act of 1977—Truckee inspection station recondition.

SEC. 10.20. As of June 30, 1978, the unexpended balance of the appropriation made by Item 382, Budget Act of 1977, shall revert to the unappropriated surplus of the General Fund.

As of July 1, 1978, the amount reverted as of June 30, 1978, for Item 382, Budget Act of 1977, is reappropriated and shall be available until June 30, 1979, and may be expended on written authorization of the Department of Finance issued on or before said date, for emergencies, within the meaning of said item, occuring during the 1977–78 fiscal year.

SEC. 10.30. Notwithstanding any other provision of law, as of July 1, 1978, $50,000 of the unexpended balance of the appropriation made by Item 300, Budget Act of 1977, and intended for the evaluation purposes described in category (b) of Item 292.2, Budget Act of 1977, as well as any amount necessary, up to $25,000, of the unexpended balance of the amount appropriated by Section 6(a) of Chapter 1246, Statutes of 1977, is reappropriated for transfer to, and in augmentation of, Item 295, Budget Act of 1978, and shall be available for expenditure until June 30, 1979, for the purpose of an independent evaluation of the Alternative Child Care Program. Notwithstanding any other provision of law, the final evaluation report required under Section 8415 of the Education Code shall be submitted to the Legislature by March 31, 1979, and shall utilize to the degree necessary data collected by the independent evaluator.

SEC. 10.50. Notwithstanding any other provisions of law, on July 1, 1978, the unencumbered balance of the appropriations for the 1977–78 fiscal year, made from the General Fund by paragraph (1) of subdivision (a) of Section 12 of Chapter 1199 of the Statutes of 1977 and made from the Transportation Planning and Research Account in the State Transportation Fund by paragraph (1) of subdivision (b) of Section 12 of Chapter 1199 of the Statutes of 1977, are hereby reappropriated to the Department of Aging for the same purposes specified in Section 12 of Chapter 1199 of the Statutes of 1977 and subject to the provisions of subdivision (c) of Section 12 of Chapter 1199. The funds reappropriated by this section shall be available for encumbrance until June 30, 1979.

SEC. 10.55. BUSINESS AND TRANSPORTATION

The unencumbered balance of the appropriation made in category (a) of Item 146 of the Budget Act of 1977 is hereby reappropriated and transferred to the California Economic Development Grant and Loan Fund for encumbrance by the Department of Economic and Business Development for local assistance.

SEC. 10.60. As of July 1, 1978, the unexpended balance of the appropriation made by Item 407(a), Budget Act of 1977, is hereby reappropriated to the Departments of Developmental Services and Mental Health as set forth in the schedule below, subject to the approval of the State Public Works Board, and shall be available for expenditure until June 30, 1981.

(a) Department of Developmental Services:

General Fund:		
Fire and life safety		18,273,085
Agnews State Hospital:		
(1) Buildings 51-52-53, working drawings and construction	1,693,300	
Camarillo State Hospital:		
(2) Buildings 41-42, children's unit, working drawings and construction	368,424	
Fairview State Hospital:		
(3) RTC building, construction	983,500	
(4) Units D, E, and F, working drawings and construction	499,700	
(5) Unit B, working drawings and construction	351,500	
(6) Unit K, working drawings and construction	282,900	

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(7)	Units S and S-1, working drawings and construction	233,100
(8)	Unit U, working drawings and construction	152,200
	Napa State Hospital:	
(9)	RTC building, construction	922,000
(10)	Unit 195, working drawings and construction	326,800
(11)	Units 254, 255, and 256, working drawings and construction	194,600
(12)	Units 196, 197, and 198, working drawings and construction	1,418,700
(13)	Units 253 and 257, working drawings and construction	141,400
	Pacific State Hospital:	
(14)	Buildings 2, 3, 16, 17, 20, 21, 22, and 24, working drawings and construction	850,750
(15)	Units 1, 4, 5, 23, 25, 27, 31, and 32, working drawings and construction	921,511
	Patton State Hospital·	
(16)	Building 20, working drawings and construction	715,500
(17)	Building 30, working drawings and construction	630,700
(18)	Building U, working drawings and construction	183,500
(19)	Building N, working drawings and construction	857,000
	Porterville State Hospital:	
(20)	RTC Building, construction	509,000
(21)	M Units 2, 4, 6, 7, 8, 9, 10, and 11; F Units 10, 17, and 18, construction	965,000
(22)	M Units 5, 12, 13, 15, and 16; F Units 5, 7, 8, and 9, working drawings and construction	777,200
	Sonoma State Hospital:	
(23)	Nelson Building, working drawings and construction	299,900
(24)	Fedrickson Building, construction	273,800
(25)	Regamy, Emparan, Johnson,	

ITEM		AMOUNT
Ordahl, Communicable Diseases, Brent, Lathrop, Stoneman, Poppe, Cromwell, Tallman, and Judah, working drawings and construction	1,057,500	
(26) Remis, Cohen, Butler, and Lux, working drawings and construction	440,800	
(27) Powers and Parmelle, working drawings and construction	487,500	
Stockton State Hospital:		
(28) Cottage G, working drawings and construction	589,000	
(29) Cottage C, working drawings and construction	341,600	
(30) Building E, working drawings and construction	804,700	
Environmental		26,484,647
Agnews State Hospital:		
(1) Buildings 51-52-53, working drawings and construction	1,776,000	
Camarillo State Hospital:		
(2) Buildings 41-42 children's unit, preliminary plans, working drawings and construction	756,252	
(3) Buildings 60-61, 64-66-67, working drawings and construction	613,889	
Fairview State Hospital:		
(4) Units D, E, and F, working drawings and construction	643,242	
(5) Unit B, working drawings and construction	658,231	
(6) Unit K, working drawings and construction	452,921	
(7) Units S and S-1, working drawings and construction	433,215	
(8) Unit U, working drawings and construction	240,000	
Napa State Hospital:		
(9) Unit 195, working drawings and construction	1,024,813	
(10) Units 254, 255, and 256, working drawings and construction	526,545	

ITEM	AMOUNT
(11) Units 196, 197, and 198, working drawings and construction	3,116,817
(12) Units 253 and 257, working drawings and construction	350,283
Pacific State Hospital:	
(13) Buildings 2, 3, 16, 17, 20, 21, 22, and 24, working drawings and construction	1,064,945
(14) Units 1, 4, 5, 23, 25, 27, 31, and 32, working drawings and construction	1,434,743
Patton State Hospital:	
(15) Building 20, working drawings and construction	928,000
(16) Building 30, working drawings and construction	928,000
(17) Building U, working drawings and construction	350,408
(18) Building N, working drawings and construction	163,520
Porterville State Hospital:	
(19) M Units 2, 4, 6, 7, 8, 9, 10, and 11; F Units 10, 17, and 18, construction	1,749,000
(20) M Units 5, 12, 13, 15, and 16; F Units 5, 7, 8, and 9, working drawings and construction	1,431,000
Sonoma State Hospital:	
(21) Nelson Building, working drawings and construction	108,624
(22) Regamy, Emparan, Johnson, Ordahl, Communicable Diseases, Brent, Lathrop, Stoneman, Poppe, Cromwell, Tallman, and Judah, working drawings and construction	2,441,008
(23) Remis, Cohen, Butler, and Lux, working drawings and construction	1,276,781
(24) Powers and Parmelle, working drawings and construction	506,632
Stockton State Hospital:	
(25) RTC Building, working drawings and construction	339,661

ITEM		AMOUNT
(26) Cottage G, working drawings and construction	1,320,513	
(27) Cottage C, working drawings and construction	594,000	
(28) Building E, working drawings and construction	1,255,612	
(b) Department of Mental Health		
General Fund:		
(1) Item 407(a), Budget Act of 1977: Schedule:		
Fire and Life Safety		921,500
Atascadero State Hospital:		
(1) Wards 1, 2, and 3, construction	450,000	
Metropolitan State Hospital:		
(2) Units 407, 409, 411, 413, and 415, working drawings and construction	471,500	
Environmental		1,811,700
Metropolitan State Hospital:		
(1) 400 series ward, working drawings and construction	1,069,780	
(2) Units 407, 409, 411, 413, and 415, working drawings and construction	741,920	

SEC. 10.65. As of July 1, 1978, the unexpended balance of the appropriation made by subdivision (b) of Item 407 of Chapter 219, Statutes of 1977, is hereby reappropriated to the State Department of Health Services for expenditure until June 30, 1981, for the purposes set forth in subdivision (b) of Item 407 of Chapter 219, Statutes of 1977, subject to the approval of the State Public Works Board.

SEC. 10.68. As of July 1, 1978, the unexpended balance of the appropriation made by subdivision (b) of Item 247 of Chapter 219, Statutes of 1977, not to exceed $2,500,000, is hereby reappropriated to the State Department of Developmental Services for the purpose of providing community residential placements for residents of state hospitals who are recommended for such placement by state hospital personnel and by a regional center, pursuant to Section 4509 of the Welfare and Institutions Code.

SEC. 10.70. The Reserve Account in the General Fund created by Item 217.1 of the Budget Act of 1975, and continued in existence by Section 10.7 of the Budget Act of 1976 and Section 10.70 of the Budget Act of 1977, is hereby abolished; and all moneys in such account shall be transferred by the State Controller to the State

Energy Resources Conservation and Development Reserve Account created by Section 25804 of the Public Resources Code and shall be expended therefrom for the purposes for which such moneys were originally appropriated or allocated.

SEC. 10.75. Notwithstanding any other provision of law, the undisbursed balances, on the effective date of this act, of the appropriations provided in the following citations are reappropriated for the purposes provided in such appropriations, and shall be available for expenditure until June 30, 1979.

Department of Parks and Recreation:

(1) Item 400 (g), Budget Act of 1977—Yolanda Ranch acquisition; provided, that (1) the owner of the Yolanda Ranch donates approximately two acres on which the ranchhouse and farm buildings are located, (2) the owner is offered a life tenancy and is relocated if he or she relinquishes and donates such life tenancy, (3) the Department of Parks and Recreation shall first attempt to acquire full fee title for up to 60 acres of the Yolanda Ranch and second, as an alternative, up to 80 acres of the Ramsey Ranch, and, in this regard, the Department of Parks and Recreation is also authorized to execute a deed to implement a trade of a portion of the Ramsey Ranch for a portion of the Yolanda Ranch; provided further, that none of the above requirements may be revised unless the Department of Parks and Recreation submits a written request therefor to the State Public Works Board and the board approves the request.

SEC. 11.01. LEGISLATIVE/JUDICIAL/EXECUTIVE

Executive

As of June 30, 1978, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:

(a) Secretary of State:

General Fund:

(1) Chapter 412, Statutes of 1976—printing and distributing ballot cards.

(b) Board of Equalization:

General Fund:

(1) Item 371, Budget Act of 1976—capital outlay to purchase leased facility—Covina.

SEC. 11.05. STATE AND CONSUMER SERVICES

As of June 30, 1978, $29,089,526 of the unencumbered balance of the appropriation made in Item 389.5 of the Budget Act of 1977 shall revert to the unappropriated surplus of the General Fund.

SEC. 11.06. BUSINESS AND TRANSPORTATION

As of June 30, 1978, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:

a. Department of Motor Vehicles:

Motor Vehicle Account, State Transportation Fund:

1. Chapter 902, Statutes of 1976, salvage certificates.

2. Chapter 945, Statutes of 1976, schoolbuses.

3. Chapter 1284, Statutes of 1976, vehicle leasing.

b. Department of the California Highway Patrol:

General Fund:

1. Chapter 406, Statutes of 1977, schoolbuses.

SEC. 11.07. RESOURCES

As of June 30, 1978, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:
(a) Department of Parks and Recreation:

General Fund:

(1) Section 5(b), Chapter 883, Statutes of 1969 for expenditure for the state's participation in a federal-state feasibility study regarding the Salton Sea.

Bagley Conservation Fund:

(1) Subdivision (a) of Section 3, Chapter 1109, Statutes of 1977, Westport-Union Landing SB extension, land acquisition.

(2) Section 5(c)(2), Chapter 1440, Statutes of 1976, hostel facilities; provided, that this reversion shall be limited to $925,000.

Collier Park Preservation Fund:

(1) Section 2, Chapter 462, Statutes of 1976, for planning and acquisition of wetlands projects, including costs of acquisition; provided, that this reversion shall be limited to $500,000.

Off-Highway Vehicle Fund:

(1) Item 272(c), Budget Act of 1976, County of Orange, Olinda off-highway vehicle park.

(b) Department of Forestry:

General Fund:

(1) Item 396(g) Budget Act of 1977, land acquisition, San Jacinto forest fire station.

SEC. 11.08. HEALTH AND WELFARE

As of June 30, 1978, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:
(a) Department of Health Services:

General Fund:

(1) Chapter 958, Statutes of 1975 (Medi-Cal dentures).

(b) Department of Social Services:

General Fund:

(1) Chapter 1107, Statutes of 1977—disabled persons.

(2) Chapter 1190, Statutes of 1977—maternity care.

SEC. 11.09. EDUCATION

As of June 30, 1978, the unexpended balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:

General Fund:

(a) University of California:

(1) Chapter 214, Statutes of 1977—Medicare/Medi-Cal loan.

(b) California Postsecondary Education Commission:

(2) Chapter 462, Statutes of 1975—study of independent colleges and universities.

(3) Chapter 874, Statutes of 1976—study of membership in the Western Regional Education Compact and of further participation in programs sponsored by the Western Interstate Commission for Higher Education.

(c) Department of Education:

(4) Paragraph (2) of former Section 16130 of the Government Code.

Health Sciences Facilities Construction Program Fund:

(d) University of California:

(1) Item 409(3.1), Budget Act of 1974, as reappropriated by Section 10.09(b)(1) of the Budget Act of 1977—planning for the veterinary medicine field facilities.

SEC. 11.11. GENERAL GOVERNMENT

General Administration

As of June 30, 1978, the unencumbered balance of the appropriations provided in the following citations shall revert to the unappropriated surplus of the fund from which the appropriation was made:

(a) Public Employment Relations Board (formerly Educational Em-

ployees Relations Board):

General Fund:

(1) Chapter 961, Statutes of 1975—established the Educational Employment Relations Board.

(b) Cost of Homicide Trials:

General Fund:

(1) Chapter 455, Statutes of 1976—assistance to counties for the cost of homicide trials.

SEC. 12. On July 1, 1978, the Controller shall transfer $9,661,286 from the State Instructional Materials Fund to the unappropriated surplus of the General Fund.

SEC. 12.1. As of June 30, 1978, the unencumbered balance of funds transferred to the State School Fund pursuant to Items 321 and 321.5 of the Budget Act of 1969 and subsequently transferred from the State School Fund to the State Construction Program Fund in accordance with former Section 17303.7 of the Education Code, as added by Section 5 of Chapter 784, Statutes of 1969, and repealed by Section 4 of Chapter 1628, Statutes of 1970, shall be transferred by the State Controller from the State Construction Program Fund to the General Fund.

SEC. 12.5. Notwithstanding the provisions of Item 187 of the Budget Act of 1977, all fees collected pursuant to Section 9889.61 of the Business and Professions Code shall be deposited in the Vehicle Inspection Fund, and all loans made to the State Air Resources Board for the purposes of initiating and conducting a vehicle inspection program pursuant to Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code, which are required to be repaid from fees deposited in the Automotive Repair Fund, are hereby required to be repaid from fees deposited in the Vehicle Inspection Fund, and the final repayment dates for each loan prescribed by the Department of Finance are hereby extended by two years. No final repayment date shall be extended beyond December 31, 1983.

SEC. 12.7. None of the funds authorized for encumbrance by the Department of Education for research, program development, and evaluation in the education of handicapped or gifted pupils pursuant to Sections 41892 and 56362.2 of the Education Code may be encumbered for those purposes or any other purpose.

SEC. 12.9. The Director of Finance may, from time to time, direct the transfer of unexpended balances of appropriations made by this act to the Office of Statewide Health Planning and Development, the Departments of Alcohol and Drug Abuse, Health Services, Developmental Services, Mental Health, Employment Development, and Social Services and of other funds available for expendi-

ture by any of the aforementioned agencies as the director deems necessary by reason of the reorganization made by Chapter 1252 of the Statutes of 1977, for expenditure in connection with the functions affected by the reorganization; provided, however, that the funds and unexpended balances so transferred shall be expended only for the purpose for which the appropriation was originally made.

Provided further, that funds may not be transferred between departments for the purpose of establishing new positions not otherwise authorized by this act.

Provided further, that the Department of Finance shall report to the Chairman of the Joint Legislative Budget Committee on or before December 15, 1978 and May 15, 1979 with respect to the reasons for the transfer of funds and positions and the amounts, positions, and units involved. Upon receiving such direction from the director, the State Controller shall transfer such funds and unexpended balances to the agency designated by the director.

SEC. 13. The Department of Mental Health shall submit quarterly to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee all of the following information: (1) local mental health expenditures by county, (2) any changes to county mental health allocations, and (3) all requests for new county mental health programs, together with the action taken on such requests by the Department of Mental Health.

SEC. 15. No appropriation made by this act or any other provision of law may be combined or used in any manner to avoid budgeting the salary or operating expenses of any position or to achieve any purpose which has been denied by any formal action of the Legislature.

SEC. 16. The Supplemental Report of the Committee of Conference on the Budget Bill, which contains agreed language on statements of intent or requests for studies and which was submitted to the Senate and Assembly concurrently with consideration of the Budget Bill for the 1978–79 fiscal year, reflects the intent of the Legislature in enacting the Budget Act of 1978 and should be interpreted as such by the various agencies of state government affected by the statements contained in the report. The Legislative Analyst shall transmit copies of the report to all agencies to which statements of intent and requests for studies are directed in order that each may be fully informed of the intent of the Legislature.

SEC. 18. Notwithstanding any statutes, regulations or state policy to the contrary, all contracts and interagency agreements for consultant or personal services, except such contracts as are expressly excluded below, shall, prior to their approval by the Department of General Services, be routed to the Department of Finance for review and approval. The Director of Finance shall, within 30 days of approving any such contract, so notify the Chairman of the Joint Legislative Budget Committee and the chairman of the committee in each house which considers appropriations.

The following types of contracts are excluded from the provisions of this section:

(a) Contracts that require payment of less than $15,300 per party per 12-month period.

(b) Contracts for hearing reporter services.

(c) Contracts for employer training programs which provide on-the-job training for workers.

(d) Contracts for rehabilitation services entered into by the Department of Rehabilitation.

(e) Contracts for maintenance or service of equipment.

(f) Contracts for electronic data-processing services reported under Section 4 of this act.

(g) Contracts related to any type of construction.

(h) Contracts for community mental health training entered into by the Centers for Training in Community Psychiatry, Department of Mental Health.

(i) Contracts for library services entered into by the Department of Education.

(j) Contracts for removal of abandoned vehicles.

SEC. 19. On or before September 30, 1978, the State Controller shall transfer to the General Fund any amount of accumulated surplus in the Service Revolving Fund as of June 30, 1978, as follows: for the Office of State Printing totals in excess of $11,135,635, and for the remainder of the Service Revolving Fund totals in excess of $20,911,-086 and shall apply the amount of such transfers first against any outstanding working capital advances and working capital property.

No machinery or equipment shall be purchased by or for the Office of State Printing except as provided for in this act and for emergency replacements.

The Director of General Services may authorize expenditures for an emergency replacement not sooner than 30 days after notification in writing of the necessity therefor to the chairmen of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairman of the committee, or his designee, may, in each instance determine.

No augmentation shall be made to the capital of the Service Revolving Fund for the benefit of the Office of State Printing during the 1978–79 fiscal year except as specifically provided for in this act. Any proposed capital addition to the Service Revolving Fund for the benefit of the Office of State Printing for the 1979–80 fiscal year shall be included in the proposed budget for that fiscal year as an appropriation.

Any surplus resulting from legislative printing shall be shown as a reimbursement to Item 12 of this act.

SEC. 19.1. The State Controller shall, on the effective date of this act, transfer the sum of $500,000 from the Collier Park Preservation Fund to the unappropriated surplus of the General Fund.

SEC. 19.2. The State Controller shall, on the effective date of this

act, transfer the sum of $4,555,000 from the Bagley Conservation Fund to the unappropriated surplus of the General Fund.

SEC. 19.5. Of the funds appropriated pursuant to Section 84902 of the Education Code, no community college district shall receive an allocation of funds pursuant to Sections 84903, 84904 or 84905 of the Education Code, unless the community college district maintaining at least a proportionate level of service for programs in elementary and secondary basic skills, in mathematics history and government and language arts, in English as a second language, in citizenship for immigrants, in programs for substantially handicapped persons, in programs for apprentices, and in short-term vocational programs with high employment potential as determined by the Chancellor of the California Community Colleges.

For the purposes of this section, a proportionate level of service for a community college district is defined to mean a 1978–79 funding level for the above-mentioned programs which is no less than 85 percent of the 1977–78 funding level for such programs.

"Substantially handicapped persons" means those who have handicaps which are likely to continue indefinitely or for a prolonged period and whose handicap results in substantial functional limitations in one or more of the following activities: self-care, receptive or expressive language, learning, mobility, self-direction, capacity for independent living or economic self-sufficiency.

Provided further, that this language may be waived for a community college district by the Chancellor of the California Community Colleges upon certification from the community college district that the local demand for the above-mentioned programs is less than the required proportionate level of service.

SEC. 19.7. The Legislature recognizes that child care programs have made valuable contributions towards insuring that public assistance recipients have been able to accept and maintain employment or related training. It is, therefore, the intent of the Legislature that the Department of Education shall insure that the following requirements are met:

(a) That counties shall comply with Section 8384 of the Education Code which requires counties to maintain their 1970–71 level of effort for child care services provided by county funds.

The Department of Education shall insure that each county complies with Section 8384 of the Education Code in one of the two following manners:

(1) The Department of Education shall not issue funds to a child care contractor within a county until such time as that county certifies in writing to the Department of Education that the county has obligated its 1970–71 child care maintenance of effort funding level, pursuant to Section 8384 of the Education Code, to local county child care contractors. Such sums awarded by a county to a local child care contractor shall not adversely affect an agency's contract reimbursement with the Department of Education pursuant to Section 8380 of the Education Code.

(2) Each county, which has a 1970–71 maintenance of effort funding level for child care, pursuant to Section 8384 of the Education Code, shall transmit such sum to the Department of Education. Funds derived from each county shall be returned to each respective county's child care contractors as a grant award and not within the reimbursement control of Section 8380 of the Education Code.

The Department of Education shall notify all such programs and all such counties which maintained such programs during the 1977–78 fiscal year of the provisions of this section.

SEC. 19.9. (a) No funds shall be available to finance contracts in respect to instructional materials adopted by the State Board of Education in which the total price, including sales and use tax, for any instructional materials exceeds by more than 13 percent the average of the three highest total prices for competitive instructional materials.

(b) No funds shall be available to finance contracts for textbooks or separate teachers' manuals adopted by the State Board of Education in which the royalty for any such textbook or separate teacher's manual exceeds by more than 10 percent an amount equal to the net price of that book multiplied by the average of the ratios of royalty to net price of all competitive books of its respective type.

SEC. 19.11. Notwithstanding any other provisions of law, the employer's contributions for the 1978–79 fiscal year, which is chargeable to an appropriation made in this act, with respect to each state officer and employee or an annuitant who was in such employment or office, including an academic position with a California State University or College, or is a survivior of such person, or is an annuitant, shall be the amount necessary to pay the cost of such person's enrollment, including the enrollment of such person's family members, in a health benefits plan or plans or, if less, $32 for basic and related major medical plans with respect to employees or annuitants enrolled for self alone or for an employee or annuitant so enrolled for self and one family member, $55 or, for an employee or annuitant so enrolled for self and two or more family members, $68.

SEC. 20. No money appropriated by this act shall be used to pay the salary of any authorized state position which was abolished effective September 1, 1978 and which position was vacant continuously during the period between October 1, 1977 and July 1, 1978. The State Controller, no later than August 1, 1978, shall notify in writing the Department of Finance of any authorized state position which was vacant continuously during such period. All such positions, except those exempt from civil service or those instructional and instructional-related positions authorized for the California State University and Colleges, are abolished effective September 1, 1978.

The State Controller, not later than December 1, 1978, shall furnish the Joint Legislative Budget Committee a report on all positions as of July 1, 1978, which were unfilled continuously during the period between October 1, 1977, and July 1, 1978.

SEC. 20.1. Notwithstanding any other provisions of law, expendi-

tures under Item 14 of this act or any appropriation in augmentation of such item shall be exempt from the provisions of Sections 13320 and 13325 of, and Chapter 3 (commencing with Section 14250) of Part 5 of, and Chapter 6 (commencing with Section 14780) of Part 5.5 of, Division 3 of Title 2 of the Government Code, subdivision (a) of Section 713 of Title 2 of the California Administrative Code and Sections 4, 8, 18, and 25 of this act, and may be expended as set forth in the Governor's Budget, or for such other purposes, including expenditures for such number of positions in various classifications, as may be authorized by the Joint Committee on Rules.

SEC. 21.4. Since it is imperative that the maximum amount of time possible be provided the State Board of Education in the selection of textbooks and for private publishers and the State Printer to print textbooks for the ensuing school year, the Department of Education and the Department of General Services are authorized subject to the provisions of Education Code Sections 60000 through 60315 to incur textbook printing obligations in an amount not to exceed $10 million in the aggregate during the 1978–79 fiscal year for delivery by the State Printer and private publishers to the Department of Education and local educational agencies beginning in the 1979–80 fiscal year.

SEC. 22. No purchase order for acquisition or replacement of motor vehicles shall be issued against any appropriation made herein until the Department of General Services has investigated and established the necessity therefor.

All passenger-type motor vehicles purchased from any appropriation made by this act for the use of state employees and officers, except constitution officers, shall be of the light class, as defined by the State Board of Control, unless excepted by the Director of General Services on the basis of unusual requirements, such as use by the California Highway Patrol, which would justify the need for an automobile of a heavier class.

No general use mobile equipment having an original purchase price of $25,000 or more shall be rented or leased from a nonstate source and payment therefor made from any appropriation made by this act without the prior approval of the Department of General Services after a determination that comparable state-owned equipment is not available, unless obtaining such approval would endanger life or property, in which case the transaction and the justification for not having sought prior approval shall be reported immediately thereafter to the department. For purposes of this section, "general use mobile equipment" shall be deemed to refer to equipment that is listed in the Mobile Equipment Inventory of the State Equipment Council and which is capable of being used by more than one agency, and shall not be deemed to refer to such equipment having a practical use limited to the controlling agency only. Section 575 of the Vehicle Code shall have no application to this section.

SEC. 23. All passenger-type motor vehicles purchased either from any appropriation made by this act or from any other appro-

priation available therefor for the use of the Department of Transportation, except for use of officers excepted in Section 22 of this act, shall be of the light class, as defined by the State Board of Control, unless excepted by the Director of General Services on the basis of unusual requirements which would justify the need for an automobile of a heavier class.

No general use mobile equipment having an original purchase price of $25,000 or more shall be rented or leased from a nonstate source and payment therefor made from any appropriation made by this act to the Department of Transportation or from any other appropriation available therefor to the Department of Transportation without the prior approval of the Department of General Services after a determination that comparable state-owned equipment is not available, unless obtaining such approval would endanger life or property, in which case the transaction and the justification for not having sought prior approval shall be reported immediately thereafter to the department. For purposes of this section, "general use mobile equipment" shall be deemed to refer to equipment that is listed in the Mobile Equipment Inventory of the State Equipment Council and which is capable of being used by more than one agency, and shall not be deemed to refer to such equipment having a practical use limited to the controlling agency only. Section 575 of the Vehicle Code shall have no application to this section.

SEC. 24. None of the moneys appropriated by this act or for an expenditure which is supplemented from money appropriated by this act shall be used to purchase furnishings for any house, mobilehome, or apartment of three or more rooms other than a dormitory which is rented to a state employee except for a superintendent of an institution, warden of a prison, or physicians. This provision shall not apply to the purchase of refrigerators, heaters, air-conditioning equipment, stoves, linoleum, or equipment normally furnished in construction of the house as may be determined by the State Board of Control. Any such funds that are appropriated by this act for this purpose shall be held intact and be reverted to the fund from which they were appropriated. It is the intent of the Legislature that no money shall be appropriated henceforth for the purpose of house furnishings. Such furnishings are not to be provided by the state nor shall any money be paid from this appropriation for their replacement, repair or otherwise except in connection with the disposal of the same.

SEC. 25. (a) No moneys appropriated by this act shall be used, either directly or by supplementing any other appropriation, to purchase rugs or carpets for any state office except for offices used by elective officers, the President of the University of California, a Chancellor of the University of California, the Chancellor of the California State University and Colleges, a president of a state university or college, department heads and for other facilities or areas under the control of the agencies financed by this act in accordance with standards issued by the Director of General Services. The Direc-

tor of General Services shall furnish a detailed report annually to the Joint Legislative Budget Committee of all rugs or carpets purchased for state facilities under this section.

Approval of the Director of General Services shall be obtained prior to procurement and installation of such materials. The Director of General Services may authorize the use of carpeting in other specialized facilities not meeting the established standards 30 days after notification in writing of the proposal with justification therefor to the Joint Legislative Budget Committee.

(b) The Director of General Services shall prepare and submit to the Chairman of the Joint Legislative Budget Committee, or his designee, a cost-benefit analysis of open-office landscape proposals in either existing or new buildings 30 days prior to implementing any open-office landscape proposal.

SEC. 25.1. The Director of General Services may not approve an agreement for the leasing of an office copy machine, unless not less than 30 days prior to its approval, the director submits in writing to the Chairman of the Joint Legislative Budget Committee, or his designee, notification of his intent to approve such a lease and an explanation as to why the copier should be leased rather than purchased, or not sooner than such lesser time as the chairman of said committee, or his designee, may in each instance determine.

SEC. 26. Whenever herein an appropriation is made for support it shall include salaries and all other proper expenses, including repairs and equipment, incurred in connection with the institution, department, board, bureau, commission, officer, employee, or other agency, for which such appropriation is made.

Whenever herein an appropriation is made for capital outlay, it shall include acquisition of land or other real property, major construction, improvements, equipment, designs, working plans, specifications, repairs and equipment necessary in connection with a construction or improvement project.

Whenever herein any item of appropriation contains provisions for acquisition of land or other real property, it shall include all necessary expenses in connection with the acquisition of such property.

Whenever herein an appropriation is made in accordance with a schedule set forth after such appropriation, the expenditures from such item for each category or project included in the schedule shall be limited to the amount specified for such category or project, except as otherwise provided in this act. Each such schedule is a restriction or limitation upon the expenditure of the respective appropriation made by this act, does not itself appropriate any money, and is not itself an item of appropriation.

As used in this act in reference to such schedules "category" or "project" means a class of expenditures such as, but not limited to:

(a) "Personal services" which shall include all expenditures for payment of officers and employees of the state; including salaries and wages, workers' compensation, unemployment compensation benefits, insurance premiums for workers' compensation coverage, indus-

trial disability leave and payments, nonindustrial disability benefits and payments, the state's contributions to the Public Employees' Retirement Fund, the Teachers' Retirement Fund, the University of California Retirement Fund to provide for that portion of retirement costs to be provided for Hastings College of Law in Item 336 of this Budget Act, the Old Age and Survivors' Insurance Revolving Fund, the State Employees' Contingency Reserve Fund, and the state's cost of health benefits plans; but do not include compensation of independent contractors rendering personal services to the state under contract;

(b) "Operating expenses and equipment" which shall include all expenditures for purchase of materials, supplies, equipment, services (other than services of state officers and employees), and all other proper expenses;

(c) "Construct" or "construction" when used in connection with a capital outlay project shall include all such related things as fixtures, installed equipment, and auxiliary facilities;

(d) "Working drawings" are defined as a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of accurate bidding by contractors and for the use of artisans in constructing the project. All necessary professional fees and administrative service costs are included in the preparation of such drawings.

(e) "Minor projects" include construction, improvements and equipment projects not specifically set forth in the schedule.

For the purpose of further interpreting the meaning of the words, terms and phrases used in such schedules, reference is hereby made to those documents entitled, "State of California Governor's Budget for 1978–79," submitted by the Governor to the Legislature at the 1978 portion of the 1977–78 Regular Session, the uniform accounting system prescribed by the Department of Finance under the provisions of Section 13300 of the Government Code, and the appropriate portions thereof. The State Board of Control shall establish such interpretations as are necessary to carry out the provisions of this section and shall furnish the same to the State Controller and to every state agency to whom appropriations are made under this act.

SEC. 26.5. Whenever herein an appropriation is made for support or other expenses for an institution, department, board, bureau, commission, officer, employee, or other agency, there shall be charged to such appropriation from which salaries and wages are paid: worker's compensation, unemployment compensation benefits, industrial disability leave and payments, nonindustrial disability benefits and payments, the state's contribution to the Public Employees' Retirement Fund as provided by Sections 20751 and 20752 of the Government Code, the state's contribution to the Teachers' Retirement Fund as provided by Sections 23000 and 23400 of the Education Code, the state's contribution to the Old Age and Survivors' Insurance Revolving Fund as provided by Sections 20782 and

20783 of the Government Code, the state's contribution to the State Employees' Contingency Reserve Fund and the state's contribution for the cost of health benefits plans as provided by Sections 22828 and 22829 of the Government Code.

As of the effective date of this act, the state's contributions as provided by Sections 22828 and 22829 of the Government Code for any month shall be charged to the same appropriations used for payment of salaries and wages from which the employee premium contributions for such month are deducted.

The appropriations made by Sections 20751, 20752, 20782, 20783, 22828, and 22829 of the Government Code, by Sections 23000 and 23400 of the Education Code, shall continue to be available for expenditure, and shall be charged for any expenditure which is not chargeable to an appropriation for support or other expenses as provided in this section. This transfer may be chargeable to such appropriation for a previous fiscal year if there are no funds available from that fiscal year.

The State Controller may transfer to the State Payroll Revolving Fund the contributions required by Sections 20751, 20752, 20782, 20783, 22828, and 22829 of the Government Code, and upon certification by the Board of Administration of the Public Employees' Retirement System in accordance with Sections 20754 and 20784 of the Government Code, may transfer from the State Payroll Revolving Fund to the Public Employees' Retirement Fund and the Old Age and Survivors' Insurance Revolving Fund the amounts of contributions so certified.

SEC. 26.7. Each item appropriating funds for salaries and wages includes the additional funds necessary to continue the payment of the amount of salaries in effect on June 30, 1978, for the state officers whose salaries are specified by statute.

SEC. 26.8. No funds appropriated by this act may be encumbered for paying a civil service employee a salary which is above the maximum of the salary range of the employee's present classification following termination of a Career Executive Assignment (C.E.A.) appointment. The provisions of this section shall not apply with respect to an employee who accepted any C.E.A. appointment on or after June 20, 1976, and before July 1, 1977, and any such employee, who is otherwise eligible, shall receive a salary rate pursuant to the provisions of Rule 548.25, adopted by the State Personnel Board on May 18, 1976, based upon the highest C.E.A. level held by such employee during such period.

SEC. 27. The Department of Finance may, pursuant to a request by the officer, department, division, bureau, board, commission, or other agency to whom an appropriation is made herein, authorize the augmentation of the amount available for expenditure for a category or project designated in any schedule set forth for such appropriation by transfer from any of the other designated categories or projects within the same schedule. The Department of Finance shall furnish the chairman of the committee in each house which consid-

ers appropriations and the Chairman of the Joint Legislative Budget Committee a report on all authorizations given pursuant to this section during the preceding quarter.

Augmentations of amounts available for expenditure for a category or project designated in any line of any schedule for personal services or operating expenses and equipment set forth for such appropriation by transfer from any of the other designated categories or projects within the same schedule shall not exceed, during any fiscal year, 20 percent of the amount so scheduled on that line.

SEC. 27.1. The Department of Finance shall reduce any General Fund appropriation and any category therein, contained in this act, in order to achieve a statewide reduction which is the equivalent of a reduction of $42,400,000 in operating expenses and equipment.

The Department of Finance shall certify to the State Controller the amount of such reductions in this act by item and category, and the State Controller shall revert such sums to the unappropriated surplus of the General Fund.

SEC. 27.2. Pursuant to Executive Order B-44-78 dated June 7, 1978, restricting the hiring of new employees, the Department of Finance shall reduce any General Fund appropriation and any category therein, contained in this act, in order to achieve a statewide reduction which is the equivalent of a reduction of $54,000,000 in personal services.

The Department of Finance shall certify to the State Controller the amount of such reductions in this act by item and category, and the State Controller shall revert such sums to the unappropriated surplus of the General Fund.

SEC. 28. (a) The Director of Finance may authorize the augmentation of the amount available for expenditure for any category in the schedule set forth for any appropriation in this act or any additional category in the amount of any funds which he estimates will be received by an officer, department, division, bureau, or other agency during the 1978–79 fiscal year from any other state agency, from any agency of local government or the federal government, from any appropriation made by the Legislature or from any other source which he determines has not been taken into consideration in the schedule or is in excess of the amount so taken into consideration.

(b) The director also may authorize expenditure for a new program not identified in the budget as such or for purposes which in his judgment constitute an increase in the level of services above that authorized by this act or other existing law not 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 the Chairman of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairman of the committee, or his designee, may in each instance determine. Any authorization made pursuant to this subdivision too late for inclusion in the Governor's Budget for the 1979–80 fiscal year shall remain in effect for such

period as the director may determine in each instance, but in no event after June 30, 1980.

The Director of Finance may also reduce any category whenever he determines that funds to be received will be less than the amount taken into consideration in the schedule.

(c) All authorizations reported or requested under the provisions of this section shall include all of the following:

(1) A description of the proposed expenditure and identification of the statutory authority for the expenditure.

(2) A determination whether the expenditure, if federally funded, is specifically designed to be one-time, a continuing federal obligation, or one that the state is required (or expected) to fund at some future date.

(3) A determination whether the expenditure, if federally funded, supplements or replaces existing state expenditures.

(4) A determination whether the expenditure has previously been considered at some point in the legislative process and has been denied; and, if denied, for what reasons.

(d) For each fiscal year the Department of Finance shall submit quarterly to the Joint Legislative Budget Committee cumulative reports comparing the budgeted and the revised expenditure authorizations for actions approved pursuant to this section including a summary of the matters required to be reported pursuant to subdivision (c).

SEC. 28.01. (a) Notwithstanding the provisions of Section 28 or any other provisions of this act, the Director of Finance may not authorize any augmentation nor any expenditure pursuant to subdivisions (a) or (b) of Section 28 of this act for support of the State Departments of Social Services, Developmental Services, Health Services, Alcohol and Drug Abuse, Mental Health, the Office of Statewide Health Planning and Development, or the Employment Development Department, unless one of the following conditions is met:

(1) The augmentation or expenditure is required to meet an emergency situation which cannot be abated using funds authorized by the Budget Act.

(2) Failure to make the augmentation or expenditure would result in the loss of federal funds.

(3) The augmentation or expenditure is for minor or routine functions which have no significant policy or budgetary importance.

(4) The augmentation or expenditure meets the requirements of subdivision (b) of this section.

(b) Within 30 days after the Governor appoints each Director for the State Departments of Social Services, Health Services, Developmental Services, Mental Health, Alcohol and Drug Abuse, and the Director of the Office of Statewide Health Planning and Development, or on August 1, 1978, whichever is later, the director of each department or office shall submit a preliminary report to the Chairman of the Joint Legislative Budget Committee, the chairman of the

appropriate policy committee which normally reviews such subject matter and chairman of the committee in each house which considers appropriations, which includes the following information:

(1) An internal organization chart.

(2) An explanation of how manpower and other resources are being used to meet the various missions of the department or office.

(3) Identification of positions which should be added or reclassified in order for the department or office to fulfill or improve its missions.

(4) Identification of any significant budgetary or organizational change which is desirable.

(5) Identification or programs under the jurisdiction of the department or office which should be expanded or reduced in scope or in manner of operation.

The directors of each of the aforementioned departments and office shall submit the same information in the form of a final report to the chairman of the applicable legislative committees on or before January 1, 1979.

The Director of Finance may authorize an augmentation or expenditure for any of the aforementioned departments or office, pursuant to the provisions of subdivision (a) or (b) of Section 28 of this act; provided, that the Chairman of the Joint Legislative Budget Committee is notified of such authorization within 30 days after the preliminary report required by this section is submitted, and the authorized expenditure or augmentation is within and conforms to the provisions of such reports.

The final report required by subdivision (b) of this section may be updated and revised by a director of such department or office by submitting revisions to the appropriate legislative committee chairman on or before April 1, 1979.

(c) The Director of Finance, at the same time he notifies the Joint Legislative Budget Committee of an augmentation or expenditure pursuant to Section 28, shall also certify to the Chairman of the Joint Legislative Budget Committee that the provisions of this section are met, for any augmentation or expenditure subject to the provisions of this section.

SEC. 28.1. The Regents of the University of California may not enter into a lease-purchase agreement with another entity, public or private, which involves building space, unless such agreement is reviewed and approved by the Legislature.

SEC. 28.2. The Director of General Services may not execute a lease agreement between the state and another entity, public or private, in which the state is lessee when the agreement is to be for the lease of a building or building space or both which will be for the occupancy of any agency or agencies of the state with a firm lease period of five years or longer and an annual rental in excess of $5,000 or if the agreement contains an option for the purchase of the lease property, or if the agreement concerns property in the County of Sacramento or the County of Yolo, unless not less than 30 days prior

to its execution he notifies the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee or his designee in writing of his intention to execute such an agreement, or not sooner than such lesser time as the chairman of said committee, or his designee, may in each instance determine, provided that no funds appropriated in this act may be encumbered or expended for any lease entered into on or after July 1, 1978, for office space in the County of Sacramento unless all solicitations for leases for office space in the County of Sacramento under these conditions shall contain the statement, "The state is anticipating capital construction in the City of Sacramento and intends to eventually reduce the use of space on a leased basis."

SEC. 28.3. The Department of Social Services shall submit, by September 1, November 15, and April 15, to the Department of Finance for its approval, all assumptions underlying all estimates related to the (1) average monthly caseloads for each of the categorical aid programs, (2) average grant for each of the categorical aid programs, (3) total estimated expenditures for each of the categorical aid programs, and (4) savings or cost associated with all regulatory or statutory changes.

The State Department of Health Services shall submit, by September 1, November 15, and April 15, to the Department of Finance for its approval, all assumptions underlying all estimates related to (1) the average monthly caseload for the medically needy and medically indigent in the Medi-Cal Program, (2) the average cost for each category of service and each category of recipient, (3) total estimated expenditures for each category of service, and (4) savings or costs associated with all regulatory or statutory changes.

The Department of Finance shall approve or modify the assumptions underlying all estimates within 10 working days of their submission. If the Department of Finance does not approve or modify the assumptions by such date, the assumptions, as presented by the submitting department, shall be deemed to be accepted by the Department of Finance as of that date.

The estimates of average monthly caseload, average monthly grant, average cost of medical services, total estimated expenditures (including administrative expenditures and savings or costs associated with all regulatory or statutory changes), and a listing of all of the approved assumptions, as well as all supporting data provided by the Department of Social Services and the State Department of Health Services or developed independently by the Department of Finance, shall be made available to the Joint Legislative Budget Committee immediately following approval by the Department of Finance. However, such departmental estimates, assumptions, and other supporting data as have been prepared shall be forwarded to the Joint Legislative Budget Committee not later than October 1, January 10, and May 15 by the Department of Social Services and the Department of Health Services in the event this information has not been released earlier.

SEC. 28.4. No funds appropriated by this act shall be encumbered for the purpose of funding any increased state costs or local governmental costs, or both such costs, arising from the issuance of an executive order as defined in Section 2209 of the Revenue and Taxation Code or subject to the provisions of Section 2231 of the Revenue and Taxation Code, unless (a) such funds to be encumbered are appropriated for such purpose, or (b) notification in writing of the necessity of the encumbrance of funds available to the state agency, department, board, bureau, office, or commission is given by the Department of Finance, at least 30 days before such encumbrance is made, to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or such lesser time as the chairman of the committee, or his designee, determines.

SEC. 28.5. Approvals by the Department of Finance to the creation of deficiencies pursuant to Section 11006 of the Government Code and approvals to expend at rates which, in the opinion of the Director of Finance, will require a deficiency appropriation shall be made in writing and filed with the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee. Such notices shall state the reason for and amount of such authorization and shall be filed prior to approval whenever possible and in no case shall they be filed more than 10 days after approval.

SEC. 28.7. The Regents of the University of California shall not undertake any project funded from the Health Sciences Hospital Reserve Fund, which is in excess of $100,000, unless the scope and cost of any such project is approved by the Director of Finance and 30 days' written notification is provided to the Chairman of the Joint Legislative Budget Committee or his designee, or not sooner than such lesser time as the chairman of such committee, or his designee, may in each instance determine. Any project funded from the Health Sciences Hospital Reserve Fund, of less than $100,000, shall be reported to the Chairman of the Joint Legislative Budget Committee by December 1 of each fiscal year. For purposes of this section the definition of a project does not include equipment projects. Any urgent project concerned with patient life or safety may proceed without prior approval or notification but such project shall be identified in the report provided each December 1.

SEC. 28.8. The total net proceeds that have, or will, become available from the sale of real property in Los Posas Valley in the County of Ventura, as authorized by Section 1 of Chapter 23 of the Statutes of 1976, as amended by Chapter 1256 of the Statutes of 1976, shall be applied to projects specified in the schedule to Item 419 of the Budget Act of 1977 in the order in which they appear in the schedule. After such proceeds are exhausted, other funds in the Capital Outlay Fund for Public Higher Education shall be applied to the unfunded projects specified in the schedule in the order in which they appear.

SEC. 28.81. No funds appropriated by this act may be used by the Trustees of the California State University and Colleges to reclassify instructional capacity space to noninstructional capacity space unless and until any such reclassification is first approved by the Department of Finance and 30 days' written notification is provided to the Chairman of the Joint Legislative Budget Committee or his designee.

SEC. 28.9. Since it is the intent of the Legislature in enacting this act that no qualified student be denied admission to the California State University and Colleges or to the University of California because of a budget deficiency caused by unanticipated additional enrollments, the Director of Finance may, following the adoption of a resolution by the Trustees of the California State University and Colleges or the Regents of the University of California declaring an enrollment emergency, authorize the accelerated expenditure of amounts budgeted for the state university and colleges or the university, in the form of an agreement to seek a supplementary appropriation from the General Fund to the extent necessary to ensure that all qualified students can be admitted when he certifies that the systemwide enrollment of the California State University and Colleges or of the University of California exceeds by 2 percent or more the enrollment upon which the budget for the state university and colleges or the university was based; provided, that no increased expenditure may exceed $5,000,000 in the aggregate or be authorized 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 the Chairman of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairman of such committee, or his designee, may in each instance determine.

In the event that the systemwide enrollment of the California State University and Colleges or University of California is under the budgeted enrollment by more than 2 percent, such excess shall be unallocated by the Director of Finance. Unallocated funds may be reallocated to preclude layoffs only after the Director of Finance has approved such action and shall not be authorized 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 the Chairman of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairman of such committee, or his designee, may in each instance determine.

Based upon fall annualized full-time equivalent (FTE) students, all surplus funds withdrawn from any campus consistent with the policy of the California State University and Colleges (CSUC) system due to fluctuations in student enrollments, shall be returned:

(a) To campuses with enrollments in excess of the budgeted level consistent with the CSUC policy and

(b) To all campuses for allocation to the programs of "Instruction" and "Academic Support".

"Surplus" is defined as those funds in excess of that returned to the

state pursuant to this section. No exceptions to the above prescribed allocation may be made unless prior approval is given by the Department of Finance and is reported to the Chairman of the Joint Legislative Budget Committee, and the financial necessity of any such exception shall be identified.

SEC. 28.91. All appropriations for the support of the California State University and Colleges shall be subject to the provisions of Section 13320 of the Government Code and applicable Budget Act restrictions with the following exceptions:

(a) The trustees may transfer excess salary savings funds from the salary savings reserve allotments to expenditure allotments provided such transfers do not exceed 20 percent of salary saving. Excess salary savings funds are those in excess of the amount budgeted.

(b) The trustees may approve transfer of funds between one or more of the programs for which funds are appropriated for the support of the California State University and Colleges.

Any transfer of funds made under the above exceptions shall be reported to the Department of Finance and Joint Legislative Budget Committee within 30 days after the end of each quarter in which such transfer was approved.

SEC. 29. Premiums for official bonds may be paid out of appropriations contained in this act, notwithstanding the period covered by such bonds.

SEC. 30. Whenever an expenditure is authorized from the reserve for contingencies and emergencies, from price increase funds, from employee benefits or special salary adjustments funds, from total equivalent compensation funds, from the salary increase funds, or from a special fund pursuant to Section 11006 of the Government Code, in addition to an appropriation made by this act, such authorized expenditures may, for accounting purposes, be deemed to be an augmentation and increase of the appropriation made by this act.

SEC. 31. The appropriations under this act, unless otherwise provided, shall be subject to the provisions of Section 13320 of the Government Code requiring expenditures to be made in accordance with the allotments and other provisions of fiscal year budgets approved by the Department of Finance.

The fiscal year budget shall authorize in such manner as the Department of Finance shall prescribe all established positions whose continuance for the year is approved and all new positions. No new position shall be established unless authorized by the Department of Finance on the basis of work program and organization.

The Director of Finance, or his authorized designee, shall notify the Chairman of the Joint Legislative Budget Committee within 30 days of authorizing any position not authorized for that fiscal year by the Legislature or any reclassification to a position with a minimum step of $1,525 or more per month. He shall also report all transfers to blanket authorizations and the establishment of any permanent positions out of a blanket authorization.

All positions administratively established pursuant to this section

during the 1978–79 fiscal year shall terminate on June 30, 1979, except that those positions which have been (a) included in the 1979–80 Governor's Budget as proposed new positions, or (b) approved by the Department of Finance and reported to the Legislature after the 1979–80 Governor's Budget submission to the Legislature, may be reestablished by the Department of Finance during the 1979–80 fiscal year, provided such positions are shown in the 1980–81 proposed Governor's Budget submitted to the Legislature, or in subsequent Department of Finance letters to the Legislature, and provided, such positions do not result in establishment of positions deleted by the Legislature through the 1979–80 budget process.

Each fiscal year budget shall provide for a salary savings reserve to which shall be transferred on a document initiated by the agency and submitted to the Department of Finance the unencumbered balance remaining in each allotment for salaries and wages at the close of each quarter or other period of time covered by the allotment. The unencumbered balance remaining in each budget allotment for salaries and wages shall be computed by deducting from the amount of the allotment the expenditures and accrued obligations for salaries and wages chargeable to such allotment for the period covered thereby. The amount in the salary savings reserve shall not be available for expenditure except upon transfer to allotments for salaries and wages approved by the Department of Finance. Such transfer shall be approved only after it has been demonstrated to the satisfaction of the Department of Finance that the allotment to be augmented is insufficient to meet necessary expenditures for salaries and wages.

No money in any salary savings reserve may be expended to pay increases in salary ranges established after July 1, 1977, unless the Department of Finance certifies to the State Personnel Board, or other salary-fixing authority, prior to the adoption of such increased salary range that funds will be made available to pay the increased salaries resulting therefrom. Provided, that the provisions of this paragraph shall not apply to salaries fixed by the State Personnel Board based on prevailing rates pursuant to Government Code Section 18853.

A certification on a payroll claim that expenditures therein are in accordance with current budgetary provisions as approved by the Department of Finance shall be sufficient evidence to the State Controller that such expenditures comply with the provisions of this section.

Each agency, department, board, commission, and institution, for whose benefit and support appropriations are made in this act, shall certify to the Director of Finance that its expenditures have been made for the purposes stated in the budget, as implemented by the Budget Act, except as the purposes stated have been revised, in accordance with law, by the Department of Finance subsequent to the enactment of the Budget Act.

SEC. 32. The officers of the various departments, boards, com-

missions and institutions, for whose benefit and support appropriations are made in this act, are expressly forbidden to make any expenditures in excess of such appropriations, except the consent of the Department of Finance be first obtained, and a certificate, in writing, duly signed by the director of said department, of the unavoidable necessity of such expenditure; and any indebtedness attempted to be created against the state in violation of the provisions of this section shall be absolutely null and void; and shall not be allowed by the State Controller nor paid out of any state appropriation. Any member of any such department, board, commission or institution, who shall vote for any expenditure, or create any indebtedness against the state in excess of the respective appropriations made by this act, except by the consent of the Department of Finance and the certificate in this section provided to be first obtained, shall be liable on his official bond for the amount of such indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm or corporation to whom such indebtedness is owing.

The Department of Finance shall submit copies of certificates approved by it under this section to the Chairman of the Joint Legislative Budget Committee, and the chairman of the committee in each house which considers appropriations, quarterly, and shall indicate in the case of each certificate the code section or section of this act under which the department gave its consent to exceed the particular appropriation.

SEC. 32.2. The Director of Finance may direct the transfer of such unexpended balances of appropriations and of other funds available for use in connection with any function or agency affected by a reorganization plan submitted to the Legislature pursuant to Article 7.5 (commencing with Section 12080) of Chapter 1, Part 2, Division 3, Title 2 of the Government Code when the plan becomes effective pursuant to Section 12080.5 of the Government Code, as he deems necessary by reason of the reorganization, for use in connection with the functions affected by the reorganization, or for the use of the agency which has such functions after the reorganization plan is effective; provided that, unexpended balances so transferred shall be used only for the purpose for which the appropriation was originally made.

SEC. 32.5. Notwithstanding the provisions of any appropriation of state funds made in the Welfare and Institutions Code for the Child Support Incentive Payment program (pursuant to Sections 15200.1 and 15200.2 of the Welfare and Institutions Code) and the Aid to Families with Dependent Children Program, expenditures of state funds for those programs for the fiscal year ending June 30, 1979, shall not exceed, in the aggregate, the sum of $640,479,150.

The Department of Social Services shall administer the public assistance programs so that the counties will bear no more than the amount of welfare costs that they would be obligated to bear under the applicable provisions of the Welfare and Institutions Code, without the expenditure limitations set forth in this section, and so that

the amount authorized to be expended under this section shall fully cover the state's share of aid payments and for services under such programs for the 1978–79 fiscal year.

The limitations on amounts imposed by this section shall apply to any amounts which are determined by the Director of Finance to be necessary to meet increases in costs arising from approvals made by the Department of Finance pursuant to the provisions of Item 270, provided the Legislature is notified pursuant to the provisions of Section 28 of this act. In addition, the Director of Finance is authorized to approve expenditures in those amounts made necessary by changes in either caseload or payments, or any change in a rule or regulation adopted and any All-County Letter issued, during the 1978–79 fiscal year which are in excess of amounts appropriated in this act for that year.

Provided further, that the availability of funds for such rules, regulations, or all-county letters which (a) add to program or administrative costs funded from the General Fund in excess of $500,000, and (b) are not specifically required by a court order, change in federal or state law, or included in the appropriation made by this act, may be approved by the Director of Finance not sooner than 30 days after notification in writing of the necessity therefore to the chairman of the committee in each house which considers appropriations and the Chairman of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairman of the committee, or his designee, may in each instance determine.

If the Director of Finance determines during the third quarter of the fiscal year that the estimate of expenditures will exceed the expenditures authorized by this section, the director shall so report to the Legislature prior to the end of the third quarter. At such time as the report is made, the amount of the limitation shall be increased by the amount of such excess unless and until otherwise provided by law.

Provided further, that it is the intent of the Legislature in enacting Chapter 332 of the Statutes of 1978, and in enacting this act, that any increase in AFDC payments for AFDC recipients authorized by Section 34.5 of Chapter 332, shall not result in a total cost-of-living increase in such payments which is greater than the across the board cost-of-living salary increases for state employees which is granted by this act.

Provided further, that both AFDC recipients and state employees shall receive cost-of-living increases of 2½ percent.

SEC. 33. If any item of appropriation in this act is vetoed, eliminated, or reduced by the Governor under Section 10 of Article IV of the Constitution, while approving portions of this act, such veto, elimination, or reduction shall not affect the other portions of this act, and these other portions of this act, so approved, shall have the same effect in law as if any vetoed or eliminated items of appropriation had not been present in this act, and as if any reduced item of appropriation had not been reduced.

SEC. 34 If any portion of this act is held unconstitutional, such decision shall not affect the validity of any other portion of this act. The Legislature hereby declares that it would have passed this act, and each portion thereof, irrespective of the fact that any other portion be declared unconstitutional.

SEC. 34.1. Funds from each appropriation made in this act may be expended to pay such salary adjustments as are authorized by salary-fixing authorities to provide an increase in the compensation for officers and employees during the month of July 1978 to provide compensation equivalent to that which they would have otherwise received had this act operative on July 1, 1978.

SEC. 34.2. Funds from each appropriation made in this act may be expended to pay any obligation incurred between the commencement of the 1978–79 fiscal year and the effective date of this act, which would otherwise have been authorized hereunder had this act been operative on July 1, 1978, subject to the same limitations, conditions and requirements.

SEC 34.3 Sections 34.1 and 34 2 of this act do not provide a cost-of-living salary increase for state employees for purposes of Chapter 4 (commencing with Section 16280) of Part 1.5 of Division 4 of Title 2 of the Government Code.

SEC. 35. This act, inasmuch as it provides for an appropriation for the usual current expenses of the state, shall, under the provisions of Section 8 of Article IV of the Constitution of the State of California, take effect immediately

SEC 36. 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 makes appropriations for support of state and local government for the 1978-79 fiscal year and provides for capitol outlay appropriations, in continuation of existing programs and to promote and sustain the economy of the state It is imperative that such appropriations be available for expenditure commencing not later than July 1, 1978 It is therefore necessary that this act go into immediate effect.

SEC 37. INDEX This Section provides a ready reference to item numbers, departmental and budget titles, and the 1978–79 Governor's Budget page numbers The contents of this section do not affect the scope, meaning or intent of the provisions of this act. Item numbers carry a fund designation as follows·

G=General Fund
S=Special Funds
N=Nongovernmental Funds
B=Selected Bond Funds
F=Federal Funds

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Community Colleges, Board of Governors of		
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Credentials Office	340S	928
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CHAPTER 360

An act to add Chapter 1.3 (commencing with Section 24170) to Division 20 of the Health and Safety Code, relating to human experimentation.

[Approved by Governor July 6, 1978. Filed with Secretary of State July 7, 1978.]

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

SECTION 1. Chapter 1.3 (commencing with Section 24170) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 1.3. HUMAN EXPERIMENTATION

24170. This chapter shall be known and may be cited as the Protection of Human Subjects in Medical Experimentation Act.

24171. The Legislature hereby finds and declares that medical experimentation on human subjects is vital for the benefit of mankind, however such experimentation shall be undertaken with due respect to the preciousness of human life and the right of individuals to determine what is done to their own bodies.

The Legislature further finds and declares that:

(a) The Nuremberg Code of Ethics in Medical Research was developed after the trial of Nazi war criminals for unethical use of persons in medical experiments; subsequently, the Declaration of Helsinki additionally established recommendations guiding doctors in experimentation involving human subjects.

(b) Neither the Nuremberg Code nor the Declaration of Helsinki are codified under law and are, therefore, unenforceable.

(c) It is necessary that medical experimentation be done in such a way as to protect the rights of the human subjects involved.

(d) There is, and will continue to be, a growing need for protection for citizens of the state from unauthorized, needless, hazardous, or negligently performed medical experiments on human beings.

It is, therefore, the intent of the Legislature, in the enacting of this chapter, to provide minimum statutory protection for the citizens of this state with regard to human experimentation and to provide penalties for those who violate such provisions.

24172. As used in the chapter, "experimental subject's bill of rights," means a list of the rights of a subject in a medical experiment, written in a language in which the subject is fluent. Except as otherwise provided in Section 24175, this list shall include, but not be limited to the subject's right to:

(a) Be informed of the nature and purpose of the experiment.

(b) Be given an explanation of the procedures to be followed in the medical experiment, and any drug or device to be utilized.

(c) Be given a description of any attendant discomforts and risks reasonably to be expected from the experiment.

(d) Be given an explanation of any benefits to the subject reasonably to be expected from the experiment, if applicable.

(e) Be given a disclosure of any appropriate alternative procedures, drugs or devices that might be advantageous to the subject, and their relative risks and benefits.

(f) Be informed of the avenues of medical treatment, if any, available to the subject after the experiment if complications should arise.

(g) Be given an opportunity to ask any questions concerning the experiment or the procedures involved.

(h) Be instructed that consent to participate in the medical experiment may be withdrawn at any time and the subject may discontinue participation in the medical experiment without prejudice.

(i) Be given a copy of the signed and dated written consent form as provided for by Section 24173 or 24178.

(j) Be given the opportunity to decide to consent or not to consent to a medical experiment without the intervention of any element of force, fraud, deceit, duress, coercion, or undue influence on the subject's decision.

24173. As used in this chapter, "informed consent" means the authorization given pursuant to Section 24175 to have a medical experiment performed after each of the following conditions have been satisfied:

(a) The subject or subject's conservator or guardian, or other representative, as specified in Section 24175, is provided with a copy of the experimental subject's bill of rights, prior to consenting to participate in any medical experiment, containing all the information required by Section 24172 and such copy is signed and dated by the subject or the subject's conservator or guardian, or other representative, as specified in Section 24175.

(b) A written consent form is signed and dated by the subject or the subject's conservator or guardian, or other representative, as specified in Section 24175.

(c) The subject or subject's conservator or guardian, or other representative, as specified in Section 24175, is informed both verbally and within the written consent form, in nontechnical terms and in a language in which the subject or the subject's conservator or guardian, or other representative, as specified in Section 24175, is fluent, of the following facts of the proposed medical experiment which might influence the decision to undergo the experiment, including, but not limited to:

(1) An explanation of the procedures to be followed in the medical experiment and any drug or device to be utilized, including the purposes of such procedures, drugs, or device. If a placebo is to be administered or dispensed to a portion of the subjects involved in a medical experiment, all subjects of such experiment shall be

informed of such fact, however, they need not be informed as to whether they will actually be administered or dispensed a placebo.

(2) A description of any attendant discomfort and risks to the subject reasonably to be expected.

(3) An explanation of any benefits to the subject reasonably to be expected, if applicable.

(4) A disclosure of any appropriate alternative procedures, drugs or devices that might be advantageous to the subject, and their relative risks and benefits.

(5) An estimate of the expected recovery time of the subject after the experiment.

(6) An offer to answer any inquiries concerning the experiment or the procedures involved.

(7) An instruction to the subject that he or she is free to withdraw his prior consent to the medical experiment and discontinue participation in the medical experiment at any time, without prejudice to the subject.

(8) The name, institutional affiliation, if any, and address of the person or persons actually performing and primarily responsible for the conduct of the experiment.

(9) The name of the sponsor or funding source, if any, or manufacturer if the experiment involves a drug or device, and the organization, if any, under whose general aegis the experiment is being conducted.

(10) The name, address, and phone number of an impartial third party, not associated with the experiment, to whom the subject may address complaints about the experiment.

(d) The written consent form is signed and dated by any person other than the subject or the conservator or guardian, or other representative of the subject, as specified in Section 24175, who can attest that the requirements for informed consent to the medical experiment have been satisfied.

(e) Consent is voluntary and freely given by the human subject or the conservator or guardian, or other representative, as specified by Section 24175, without the intervention of any element of force, fraud, deceit, duress, coercion, or undue influence.

24174. As used in this chapter, "medical experiment" means:

(a) The severance or penetration or damaging of tissues of a human subject or the use of a drug or device, as defined in Section 26009 or 26010, electromagnetic radiation, heat or cold, or a biological substance or organism, in or upon a human subject in the practice or research of medicine in a manner not reasonably related to maintaining or improving the health of such subject or otherwise directly benefiting such subject.

(b) The investigational use of a drug or device as provided in Sections 26678 and 26679.

(c) Withholding medical treatment from a human subject for any purpose other than maintenance or improvement of the health of such subject.

24175. (a) Except as otherwise provided in this section, no person shall be subjected to any medical experiment unless the informed consent of such person is obtained.

(b) If an adult person, who is incompetent as defined in Section 1435.2 of the Probate Code, is under the care and custody of a guardian pursuant to Division 4 (commencing with Section 1400) of the Probate Code, informed consent for a medical experiment involving such person shall be obtained from such person's guardian.

(c) If an adult person is under a conservatorship of the person or of the person and estate, pursuant to Division 5 (commencing with Section 1701) of the Probate Code, informed consent for a medical experiment involving such person shall be obtained from such person's conservator.

(d) If an adult person who is gravely disabled, as defined in subdivision (h) of 5008 of the Welfare and Institutions Code, and is under a conservatorship of the person or of the person and estate, pursuant to Chapter 3 (commencing with Section 5350) of Article 8 of Part 1 of Division 5 of the Welfare and Institutions Code, informed consent for a medical experiment involving such person shall be obtained from such person, unless the conservator of such person has the right to consent to medical treatment on behalf of the conservatee, pursuant to subdivisions (c) and (d) of Section 5357 and Section 5358 of the Welfare and Institutions Code.

(e) If an adult person who is developmentally disabled, as defined in subdivision (a) of Section 4512 of the Welfare and Institutions Code, and has neither a guardian or conservator and is mentally incapable of giving informed consent, informed consent shall be obtained for a medical experiment involving such person, pursuant to subdivision (c) of Section 4655 of the Welfare and Institutions Code.

(f) Informed consent given by a person other than the human subject pursuant to subdivisions (b) through (e), inclusive, of this section shall only be for medical experiments related to maintaining or improving the health of the human subject or related to obtaining information about a pathological condition of the human subject.

24176. (a) Any person who is primarily responsible for conduct of a medical experiment and who negligently allows such experiment to be conducted without a subject's informed consent, as provided in this chapter, shall be liable to such subject in an amount not to exceed one thousand dollars ($1,000), as determined by the court. The minimum amount of damages awarded shall be fifty dollars ($50).

(b) Any person who is primarily responsible for the conduct of a medical experiment and who willfully fails to obtain the subject's informed consent, as provided in this chapter, shall be liable to such subject in an amount not to exceed five thousand dollars ($5,000) as determined by the court.

(c) Any person who is primarily responsible for the conduct of a medical experiment and who willfully fails to obtain the subject's

informed consent, as provided in this chapter, and thereby exposes a subject to a known substantial risk of serious injury, either bodily harm or psychological harm, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a period not to exceed one year or a fine of ten thousand dollars ($10,000), or both.

(d) Any representative or employee of a pharmaceutical company, who is directly responsible for contracting with another person for the conduct of a medical experiment, and who has knowledge of risks or hazards with respect to such experiment, and who willfully withholds information of such risks and hazards from the person contracting for the conduct of the medical experiment, and thereby exposes a subject to substantial risk of serious injury, either bodily harm or psychological harm, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a period not to exceed one year or a fine of ten thousand dollars ($10,000), or both.

(e) Each and every medical experiment performed in violation of any provision of this chapter is a separate and actionable offense.

(f) Any attempted or purported waiver of the rights guaranteed, or requirements prescribed by this chapter, whether by a subject or by a subject's conservator or guardian, or other representative, as specified in Section 24175, is void.

(g) Nothing in this section shall be construed to limit or expand the right of an injured subject to recover damages under any other applicable law.

24177. The provisions of this chapter shall not supersede, but shall be in addition to, the provisions of Article 4 (commencing with Section 26668) of Chapter 6 of Division 21 of this code and Title 2.1 (commencing with Section 3500) of Part 3 of the Penal Code.

24178. Except for this section and the requirements set forth in Sections 24172 and 24176, this chapter shall not apply to any person who is conducting a medical experiment as an investigator within an institution which holds an assurance with the Department of Health, Education and Welfare pursuant to Part 46 of Title 45 of the Code of Federal Regulations and who obtains informed consent in the method and manner required by such regulations.

24179. This chapter shall not apply to a pharmacist dispensing drugs upon a prescription.

24179.5. Notwithstanding any other provision of this chapter, this chapter shall not apply to an adult person in a terminal condition who executes a directive directing the withholding or withdrawal of life-sustaining procedures pursuant to Section 7188. To the extent of any conflict, the provisions of Chapter 3.9 (commencing with Section 7185) of Part 1, of Division 7 shall prevail over the provisions of this chapter.

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 361

An act to amend Section 25100.5 of the Government Code, relating to county clerks.

[Approved by Governor July 6, 1978 Filed with Secretary of State July 7, 1978.]

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

SECTION 1. Section 25100.5 of the Government Code is amended to read:

25100.5. The board of supervisors of any county may provide by ordinance that the clerk of the board of supervisors may be appointed by the board in the same manner as other county officers are appointed. In such counties, the county clerk is not ex officio clerk of the board of supervisors.

The clerk of the board of supervisors shall perform those duties prescribed by law for the county clerk as ex officio clerk of the board of supervisors or for the clerk of the board of supervisors and such additional duties as the board of supervisors shall prescribe by ordinance. Such person may perform all the duties vested in the county clerk other than those vested in the county clerk as ex officio clerk of the superior court or registrar of voters and may take acknowledgments and administer and certify oaths in the performance of such person's official duties.

CHAPTER 362

An act to amend Sections 39002.5 and 81033.5 of the Education Code, relating to school districts.

[Approved by Governor July 6, 1978. Filed with Secretary of State July 7, 1978.]

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

SECTION 1. Section 39002.5 of the Education Code is amended to read:

39002.5. Geological and soil engineering studies as described in Section 39002 shall be made, within the boundaries of any special studies zone, for the construction of any school building as defined in Section 39141, or if the estimated cost exceeds twenty thousand dollars ($20,000), for the reconstruction or alteration of or addition to any such school building for work which alters structural elements.

The Department of General Services may require similar geological and soil engineering studies for the construction or alteration of any school building on a site located outside of the boundaries of any special studies zone. No such studies need be made if the site under consideration has been the subject of adequate prior studies.

No school building shall be constructed, reconstructed, or relocated on the trace of a geological fault along which surface rupture can reasonably be expected to occur within the life of the school building.

A copy of the report of each investigation conducted pursuant to this section shall be submitted to the Department of General Services pursuant to Article 3 (commencing with Section 39140) of this chapter and to the Department of Education. The cost of geological and soil engineering studies and investigations conducted pursuant to this section may be treated as a capital expenditure.

SEC. 2. Section 81033.5 of the Education Code is amended to read:

81033.5. Geological and soil engineering studies as described in Section 81033 shall be made, within the boundaries of any special studies zone, for the construction of any school building as defined in Section 81131 or, if the estimated cost exceeds twenty thousand dollars ($20,000), for the reconstruction or alteration of or addition to any such school building for work which alters structural elements. The Department of General Services may require similar geological and soil engineering studies for the construction or alteration of any school building on a site located outside of the boundaries of any special studies zone. No such studies need be made if the site under consideration has been the subject of adequate prior studies.

No school building shall be constructed, reconstructed, or relocated on the trace of a geological fault along which surface rupture can reasonably be expected to occur within the life of the school building.

A copy of the report of each investigation conducted pursuant to this section shall be submitted to the Department of General Services pursuant to Article 7 (commencing with Section 81130) of this chapter of this division and to the Department of Education. The cost of geological and soil engineering studies and investigations conducted pursuant to this section may be treated as a capital expenditure.

CHAPTER 363

An act to amend Section 5 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to county water authorities.

[Approved by Governor July 6, 1978 Filed with Secretary of State July 7, 1978.]

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

SECTION 1. Section 5 of the County Water Authority Act (Chapter 545 of the Statutes of 1943) is amended to read:

Sec. 5. Any authority incorporated as herein provided shall have power:

(1) To have perpetual succession.

(2) To sue and be sued in all actions and proceedings and in all courts and tribunals of competent jurisdiction.

(3) To adopt a corporate seal and alter it at pleasure.

(4) To take by grant, purchase, bequest, devise or lease, and to hold, enjoy, lease, sell or otherwise dispose of, any and all real and personal property of any kind within or without the authority and within and without the state necessary or convenient to the full exercise of its powers; also to acquire, construct or operate, control and use any and all works, facilities and means necessary or convenient to the exercise of its powers, both within and without the authority, and within and without the state, and to do and perform any and all things necessary or convenient to the full exercise of the powers herein granted.

(5) To exercise the power of eminent domain to take any property necessary to the exercise of the powers herein granted.

(6) To construct and maintain works and establish and maintain facilities across or along any public street or highway and in, upon or over any vacant public lands which are now, or may become the property of the State of California; provided, however, that the authority shall promptly restore any such street or highway to its former state of usefulness as nearly as may be, and shall not use the same in such manner as to completely or unnecessarily impair the usefulness thereof. The grant of the right to use such vacant state lands shall be effective upon the filing by such authority with the Division of State Lands of the Department of Finance, of an application showing the boundaries, extent and locations of the lands, rights-of-way, or easements desired for such purposes. If the land, rights-of-way or easement for which application shall be made is for the construction of any aqueduct, ditch, pipeline, conduit, tunnel or other works for the conveyance of water, or for roads, or for poles, or towers and wires for the conveyance of electrical energy or for telephonic or telegraphic communication, no compensation shall be charged the authority therefor, unless, in the opinion of the Chief of such Division of State Lands the construction of such works will render the remainder of the legal subdivision through which such works are to be constructed valueless or unsalable, in which event the authority shall pay for the lands to be taken and for such portion of any legal subdivision which, in the opinion of said Chief of the Division of State Lands, are rendered valueless or unsalable. If the

lands for which application is made are for purposes other than the construction of roads or for works for the conveyance of water, or electricity or telephonic or telegraphic communication, such authority shall pay to the state for such lands at the reasonable rate determined by the Division of State Lands. Upon filing such application, accompanied by map or plat showing the location or proposed location of such works and/or facilities, the fee title to so much of such state lands as shall be found by the Chief of the Division of State Lands of the Department of Finance to be necessary or convenient to enable such authority to construct or maintain its works and/or to establish or maintain its facililties, shall be conveyed to such authority by patent executed by the Governor of the State of California, attested by the Secretary of State with the Great Seal of said state affixed, and countersigned by the Registrar of State Lands; if an easement or right-of-way only over such lands be sought by such authority, such easement or right-of-way shall be evidenced by permit or grant executed by such Chief of the Division of State Lands. The Chief of the Division of State Lands may reserve in such patents, grants or permits, easements and rights-of-way across any lands therein described for the construction of streets, roads and highways. Before any such patent, grant or permit shall be executed any compensation due to the state under the provisions hereof, must be paid. In the event that the duties or titles of any of the officers herein mentioned shall be changed by lawful authority, the functions herein required to be performed shall be performed by the appropriate officer or officers of the State of California. No fee shall be exacted from such authority for any patent, permit or grant so issued or for any service rendered hereunder. In the use of streets or highways the authority shall be subject to the reasonable rules and regulations of the governmental agency in charge thereof, concerning excavations and the refilling of excavations, the relaying of pavements and the protection of the public during periods of construction; provided, that the authority shall not be required to pay any license or permit fees, or file any bonds. The authority may be required to pay reasonable inspection fees.

(7) To borrow money and incur indebtedness and to issue bonds or other evidence of such indebtedness; provided, however, that no authority incorporated hereunder shall incur indebtedness which, in the aggregate, shall exceed fifteen (15) percent of the taxable property of the authority as shown by the last equalized assessment roll of the county in which the authority is located.

(8) To levy and collect taxes for the purpose of carrying on the operations and paying the obligations of the authority; provided, however, that such taxes levied under this section exclusive of any tax levied to meet the bonded indebtedness of such authority and the interest thereon and exclusive of any tax levied to meet any obligation to the United States of America or to any board, department or agency thereof, shall not exceed five cents ($0.05) on each such one hundred dollars ($100) of assessed valuation.

(9) To enter into contracts, employ and retain personal services and employ laborers; to create, establish and maintain such offices and positions as shall be necessary and convenient for the transaction of the business of the authority, and to elect, appoint and employ such officers, attorneys, agents and employees therefor as shall be found by the board of directors to be necessary and convenient for the transaction of the business of the authority.

(10) To join with one or more other public corporations for the purpose of carrying out any of its powers, and for that purpose to contract with such other public corporation or corporations 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. Such contracts may contain such other and further covenants and agreements as may be necessary and convenient to accomplish the purposes hereof. The term "public corporation" as used in this subdivision shall be deemed to mean and include the United States or any public agency thereof or this or any other state or any political district, subdivision or public agency thereof.

(11) To acquire water and water rights within or without the state; to develop, store and transport such water; to provide, sell and deliver water for beneficial uses and purposes; provided, each public agency, the area of which shall be a part of any authority incorporated hereunder, shall have a preferential right to purchase from the authority for distribution by such public agency, or any public utility therein empowered by said public agency for the purpose, for beneficial uses within such public agency, a portion of the water served by the authority which shall, from time to time, bear the same ratio to all of the water supply of the authority as the total accumulation of amounts paid by such public agency to the authority on tax assessments and otherwise, towards the capital cost of the authority's works as defined from time to time by order of the board of directors shall bear to the total payments received by the authority on account of tax assessments and otherwise, towards such capital cost as defined from time to time by order of the board of directors; also to provide, sell and deliver water of the authority not needed or required for beneficial purposes by the public agencies, the corporate area of which is included in such authority, to areas outside the boundaries of the authority; provided, that the supplying of such water shall, in every case, be subject to the paramount right of the authority to discontinue the same, in whole or in part, whenever it shall so determine by resolution adopted by said board of directors.

(12) To acquire, store, treat, reclaim, reuse, distribute, and sell sewage, waste, and sea waters for beneficial uses and purposes to the extent that these functions are assigned to the county water authority by elected officials serving as the area-wide planning agency acting

under Sections 208(a), 208(b)(3), 208(c) and in accordance with the provisions of Section 208 of the federal Water Pollution Control Act, as amended (33 USC 1251).

(13) To fix, revise, and collect rates or other charges for the delivery of water, use of any facilities or property, or provision of services. In fixing rates the board may establish reasonable classifications among different classes and conditions of service, but rates shall be the same for similar classes and conditions of service.

(14) To cooperate and contract with 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 authorizing or permitting such cooperation, for the purposes of construction of works, necessary or proper for carrying out the purposes of said authority, or for the acquisition, purchase, extension, operation or maintenance of constructed works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States; also to borrow or procure money from the United States, or any agency thereof for the purpose of financing any of the operations of the authority.

CHAPTER 364

An act to amend Sections 5450, 6400, 6402, 6420, and 10600.1 of the Streets and Highways Code, relating to the improvement acts.

[Approved by Governor July 6, 1978. Filed with Secretary of State July 7, 1978.]

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

SECTION 1. Section 5450 of the Streets and Highways Code is amended to read:

5450. As an alternative method for the collection of cash assessments or assessments of less than one hundred fifty dollars ($150) levied under the provisions of this division, the legislative body, upon the written request of the contractor or his assigns, shall, by resolution adopted on or before the third Tuesday in September, direct that such assessments be collected upon the tax roll upon which general taxes are collected.

SEC. 2. Section 6400 of the Streets and Highways Code is amended to read:

6400. The legislative body may determine that serial bonds shall be issued in the manner and form provided in this part to represent assessments of one hundred fifty dollars ($150) or over for the cost of any work authorized in Part 3 (commencing with Section 5100) of this division.

SEC. 3. Section 6402 of the Streets and Highways Code is

amended to read:

6402. If the amount of the unpaid assessment upon any lot or parcel of land is less than one hundred fifty dollars ($150), the assessment shall be collected as provided in Part 3 (commencing with Section 5100) of this division.

SEC. 4. Section 6420 of the Streets and Highways Code is amended to read:

6420. After the full expiration of 30 days from the date of the recordation of the warrant, and after the filing of the written statement of all payments received by the contractor or his assignees upon the assessment, the street superintendent shall make and certify to the treasurer a complete list of all assessments unpaid, which amount to one hundred fifty dollars ($150) or over, upon any assessment or diagram number.

SEC. 5. Section 10600.1 of the Streets and Highways Code is amended to read:

10600.1. If provision is made for the issuance of bonds under the Improvement Act of 1911 (Division 7 (commencing with Section 7000)), all assessments under one hundred fifty dollars ($150) which are not paid within 30 days after recordation of the assessment are delinquent and shall bear interest at the rate of 1 percent per month, the interest to be computed from the date of the bonds. The legislative body may order the collection of any such delinquent assessments pursuant to either Chapter 18 (commencing with Section 5410) or Chapter 18.1 (commencing with Section 5450) of Part 3 of Division 7. All references in those chapters to the contractor, his assignee, his assigns, or his agent shall be deemed to refer to the city. References in Section 5451 to interest from the "date of filing the original assessment" shall be deemed to refer to the "date of the bonds."

CHAPTER 365

An act to amend Sections 31, 32, 33, 50, 50.1, 50.2, 76.1, 80, and 651 of, to amend the headings of Division 1 (commencing with Section 30) of, Chapter 2 (commencing with Section 50) of Division 1 of, and Chapter 3 (commencing with Section 80) of Division 1 of, to add Section 63.9 to, and to add Article 2.6 (commencing with Section 68) to Chapter 2 of Division 1 of, the Harbors and Navigation Code, and to amend Section 5071.7 of the Public Resources Code, relating to harbors and navigation.

[Approved by Governor July 6, 1978 Filed with Secretary of State July 7, 1978.]

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

SECTION 1. The heading of Division 1 (commencing with Section 30) of the Harbors and Navigation Code is amended to read:

DIVISION 1. DEPARTMENT OF BOATING AND WATERWAYS AND THE BOATING AND WATERWAYS COMMISSION

SEC. 2. Section 31 of the Harbors and Navigation Code is amended to read:

31. "Commission" means the Boating and Waterways Commission.

SEC. 3. Section 32 of the Harbors and Navigation Code is amended to read:

32. "Department" means the Department of Boating and Waterways.

SEC. 4. Section 33 of the Harbors and Navigation Code is amended to read:

33. "Director" means the Director of Boating and Waterways.

SEC. 5. The heading of Chapter 2 (commencing with Section 50) of Division 1 of the Harbors and Navigation Code is amended to read:

CHAPTER 2. DEPARTMENT OF BOATING AND WATERWAYS

SEC. 6. Section 50 of the Harbors and Navigation Code is amended to read:

50. The Department of Harbors and Watercraft and its successor, the Department of Navigation and Ocean Development, are continued in existence in the Resources Agency as the Department of Boating and Waterways. The Department of Boating and Waterways is the successor to, and is vested with, the powers, functions, and jurisdiction of the following state departments and agencies as hereinafter specified:

(a) All of the powers, functions, and jurisdiction previously vested in the Division of Small Craft Harbors of the Department of Parks and Recreation.

(b) All of the powers, functions, and jurisdiction of the State Lands Commission with respect to the acquisition, construction, development, improvement, maintenance, and operation of small craft harbors.

(c) All of the powers, functions, and jurisdiction of the Department of Parks and Recreation with respect to boating facility planning, design, and construction, except as specifically provided with respect to boating trails in the California Recreational Trails Act (commencing with Section 5070 of the Public Resources Code) and in Article 2.6 (commencing with Section 68) of this chapter.

(d) All of the powers, functions, and jurisdiction of the Office of Architecture and Construction in the Department of General Services with respect to boating facility planning and design.

(e) All of the powers, functions, and jurisdiction of the Department of Water Resources with respect to beach erosion control.

(f) All of the policymaking and regulatory powers, functions, and jurisdiction of the Harbors and Watercraft Commission as to matters within the jurisdiction of the department.

SEC. 7. Section 50.1 of the Harbors and Navigation Code is amended to read:

50.1. Whenever the term "Division of Small Craft Harbors" or the term "Small Craft Harbors Commission" is used in any provision of law, it shall be construed as referring to the Department of Boating and Waterways.

Whenever, by any statute now in force or that may be hereafter enacted, any power, function, or jurisdiction, as specified in Section 50, is imposed or conferred upon the State Lands Commission, the Department of Parks and Recreation, the Office of Architecture and Construction in the Department of General Services, or the Department of Water Resources, such power, function, or jurisdiction shall be deemed to be imposed or conferred upon the Department of Boating and Waterways.

Nothing in this section or in this code shall divest the State Lands Commission of jurisdiction with respect to the leasing of state lands, including state lands used for small craft harbors, swamps and overflowed lands, or tide and submerged lands, for the extraction and removal of oil and gas and other minerals.

SEC. 8. Section 50.2 of the Harbors and Navigation Code is amended to read:

50.2. The department shall be administered by an executive officer known as the Director of Boating and Waterways. The director shall be appointed by and hold office at the pleasure of the Governor and shall receive an annual salary as provided in Section 11557 of the Government Code. The appointment of any director appointed by the Governor shall be subject to confirmation by the Senate.

SEC. 9. Section 63.9 is added to the Harbors and Navigation Code, to read:

63.9. In addition to other powers specified in this division and in Division 3 (commencing with Section 399), the department may do any of the following:

(a) Apply for and accept grants, contributions, and appropriations.

(b) Contract for professional services if such work or services cannot be satisfactorily performed by its employees or by any other state agency.

(c) Sue and be sued in all actions and proceedings and in all courts and tribunals of competent jurisdiction, including, but not limited to, prohibitory and mandatory injunctions to restrain violations of this division and Division 3 (commencing with Section 399).

(d) Request and utilize the advice and services of all federal, state, local, and regional agencies.

(e) Adopt any rule or regulation or take any action it deems reasonable and necessary to carry out the provisions of this division.

SEC. 10. Article 2.6 (commencing with Section 68) is added to Chapter 2 of Division 1 of the Harbors and Navigation Code, to read:

Article 2.6. California Recreational Boating Trails

68. The director shall cause to be prepared, and continuously maintained, a comprehensive plan for the development and operation of a statewide system of recreational boating trails. The plan shall be the boating trails element of the California Recreational Trails System Plan as required pursuant to the California Recreational Trails Act (commencing with Section 5070 of the Public Resources Code). The plan shall be prepared and continually maintained in accordance with provisions of the California Recreational Trails Act and shall, to the maximum extent practicable, be compatible with other elements of the California Recreational Trails System Plan.

68.2. In conformance with the California Recreational Trails Act, the Legislature hereby finds and declares that there is a statewide and continuing interest in the public's use of the state's inland waterways for recreational purposes. The Legislature further finds and declares that there exists a need to provide for recreational resource planning of the waterways in a manner that provides access and utilization for recreational purposes, consistent with the provisions of the California Recreational Trails Act.

SEC. 11. Section 76.1 of the Harbors and Navigation Code is amended to read:

76.1. Unless the context otherwise requires, the following definitions shall govern the construction of this article:

(a) "Broker" refers to a person who, as a whole or partial vocation, sells or offers for sale, buys or offers to buy, lists, solicits prospective purchasers of, negotiates the purchase or sale or exchange of, yachts or ships.

A person shall be deemed to be a broker, within the meaning of this section, if, he does any of the acts or participates in any of the transactions herein defined, even though at some subsequent time he may obtain title to, or procure in his own name the certification or registration of, the yacht or ship in question.

(b) "Department" refers to the Department of Boating and Waterways.

(c) "Director" refers to the Director of Boating and Waterways.

(d) "Person" includes individual, copartnership, association, and corporation.

(e) "Salesman" refers to an individual who, as a whole or partial vocation, for compensation, is employed by a licensed broker to do any or all things that the broker may do under this article.

(f) "Yacht" and "ship" refer to any vessel for navigating in water which is propelled by machinery or sail, except sailboats 12 feet or

less in length.

SEC. 12. The heading of Chapter 3 (commencing with Section 80) of Division 1 of the Harbors and Navigation Code is amended to read:

CHAPTER 3. BOATING AND WATERWAYS COMMISSION

SEC. 13. Section 80 of the Harbors and Navigation Code is amended to read:

80. The Harbors and Watercraft Commission and its successor, the Navigation and Ocean Development Commission, are, continued in existence in the Department of Boating and Waterways as the Boating and Waterways Commission but with only the powers and duties imposed upon it by this chapter.

SEC. 14. Section 651 of the Harbors and Navigation Code is amended to read:

651. As used in this chapter, unless the context clearly requires a different meaning:

(a) "Department" means the Department of Boating and Waterways.

(b) "Director" means the Director of Boating and Waterways.

(c) "Vessel" includes every description of watercraft used or capable of being used as a means of transportation on water, except the following:

(1) A seaplane on the water.

(2) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to or guided on such permanently fixed course by means of a mechanical device on a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled, or by means of a mechanical device attached to the watercraft itself.

(d) "Boat" means any vessel which is any of the following:

(1) Manufactured or used primarily for noncommercial use.

(2) Leased, rented, or chartered to another for the latter's noncommercial use.

(3) Engaged in the carrying of six or fewer passengers, including those for-hire vessels carrying more than three passengers while using inland waters of the state that are not declared navigable by the United States Coast Guard.

(4) Commercial vessels required to be numbered pursuant to Section 9850 of the Vehicle Code.

(e) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor thereto.

(f) "Owner" is a person having all the incidents of ownership, including the legal title, of a vessel whether or not such person lends, rents, or pledges such vessel; the person entitled to the possession of

a vessel as the purchaser under a conditional sale contract; or the mortgagor of a vessel. "Owner" does not include a person holding legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state or to any county, city, district, or political subdivision of the state under a lease, lease-sale, or rental-purchase agreement which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(g) "Legal owner" is a person holding the legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state, or to any county, city, district or political subdivision of the state, under a lease, lease-sale, or rental-purchase agreement which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(h) "Registered owner" is the person registered by the Department of Motor Vehicles as the owner of the vessel.

(i) "Waters of this state" means any waters within the territorial limits of this state.

(j) "Person" means an individual, partnership, firm, corporation, association or other entity, but does not include the United States, the state or a municipality or subdivision thereof.

(k) "Operator" means the person on board who is in control or in charge of a vessel while it is in use.

(*l*) "Undocumented vessel" means any vessel which is not required to have and does not have a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(m) "Use" means operate, navigate, or employ.

(n) "State" means a state of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(o) "State of principal use" means the state on which waters a vessel is used or intended to be used most during a calendar year.

(p) "Passenger" means every person carried on board a vessel other than any of the following:

(1) The owner or his representative.

(2) The operator.

(3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.

(4) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.

(q) "Associated equipment" means any of the following, excluding radio equipment:

(1) Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component.

(2) Any accessory or equipment for, or appurtenance to, a boat.

(3) Any marine safety article, accessory, or equipment intended for use by a person on board a boat.

(r) "Manufacturer" means any person engaged in any of the following:

(1) The manufacture, construction, or assembly of boats or associated equipment.

(2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.

(3) The importation into this state for sale of boats, associated equipment, or components thereof.

SEC. 15. Section 5071.7 of the Public Resources Code is amended to read:

5071.7. (a) In planning the system, the director shall consult with and seek the assistance of the Department of Transportation so that trail routes designated as part of the system and intended for nonmotorized transportation become part of the nonmotorized element of the California Transportation Plan being prepared pursuant to Section 14040 of the Government Code. The Department of Transportation shall plan and design those trail routes in the system that are contiguous to state highways and serve both a transportation and a recreational need.

(b) The element of the plan relating to boating trails and other segments of the system which are oriented to waterways shall be prepared and maintained by the Department of Boating and Waterways pursuant to Article 2.6 (commencing with Section 68) of Chapter 2 of Division 1 of the Harbors and Navigation Code. Such segments shall be integrated with the California Protected Waterways Plan developed pursuant to Chapter 1273 of the Statutes of 1968, and shall be planned so as to be consistent with the preservation of rivers of the California Wild and Scenic Rivers System, as provided in Chapter 1.4 (commencing with Section 5093.50) of this division.

(c) In planning the system, the director shall consult with and seek the assistance of the Department of Rehabilitation to assure that adequate provision is made for the use of recreational trails by physically handicapped persons.

SEC. 16. This act does not make any change in existing law relating to the authority of local agencies to enact local ordinances, rules, or regulations and shall not be construed as affecting any pending litigation relating to waters in this state.

SEC. 17. Section 76.1 of the Harbors and Navigation Code, as amended by Section 11 of this act, shall become operative only if Assembly Bill No. 1184 of the 1977–78 Regular Session is not chaptered and does not become effective on or before January 1, 1979.

CHAPTER 366

An act to amend Section 9160 of the Elections Code, relating to elections.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 9160 of the Elections Code is amended to read:

9160. The state central committee shall consist of:

(a) One member for each of the following public officers:

(1) Governor.

(2) Lieutenant Governor.

(3) Treasurer.

(4) Controller.

(5) Attorney General.

(6) Secretary of State.

(7) All members of the State Board of Equalization.

(8) All Senators and Representatives of Congress from California.

(9) All Members of the State Legislature.

(b) The chairman of each county central committee of the party.

(c) Members appointed pursuant to this part.

(d) The national committeeman and national committeewoman of the party.

(e) Any person elected or appointed to fill a vacancy in a partisan office.

(f) The chairman, vice chairman, and the immediate past chairman of this committee.

(g) The president or chairman, as the case may be, of each statewide, volunteer organization chartered by the state central committee or by the Republican National Committee and approved for this purpose by the executive committee of the state central committee.

Volunteer organizations chartered exclusively by the Republican National Committee and subject to this section shall file an initial petition for approval with the executive committee of the state central committee at least six months prior to the first organizational meeting specified in Section 9210. Such approval, if granted, shall remain in effect indefinitely unless and until it is revoked by the executive committee.

CHAPTER 367

An act to amend Section 85 of the Estero Municipal Improvement District Act (Chapter 82 of the Statutes of 1960, First Extraordinary Session), and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 85 of the Estero Municipal Improvement District Act (Chapter 82 of the Statutes of 1960, First Extraordinary Session) is amended to read:

Sec. 85. The district may borrow money and provide for its repayment in the manner provided in Article 7 (commencing with Section 53820) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. Notwithstanding the provisions of Section 53831 of the Government Code, the district may borrow money pursuant to this section for a period not to exceed two fiscal years if it finds that the amount available in the bond redemption fund is less than 75 percent of the amount needed to service outstanding bonds.

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:

After June 1978, the bond redemption fund of the Estero Municipal Improvement District, zone numbers 1 and 2, will be insufficient to make debt service payments due in December 1978. This act must take effect immediately in order for the district to meet its obligations to bond holders.

CHAPTER 368

An act to amend Section 170 of the Estero Municipal Improvement District Act (Chapter 82 of the Statutes of 1960, First Extraordinary Session), and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 170 of the Estero Municipal Improvement District Act (Chapter 82 of the Statutes of 1960, First Extraordinary Session) is amended to read:

Sec. 170. The alternative procedure of the County Water District Law for the levy and collection of district taxes shall apply; except that, notwithstanding Section 31857 of the Water Code, the penalty for delinquent taxes shall be 6 percent.

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 delinquent taxpayers in the state that will otherwise continue to withhold the payment of delinquent taxes because of inadequate sanctions that make it financially attractive to do so. Taxing districts which are subject to the provisions of this act are unable to meet their obligations unless such tax payments are forthcoming. Therefore, it is necessary that this act take effect immediately.

CHAPTER 369

An act to amend Section 160 of the Government Code, relating to state boundaries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 160 of the Government Code is amended to read:

160. The line run and marked by the United States Government under the Act of June 10, 1872, 17 Stat. 358 (1872) from the southern boundary of the State of Oregon to the 39th degree of north latitude and the line established and marked by the United States coast and geodetic survey, as completed in 1900, extending southeastward from the intersection of the 39th degree of north latitude with the 120th degree of longitude west from Greenwich to the Colorado River comprise the legal eastern boundary line of the state from the Oregon boundary to the Colorado River, and shall be so considered by the courts of the state.

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 eastern boundary of California described in Government Code Section 160 as the line run and marked by the Surveyor General of the state in accordance with Chapter 402 of the Statutes of 1863 was abandoned in 1873 and has never been observed by either California or Nevada since that time. It was replaced in 1873 by a line

surveyed by the United States Government under the Act of June 10, 1872, 17 Stat. 358 (1872). This 1873 line, which is approximately 3,000 feet east of the older line at North Lake Tahoe, is the one presently observed by both states. However, the State of Nevada has recently asserted in litigation between California and Nevada that the earlier, long-abandoned line is the legal boundary between the states. The reference in Government Code Section 160 to an obsolete, long-discredited boundary may cause confusion in the pending litigation and may create uncertainty with respect to land titles and civil and criminal jurisdiction. In order to avoid such confusion and potential detriment to the State of California and its people, it is necessary that this act take effect immediately.

CHAPTER 370

An act to amend Section 14415 of the Business and Professions Code, and to amend Sections 102, 113, 201, 202, 206, 300, 308, 315, 409, 420, 423, 601, 602, 705, 708, 906, 1001, 1101, 1101.1, 1103, 1108, 1109, 1110, 1501, 1502, 1600, 1808, 1905, 2115, and 25103 of, and to add Sections 163, 200.5, and 511 to, the Corporations Code, relating to corporations.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 14415 of the Business and Professions Code is amended to read:

14415. The filing of articles of incorporation pursuant to Section 200 of the Corporations Code, in the case of a domestic corporation, or the obtaining of a certificate of qualification pursuant to Corporations Code Sections 2105 and 2106, in the case of a foreign corporation, shall establish a rebuttable presumption that the corporation has the exclusive right to use as a trade name, in the state the corporate name set forth in such articles or certificate, as well as any confusingly similar trade name, if the corporation is the first to have filed such articles or obtained such certificate containing the corporate name, and is actually engaged in a trade or business utilizing such corporate name or a confusingly similar name.

If a foreign corporation continued to have authority to transact intrastate business pursuant to Section 2102 of the Corporations Code, the foreign corporation shall be considered to have obtained its certificate of qualification pursuant to law for the purposes of this section on the date it first qualified to transact intrastate business in this state.

The rebuttable presumption created by this section shall be one affecting the burden of producing evidence.

SEC. 2. Section 102 of the Corporations Code is amended to read:

102. (a) Subject to the provisions of Chapter 23 (commencing with Section 2300) (transition provisions), the provisions of this division apply to corporations organized under this division and to domestic corporations which are not subject to Division 2 (commencing with Section 9000) or Part 1 (commencing with Section 12000), 2 (commencing with Section 12200), 3 (commencing with Section 13200), or 5 (commencing with Section 14000) of Division 3 of this title on December 31, 1976, and which are not organized or existing under any statute of this state other than this code; they apply to any other corporation only to the extent expressly included in a particular provision of this division.

(b) The existence of corporations formed or existing on the date of enactment or reenactment of this division shall not be affected by the enactment or reenactment of this division nor by any change in the requirements for the formation of corporations nor by the amendment or repeal of the laws under which they were formed or created.

(c) Neither the repeals effected by the enactment or reenactment of this division nor the enactment of this title nor the amendment thereof shall impair or take away any existing liability or cause of action against any corporation, its shareholders, directors or officers incurred prior to the time of such enactment, reenactment or amendment.

SEC. 2.2. Section 113 of the Corporations Code is amended to read:

113. Any reference in this division to mailing means first-class mail, postage prepaid, unless registered or some other form of mail is specified or permitted. Registered mail includes certified mail.

SEC. 2.4. Section 163 is added to the Corporations Code, to read:

163. "Corporation subject to the Banking Law" (Division 1 (commencing with Section 99) of the Financial Code) means:

(a) Any corporation which, with the approval of the Superintendent of Banks, is incorporated for the purpose of engaging in, or which is authorized by the Superintendent of Banks to engage in, the commercial banking business;

(b) Any corporation (other than a corporation described in subdivision (c)) which, with the approval of the Superintendent of Banks, is incorporated for the purpose of engaging in, or which is authorized by the Superintendent of Banks to engage in, the trust business;

(c) Any corporation which is authorized by the Superintendent of Banks and the Commissioner of Insurance to maintain a title insurance department to engage in title insurance business and a trust department to engage in trust business, provided, however, that in subdivision (c) of Section 315, "corporation subject to the Banking Law" means only the trust department of such a corporation; or

(d) Any corporation which, with the approval of the

Superintendent of Banks, is incorporated for the purpose of engaging in, or which is authorized by the Superintendent of Banks to engage in, business under Article 1 (commencing with Section 3500), Chapter 19, Division 1 of the Financial Code.

SEC. 2.5. Section 200.5 is added to the Corporations Code, to read:

200.5. (a) An existing business association organized as a trust under the laws of this state or of a foreign jurisdiction may incorporate under this division upon approval by its board of trustees or similar governing body and approval by the affirmative vote of a majority of the outstanding voting shares of beneficial interest (or such greater proportion of the outstanding shares of beneficial interest or the vote of such other classes of shares of beneficial interest as may be specifically required by its declaration of trust or bylaws) and the filing of articles of incorporation with certificate attached pursuant to this chapter.

(b) In addition to the matters required to be set forth in the articles pursuant to Section 202, the articles in the case of an incorporation authorized by subdivision (a) shall set forth that an existing unincorporated association, stating its name, is being incorporated by the filing of the articles.

(c) The articles filed pursuant to this section shall be signed by the president, or any vice president, and the secretary, or any assistant secretary, of the existing association and shall be accompanied by a certificate signed and verified by such officers signing the articles and stating that the incorporation of the association has been approved by the trustees and by the required vote of holders of shares of beneficial interest in accordance with subdivision (a).

(d) Upon the filing of articles of incorporation pursuant to this section, the corporation shall succeed automatically to all of the rights and property of the association being incorporated and shall be subject to all of its debts and liabilities in the same manner as if the corporation had itself incurred them. The incumbent trustees of the association shall constitute the initial directors of the corporation and shall continue in office until the next annual meeting of the shareholders, unless they die, resign or are removed prior thereto. All rights of creditors and all liens upon the property of the association shall be preserved unimpaired. Any action or proceeding pending by or against the association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place.

(e) The filing for record in the office of the county recorder of any county in this state in which any of the real property of the association is located of a copy of the articles of incorporation filed pursuant to this section, certified by the Secretary of State, shall evidence record ownership in the corporation of all interests of the association in and to the real property located in that county.

SEC. 2.6. Section 201 of the Corporations Code is amended to read:

201. (a) The Secretary of State shall not file articles setting forth a name in which "bank", "trust", "trustee" or related words appear, unless the certificate of approval of the Superintendent of Banks is attached thereto. This subdivision does not apply to the articles of any corporation subject to the Banking Law on which is endorsed the approval of the Superintendent of Banks.

(b) The Secretary of State shall not file articles which set forth a name which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name which a foreign corporation has assumed under subdivision (b) of Section 2106, a name which will become the record name of a domestic or foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to subdivision (c) of Section 110 or a name which is under reservation for another corporation, except that a corporation may adopt a name that is substantially the same as an existing domestic corporation or foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, upon proof of consent by such domestic or foreign corporation and a finding by the Secretary of State that under the circumstances the public is not likely to be misled.

The use by a corporation of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State.

(c) Any applicant may, upon payment of the fee prescribed therefor in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by subdivision (b), and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days. The Secretary of State shall not, however, issue certificates reserving the same name for two or more consecutive 60-day periods to the same applicant or for the use or benefit of the same person, partnership, firm or corporation; nor shall consecutive reservations be made by or for the use or benefit of the same person, partnership, firm or corporation of names so similar as to fall within the prohibitions of subdivision (b).

SEC. 2.7. Section 202 of the Corporations Code is amended to read:

202. The articles of incorporation shall set forth:

(a) The name of the corporation; provided, however, that in order for the corporation to be subject to the provisions of this division applicable to a close corporation (Section 158), the name of the corporation must contain the word "corporation", "incorporated" or "limited" or an abbreviation of one of such words.

(b) (1) The applicable one of the following statements:

(i) The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking

business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code; or

(ii) The purpose of the corporation is to engage in the profession of _____ (with the insertion of a profession permitted to be incorporated by the California Corporations Code) and any other lawful activities (other than the banking or trust company business) not prohibited to a corporation engaging in such profession by applicable laws and regulations.

(2) In case the corporation is a corporation subject to the Banking Law, the articles shall set forth a statement of purpose which is prescribed in the applicable provision of the Banking Law.

The articles shall not set forth any further or additional statement with respect to the purposes or powers of the corporation, except by way of limitation or except as expressly required by any law of this state other than this division or any federal or other statute or regulation (including the Internal Revenue Code and regulations thereunder as a condition of acquiring or maintaining a particular status for tax purposes).

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 1502.

(d) If the corporation is authorized to issue only one class of shares, the total number of shares which the corporation is authorized to issue.

(e) If the corporation is authorized to issue more than one class of shares, or if any class of shares is to have two or more series:

(1) The total number of shares of each class the corporation is authorized to issue, and the total number of shares of each series which the corporation is authorized to issue or that the board is authorized to fix the number of shares of any such series;

(2) The designation of each class, and the designation of each series or that the board may determine tne designation of any such series; and

(3) The rights, preferences, privileges and restrictions granted to or imposed upon the respective classes or series of shares or the holders thereof, or that the board, within any limits and restrictions stated, may determine or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued class of shares or any wholly unissued series of any class of shares. As to any series the number of shares of which is authorized to be fixed by the board, the articles may also authorize the board, within the limits and restrictions stated therein or stated in any resolution or resolutions of the board originally fixing the number of shares constituting any series, to increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series subsequent to the issue of shares of that series. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had

prior to the adoption of the resolution originally fixing the number of shares of such series.

SEC. 2.8. Section 206 of the Corporations Code is amended to read:

206. Subject to any limitation contained in the articles and to compliance with any other applicable laws, any corporation other than a corporation subject to the Banking Law or a professional corporation may engage in any business activity; and a corporation subject to the Banking Law or a professional corporation may engage in any business activity not prohibited by the respective statutes and regulations to which it is subject.

SEC. 3. Section 300 of the Corporations Code is amended to read:

300. (a) Subject to the provisions of this division and any limitations in the articles relating to action required to be approved by the shareholders (Section 153) or by the outstanding shares (Section 152), the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the day-to-day operation of the business of the corporation to a management company or other person provided that the business and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

(b) Notwithstanding subdivision (a) or any other provision of this division, but subject to subdivision (c), no shareholders' agreement, which relates to any phase of the affairs of a close corporation, including but not limited to management of its business, division of its profits or distribution of its assets on liquidation, shall be invalid as between the parties thereto on the ground that it so relates to the conduct of the affairs of the corporation as to interfere with the discretion of the board or that it is an attempt to treat the corporation as if it were a partnership or to arrange their relationships in a manner that would be appropriate only between partners. A transferee of shares covered by such an agreement which is filed with the secretary of the corporation for inspection by any prospective purchaser of shares, who has actual knowledge thereof or notice thereof by a notation on the certificate pursuant to Section 418, is bound by its provisions and is a party thereto for the purposes of subdivision (d). Original issuance of shares by the corporation to a new shareholder who does not become a party to the agreement terminates the agreement, except that if the agreement so provides it shall continue to the extent it is enforceable apart from this subdivision. The agreement may not be modified, extended or revoked without the consent of such a transferee, subject to any provision of the agreement permitting modification, extension or revocation by less than unanimous agreement of the parties. A transferor of shares covered by such an agreement ceases to be a party thereto upon ceasing to be a shareholder of the corporation unless the transferor is a party thereto other than as a shareholder. An agreement made pursuant to this subdivision shall terminate

when the corporation ceases to be a close corporation, except that if the agreement so provides it shall continue to the extent it is enforceable apart from this subdivision. This subdivision does not apply to an agreement authorized by subdivision (a) of Section 706.

(c) No agreement entered into pursuant to subdivision (b) may alter or waive any of the provisions of Sections 158, 417, 418, 500, 501, and 1111, subdivision (e) of Section 1201, Sections 2009, 2010, and 2011, or of Chapters 15 (commencing with Section 1500), 16 (commencing with Section 1600), 18 (commencing with Section 1800), and 22 (commencing with Section 2200). All other provisions of this division may be altered or waived as between the parties thereto in a shareholders' agreement, except the required filing of any document with the Secretary of State.

(d) An agreement of the type referred to in subdivision (b) shall, to the extent and so long as the discretion or powers of the board in its management of corporate affairs is controlled by such agreement, impose upon each shareholder who is a party thereto liability for managerial acts performed or omitted by such person pursuant thereto that is otherwise imposed by this division upon directors, and the directors shall be relieved to that extent from such liability.

(e) The failure of a close corporation to observe corporate formalities relating to meetings of directors or shareholders in connection with the management of its affairs, pursuant to an agreement authorized by subdivision (b), shall not be considered a factor tending to establish that the shareholders have personal liability for corporate obligations.

SEC. 3.2. Section 308 of the Corporation Code is amended to read:

308. (a) If a corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its business can no longer be conducted to advantage or so that there is danger that its property and business will be impaired or lost, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws and whether or not an action is pending for an involuntary winding up or dissolution of the corporation, appoint a provisional director pursuant to this section. Action for such appointment may be brought by any director or by the holders of not less than 33⅓ percent of the voting power.

(b) If a corporation has an uneven number of directors and the shareholders are deadlocked so that they cannot elect a successor board at an annual meeting of shareholders, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws, upon petition of a shareholder or shareholders holding 50 percent of the voting power, appoint a provisional director or directors pursuant to this section or order such other equitable relief as the court deems appropriate.

(c) A provisional director shall be an impartial person, who is neither a shareholder nor a creditor of the corporation, nor related

by consanguinity or affinity within the third degree according to the common law to any of the other directors of the corporation or to any judge of the court by which such provisional director is appointed. A provisional director shall have all the rights and powers of a director until the deadlock in the board or among shareholders is broken or until such provisional director is removed by order of the court or by approval of the outstanding shares (Section 152). Such person shall be entitled to such compensation as shall be fixed by the court unless otherwise agreed with the corporation.

(d) This section does not apply to corporations subject to the Public Utilities Act (Part 1 (commencing with Section 201) of Division 1 of the Public Utilities Code).

SEC. 3.4. Section 315 of the Corporations Code is amended to read:

315. (a) Except as provided in subdivision (b), a corporation shall not make any loan of money or property to or guarantee the obligation of

(1) Any director or officer of the corporation or of its parent or any subsidiary, or

(2) Any person upon the security of shares of the corporation or of its parent, unless the loan or guaranty is otherwise adequately secured, except by the vote of the holders of a majority of the shares of all classes, regardless of limitations or restrictions on voting rights, other than shares held by the benefited director, officer or shareholder.

(b) Any corporation may lend money to, or guarantee any obligation of or otherwise assist any officer or other employee of the corporation or of any subsidiary, including any officer or employee who is also a director, pursuant to an employee benefit plan (including, without limitation, any stock purchase or stock option plan) available to executives or other employees, whenever the board determines that such loan or guaranty may reasonably be expected to benefit the corporation. If such plan includes officers or directors, it shall be approved by the shareholders (Section 153) after disclosure of the right under such plan to include officers or directors thereunder. Such loan or guaranty or other assistance may be with or without interest and may be unsecured or secured in such manner as the board shall approve, including, without limitation, a pledge of shares of the corporation. A corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such director or officer, provided that in the absence of such advance such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent or any subsidiary.

(c) (1) The provisions of subdivisions (a) and (b) do not apply to any corporation subject to the Banking Law.

(2) The provisions of subdivision (a) do not apply to industrial loan companies or credit unions or to loans permitted under any statute

regulating any special class of corporations.

SEC. 4. Section 409 of the Corporations Code is amended to read:

409. (a) Shares may be issued:

(1) For such consideration as is determined from time to time by the board, or by the shareholders if the articles so provide, consisting of any or all of the following: money paid; labor done; services actually rendered to the corporation or for its benefit or in its formation or reorganization; debts or securities canceled; and tangible or intangible property actually received either by the issuing corporation or by a wholly owned subsidiary; but neither promissory notes of the purchaser (unless adeqately secured by collateral other than the shares acquired or unless permitted by Section 408) nor future services shall constitute payment or part payment for shares of the corporation; or

(2) As a share dividend or upon a stock split, reverse stock split, reclassification of outstanding shares into shares of another class, conversion of outstanding shares into shares of another class, exchange of outstanding shares for shares of another class or other change affecting outstanding shares.

(b) Except as provided in subdivision (d), shares issued as provided in this section or Section 408 shall be declared and taken to be fully paid stock and not liable to any further call nor shall the holder thereof be liable for any further payments under the provisions of this division. In the absence of fraud in the transaction, the judgment of the directors as to the value of the consideration for shares shall be conclusive.

(c) If the articles reserve to the shareholders the right to determine the consideration for the issue of any shares, such determination shall be made by approval of the outstanding shares (Section 152).

(d) A corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. On the certificate issued to represent any such partly paid shares the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

(e) The board shall state by resolution its determination of the fair value to the corporation in monetary terms of any consideration other than money for which shares are issued. This subdivision does not affect the accounting treatment of any transaction, which shall be in conformity with generally accepted accounting principles.

SEC. 5. Section 420 of the Corporations Code is amended to read:

420. Neither a domestic nor foreign corporation nor its transfer agent or registrar is liable:

(a) For transferring or causing to be transferred on the books of the corporation to the surviving joint tenant or tenants any share or

shares or other securities issued to two or more persons in joint tenancy, whether or not the transfer is made with actual or constructive knowledge of the existence of any understanding, agreement, condition or evidence that the shares or securities were held other than in joint tenancy or of a breach of trust by any joint tenant.

(b) To a minor or incompetent person in whose name shares or other securities are of record on its books or to any transferee of or transferor to either for transferring the shares or other securities on its books at the instance of or to the minor or incompetent or for the recognition of or dealing with the minor or incompetent as a shareholder or security holder, whether or not the corporation, transfer agent or registrar had notice, actual or constructive, of the nonage or incompetency, unless a guardian or conservator of the property of the minor or incompetent has been appointed and the corporation, transfer agent or registrar has received written notice thereof.

(c) To any married person or to any transferee of such person for transferring shares or other securities on its books at the instance of the person in whose name they are registered, without the signature of such person's spouse and regardless of whether the registration indicates that the shares or other securities are community property, in the same manner as if such person were unmarried.

(d) For transferring or causing to be transferred on the books of the corporation shares or other securities pursuant to a judgment or order of a court which has been set aside, modified or reversed unless, prior to the registration of the transfer on the books of the corporation, written notice is served upon the corporation or its transfer agent in the manner provided by law for the service of a summons in a civil action, stating that an appeal or other further court proceeding has been or is to be taken from or with regard to such judgment or order. After the service of such notice neither the corporation nor its transfer agent has any duty to register the requested transfer until the corporation or its transfer agent has received a certificate of the county clerk of the county in which the judgment or order was entered or made, showing that the judgment or order has become final.

(e) The provisions of the California Commercial Code shall not affect the limitations of liability set forth in this section. Section 5125 of the Civil Code shall be subject to the provisions of this section and shall not be construed to prevent transfers, or result in liability to the corporation, transfer agent or registrar permitting or effecting transfers, which comply with this section.

SEC. 5.2. Section 423 of the Corporations Code is amended to read:

423. (a) Shares are not assessable except as provided in this section or as otherwise provided by a statute other than this division. If the articles expresssly confer such authority upon the corporation or the board, and subject to any limitations therein contained, the

board may in its discretion levy and collect assessments upon all shares of any or all classes made subject to assessment by the articles. This authority is in addition to the right of the corporation to recover the unpaid subscription price of shares or the remainder of the consideration to be paid therefor.

(b) Every levy of an assessment shall: specify the amount thereof and to whom and where it is payable; fix, or if proceedings or filings with any governmental or other agency for any qualification, permit, registration or exemption therefrom are required as a condition precedent to the levy or payment of an assessment provide for the establishment of, a date on which the assessment is payable; fix a date, not less than 30 nor more than 60 days from the date on which the assessment is payable, on which such assessment becomes delinquent if not paid; and fix a date, not less than 15 nor more than 60 days from the date on which the unpaid assessment becomes delinquent, for the sale of delinquent shares. The levy also shall fix the hour and place of sale, which place shall be in the county where the corporation is required to keep a copy of its bylaws pursuant to Section 213, or if there is no such county, in Sacramento.

(c) On or before the date an assessment is payable, the secretary of the corporation shall give notice thereof in substantially the following form:

(Name of corporation in full. Location of principal executive office.)

Notice is hereby given that the board of directors on (date) has levied an assessment of (amount) per share upon the (name or designation of class or series of shares) of the corporation payable (to whom and where). Any shares upon which this assessment remains unpaid on (date fixed) will be delinquent. Unless payment is made prior to delinquency, the said shares, or as many of them as may be necessary, will be sold at (particular place) on (date) at (hour) of such date, to pay the delinquent assessment, together with a penalty of 5 percent of the amount of the assessment on such shares, or be forfeited to the corporation. (Name of secretary with location of office.)

(d) The notice shall be served personally upon each holder of record of shares assessed; provided, however, that in lieu of personal service the notice may be mailed to each such shareholder addressed to the last address of the shareholder appearing on the books of the corporation or given by the shareholder to the corporation for the purpose of notice, or if no such address appears or is given, at the place where the principal executive office of the corporation is located, and published once in some newspaper of general circulation in the county in which the principal executive office of the corporation is located. If there is no such newspaper in such county, the publication shall be made in some newspaper of general circulation in an adjoining county.

(e) The assessment is a lien upon the shares assessed from the time of personal service or the publication of the notice of

assessment, unless the articles provide for such lien from the time of the levy. Unless otherwise provided by law, a transfer of the shares on the books of the corporation after the lien of an assessment has attached is a waiver of the lien unless a conspicuous legend is placed on the face of any certificate issued upon such transfer setting forth the information contained in the notice required by subdivision (c). Such legend shall be removed if the assessment on the shares evidenced by the certificate is paid or if the shares are sold to pay the assessment or forfeited for nonpayment.

(f) The date of sale of delinquent shares fixed in any levy of an assessment may be extended from time to time for not more than 30 days at a time by order of the board entered on the records of the corporation, or when the sale is restrained by order of a court. Notice of such extension shall be given by announcement by the secretary, or other person authorized to conduct the sale, made at the time and place of sale last theretofore fixed.

If a date of sale of delinquent shares is extended for more than five days the corporation shall cause a notice to be mailed to the shareholder or shareholders whose shares are to be the subject of such sale setting forth the date and time to which the date of sale has been extended.

(g) If payment is made after delinquency and before the sale, the shareholder shall pay a penalty of 5 percent of the amount of the assessment on the shares in addition to the assessment.

(h) At the place and time appointed in the notice of levy any officer or an agent of the corporation, shall, unless otherwise ordered by the board, sell or cause to be sold to the highest bidder for cash as many shares of each delinquent holder of the assessed shares as may be necessary to pay the assessment and charges thereon according to the notice.

The person offering at the sale to pay the assessment and penalty for the smallest number of shares is the highest bidder. The shares purchased shall be transferred to the highest bidder on the share register of the corporation on the payment of the assessment and penalty and a new certificate therefor issued to such highest bidder.

A corporation is not required to accept an offer for a fraction of a share.

(i) If no bidder offers to pay the amount due on the shares, together with the penalty of 5 percent thereof, the shares shall be forfeited to the corporation in satisfaction of the assessment and penalty thereon.

(j) After a sale or forfeiture of shares for nonpayment of an assessment, the holder or owner of delinquent shares shall surrender the certificate for such shares to the corporation for cancellation. This duty may be enforced by order or decree of court and such holder or owner shall be liable for damages to the corporation for failure to surrender the certificate for cancellation upon demand without good cause or excuse.

Any certificate not so surrendered forthwith becomes null and

void and ceases to be evidence of the right or title of the holder or any transferee to the shares purporting to be represented thereby, and neither the corporation nor the purchaser of such shares incurs any liability thereon to any such transferee.

The purchaser of any shares, at a sale for delinquent assessments thereon, whenever made, is entitled to the issue of a new certificate representing the shares so purchased.

(k) The certificate of the secretary or assistant secretary of the corporation is prima facie evidence of the time and place of sale and any postponement thereof, of the quantity and particular description of the shares sold, to whom, for what price, and of the fact of payment of the purchase money. The certificate shall be filed in the office of the corporation, and copies of the certificate, certified by the secretary or an assistant secretary of the corporation, are prima facie evidence of the facts therein stated.

(*l*) An assessment is not invalidated by a failure to publish the notice of assessment, nor by the nonperformance of any act required in order to enforce the payment of the assessment; but in case of any substantial error or omission in the course of proceedings for collection of an assessment on any shares, all previous proceedings, except the levy of the assessment, are void as to such shares, and shall be taken anew.

(m) No action shall be maintained to recover shares sold for delinquent assessments, upon the ground of irregularity in the assessment, irregularity or defect of the notice of sale, or defect or irregularity in the sale, unless the party seeking to maintain the action first pays or tenders to the corporation, or the party holding the shares sold, the sum for which the shares were sold, together with all subsequent assessments which may have been paid thereon and interest on such sums from the time they were paid. No such action shall be maintained unless it is commenced by the filing of a complaint and the issuing of a summons thereon within six months after the sale was made.

(n) The only remedy for the collection of an assessment on fully paid shares is sale or forfeiture of the shares unless (1) remedy by action is expressly authorized in the original articles or by an amendment of the articles adopted before August 21, 1933, or by an amendment adopted on or after August 21, 1933, by unanimous consent of the shareholders, and (2) unless a statement of such remedy appears on the face of any share certificate issued on or after August 21, 1933.

SEC. 5.4. Section 511 is added to the Corporations Code, to read:

511. Notwithstanding the provisions of this chapter, a negotiable instrument issued by a corporation for the purchase or redemption of shares shall be enforceable by a holder in due course (Section 3302 of the Commercial Code) without notice that it was issued for that purpose or by a person who acquired the instrument through such a holder.

SEC. 5.6. Section 601 of the Corporations Code is amended to

read:

601. (a) Whenever shareholders are required or permitted to take any action at a meeting a written notice of the meeting shall be given not less than 10 (or, if sent by third-class mail, 30) nor more than 60 days before the date of the meeting to each shareholder entitled to vote thereat. Such notice shall state the place, date and hour of the meeting and (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) in the case of the annual meeting, those matters which the board, at the time of the mailing of the notice, intends to present for action by the shareholders, but subject to the provisions of subdivision (f) any proper matter may be presented at the meeting for such action. The notice of any meeting at which directors are to be elected shall include the names of nominees intended at the time of the notice to be presented by management for election.

(b) Notice of a shareholders' meeting or any report shall be given either personally or by first-class mail, or, in the case of a corporation with outstanding shares held of record by 500 or more persons (determined as provided in Section 605) on the record date for the shareholders' meeting, notice may be sent third-class mail, or other means of written communication, addressed to the shareholder at the address of such shareholder appearing on the books of the corporation or given by the shareholder to the corporation for the purpose of notice; or if no such address appears or is given, at the place where the principal executive office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal executive office is located. The notice or report shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by other means of written communication. An affidavit of mailing of any notice or report in accordance with the provisions of this division, executed by the secretary, assistant secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the shareholder at the address of such shareholder appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the shareholder at such address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the shareholder upon written demand of the shareholder at the principal executive office of the corporation for a period of one year from the date of the giving of the notice or report to all other shareholders.

(c) Upon request in writing to the chairman of the board, president, vice president or secretary by any person (other than the board) entitled to call a special meeting of shareholders, the officer forthwith shall cause notice to be given to the shareholders entitled

to vote that a meeting will be held at a time requested by the persons or persons calling the meeting, not less than 35 nor more than 60 days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard. The procedure provided in subdivision (c) of Section 305 shall apply to such application. The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of shareholders entitled to vote and the form of notice.

(d) When a shareholders' meeting is adjourned to another time or place, unless the bylaws otherwise require and except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting.

(e) The transactions of any meeting of shareholders, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this division to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of shareholders need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, unless otherwise provided in the articles or bylaws, except as provided in subdivision (f).

(f) Any shareholder approval at a meeting, other than unanimous approval by those entitled to vote, pursuant to Section 310, 902, 1201, 1900 or 2007 shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

SEC. 6. Section 602 of the Corporations Code is amended to read:

602. (a) Unless otherwise provided in the articles, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of the shareholders, but in no event shall a quorum consist of less than one-third (or, in the case of a mutual water company, 20 percent) of the shares entitled to vote at the meeting or, except in the case of a close corporation, of more than a majority of the shares entitled to vote at the meeting. Except as provided in subdivision (b), the affirmative vote of a majority of the shares represented and voting at a duly held meeting at which a quorum is present (which shares voting affirmatively also constitute at least a majority of the required quorum) shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by this division or the articles.

(b) The shareholders present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough shareholders to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the shares required to constitute a quorum.

(c) In the absence of a quorum, any meeting of shareholders may be adjourned from time to time by the vote of a majority of the shares represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (b).

SEC. 7. Section 705 of the Corporations Code is amended to read:

705. (a) Every person entitled to vote shares may authorize another person or persons to act by proxy with respect to such shares. Any proxy purporting to be executed in accordance with the provisions of this division shall be presumptively valid.

(b) No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy. Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto, except as otherwise provided in this section. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy. The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

(c) A proxy is not revoked by the death or incapacity of the maker unless, before the vote is counted, written notice of such death or incapacity is received by the corporation.

(d) Except when other provision shall have been made by written agreement between the parties, the recordholder of shares which such person holds as pledgee or otherwise as security or which belong to another shall issue to the pledgor or to the owner of such shares, upon demand therefor and payment of necessary expenses thereof, a proxy to vote or take other action thereon.

(e) A proxy which states that it is irrevocable is irrevocable for the period specified therein (notwithstanding subdivision (c)) when it is held by any of the following or a nominee of any of the following:

(1) A pledgee;

(2) A person who has purchased or agreed to purchase or holds an option to purchase the shares or a person who has sold a portion of such person's shares in the corporation to the maker of the proxy;

(3) A creditor or creditors of the corporation or the shareholder who extended or continued credit to the corporation or the shareholder in consideration of the proxy if the proxy states that it was given in consideration of such extension or continuation of credit and the name of the person extending or continuing credit;

(4) A person who has contracted to perform services as an employee of the corporation, if a proxy is required by the contract of employment and if the proxy states that it was given in consideration of such contract of employment, the name of the employee and the period of employment contracted for; or

(5) A person designated by or under an agreement under Section 706.

(6) A beneficiary of a trust with respect to shares held by the trust.

Notwithstanding the period of irrevocability specified, the proxy becomes revocable when the pledge is redeemed, the option or agreement to purchase is terminated or the seller no longer owns any shares of the corporation or dies, the debt of the corporation or the shareholder is paid, the period of employment provided for in the contract of employment has terminated, the agreement under Section 706 has terminated, or the person ceases to be a beneficiary of the trust. In addition to the foregoing clauses (1) through (5), a proxy may be made irrevocable (notwithstanding subdivision (c)) if it is given to secure the performance of a duty or to protect a title, either legal or equitable, until the happening of events which, by its terms, discharge the obligations secured by it.

(f) A proxy may be revoked, notwithstanding a provision making it irrevocable, by a transferee of shares without knowledge of the existence of the provision unless the existence of the proxy and its irrevocability appears on the certificate representing such shares.

SEC. 7.2. Section 708 of the Corporations Code is amended to read:

708. (a) Every shareholder complying with subdivision (b) and entitled to vote at any election of directors may cumulate such shareholder's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the shareholder's shares are normally entitled, or distribute the shareholder's votes on the same principle among as many candidates as the shareholder thinks fit.

(b) No shareholder shall be entitled to cumulate votes (i.e., cast for any candidate a number of votes greater than the number of votes which such shareholder normally is entitled to cast) unless such candidate or candidates' names have been placed in nomination

prior to the voting and the shareholder has given notice at the meeting prior to the voting of the shareholder's intention to cumulate the shareholder's votes. If any one shareholder has given such notice, all shareholders may cumulate their votes for candidates in nomination.

(c) In any election of directors, the candidates receiving the highest number of votes of the shares entitled to be voted for them up to the number of directors to be elected by such shares are elected.

(d) Subdivision (a) applies to the shareholders of any mutual water company organized or existing for the purpose of delivering water to its shareholders at cost on lands located within the boundaries of one or more reclamation districts now or hereafter legally existing in this state and created by or formed under the provisions of any statute of this state, but does not otherwise apply to the shareholders of mutual water companies unless their articles or bylaws so provide.

(e) Elections for directors need not be by ballot unless a shareholder demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

SEC. 8. Section 906 of the Corporations Code is amended to read:

906. In the case of amendments adopted by the incorporators or the board under Section 901, the corporation shall file a certificate of amendment signed and verified by a majority of the incorporators or of the board, as the case may be, which shall state that the signers thereof constitute at least a majority of the incorporators or of the board, that the corporation has issued no shares and that they adopt the amendment or amendments therein set forth. In the case of amendments adopted by the incorporators, the certificate shall also state that directors were not named in the original articles and have not been elected.

In the case of amendments adopted by the board under Section 901, the corporation may file a certificate of amendment pursuant to Section 905 in lieu of a certificate of amendment pursuant to this section.

SEC. 8.2. Section 1001 of the Corporations Code is amended to read:

1001. (a) A corporation may sell, lease, convey, exchange, transfer or otherwise dispose of all or substantially all of its assets when the principal terms are

(1) Approved by the board, and

(2) Unless the transaction is in the usual and regular course of its business, approved by the outstanding shares (Section 152), either before or after approval by the board and before or after the transaction.

A transaction constituting a reorganization (Section 181) is subject to the provisions of Chapter 12 (commencing with Section 1200) and not this section (other than subdivision (d) hereof).

(b) Notwithstanding approval of the outstanding shares (Section

152), the board may abandon the proposed transaction without further action by the shareholders, subject to the contractual rights, if any, of third parties.

(c) Such sale, lease, conveyance, exchange, transfer or other disposition may be made upon such terms and conditions and for such consideration as the board may deem in the best interests of the corporation. The consideration may be money, property or securities of any other corporation, domestic or foreign, or any of them.

(d) If the buyer in a sale of assets pursuant to subdivision (a) of this section or subdivision (g) of Section 2001 is in control of or under common control with the seller, the principal terms of the sale must be approved by at least 90 percent of the voting power unless the sale is to a domestic or foreign corporation in consideration of the nonredeemable common shares of the purchasing corporation or its parent.

(e) Subdivision (d) does not apply to any transaction if the Commissioner of Corporations, the Superintendent of Banks, the Insurance Commissioner or the Public Utilities Commission has approved the terms and conditions of the transaction and the fairness of such terms and conditions pursuant to Section 25142, Section 696.5 of the Financial Code, Section 838.5 of the Insurance Code or Section 822 of the Public Utilities Code.

SEC. 9. Section 1101 of the Corporations Code is amended to read:

1101. The board of each corporation which desires to merge shall approve an agreement of merger. The constituent corporations shall be parties to the agreement of merger and other persons, including a parent party corporation (Section 1200), may be parties to the agreement of merger. The agreement shall state:

(a) The terms and conditions of the merger:

(b) The amendments, subject to Sections 900 and 907, to the articles of the surviving corporation to be effected by the merger, if any; if any amendment changes the name of the surviving corporation the new name may be the same as or similar to the name of a disappearing domestic or foreign corporation, subject to subdivision (b) of Section 201;

(c) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation;

(d) The manner of converting the shares of each of the constituent corporations into shares or other securities of the surviving corporation and, if any shares of any of the constituent corporations are not to be converted solely into shares or other securities of the surviving corporation, the cash, property, rights or securities of any corporation which the holders of such shares are to receive in exchange for such shares, which cash, property, rights or securities of any corporation may be in addition to or in lieu of shares or other securities of the surviving corporation; and

(e) Such other details or provisions as are desired, if any,

including, without limitation, a provision for the payment of cash in lieu of fractional shares or for any other arrangement with respect thereto consistent with the provisions of Section 407.

Each share of the same class or series of any constituent corporation (other than the cancellation of shares held by a surviving corporation or its parent or a wholly owned subsidiary of either in a constituent corporation) shall, unless all shareholders of the class or series consent and except as provided in Section 407, be treated equally with respect to any distribution of cash, property, rights or securities. Notwithstanding subdivision (d), except in a short-form merger and in the merger of a corporation into its subsidiary in which it owns at least 90 percent of the outstanding shares of each class, the nonredeemable common shares of a constituent corporation may be converted only into nonredeemable common shares of the surviving corporation or a parent party if a constituent corporation or its parent owns, directly or indirectly, shares of another constituent corporation representing more than 50 percent of the voting power of the other constituent corporation prior to the merger, unless all of the shareholders of the class consent and except as provided in Section 407.

SEC. 9.2. Section 1101.1 of the Corporations Code is amended to read:

1101.1. The last two sentences of Section 1101 do not apply to any transaction if the Commissioner of Corporations, the Superintendent of Banks, the Commissioner of Insurance or the Public Utilities Commission has approved the terms and conditions of the transaction and the fairness of such terms and conditions pursuant to Section 25142 or Section 696.5 of the Financial Code or Section 838.5 of the Insurance Code or Section 822 of the Public Utilities Code.

SEC. 10. Section 1103 of the Corporations Code is amended to read:

1103. After approval of a merger by the board and any approval of the outstanding shares (Section 152) required by Chapter 12 (commencing with Section 1200), the surviving corporation shall file a copy of the agreement of merger with an officers' certificate of each constituent corporation attached stating the total number of outstanding shares of each class entitled to vote on the merger, that the principal terms of the agreement in the form attached were approved by that corporation by a vote of a number of shares of each class which equaled or exceeded the vote required, specifying each class entitled to vote and the percentage vote required of each class, or that the merger agreement was entitled to be and was approved by the board alone under the provisions of Section 1201. If equity securities of a parent of a constituent corporation are to be issued in the merger, the officers' certificate of that constituent corporation shall state either that no vote of the shareholders of the parent was required or that the required vote was obtained. The merger and any amendment of the articles of the surviving corporation contained in the merger agreement shall thereupon be effective (subject to

subdivision (c) of Section 110 and subject to the provisions of Section 1108) and the several parties thereto shall be one corporation. The agreement shall not be filed, however, until there has been filed by or on behalf of each corporation taxed under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), the existence of which is terminated by the merger, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by said law have been paid or secured. The Secretary of State may certify a copy of the merger agreement separate from the officers' certificates attached thereto.

SEC. 11. Section 1108 of the Corporations Code is amended to read:

1108. (a) The merger of any number of domestic corporations with any number of foreign corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect such a merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a domestic corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of this chapter governing the merger of domestic corporations, or to Section 1110, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and of Section 407 and Chapters 12 (commencing with Section 1200) and 13 (commencing with Section 1300) (with respect to any domestic constituent corporations), the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a domestic corporation, the agreement and the officers' certificate of each domestic or foreign constituent corporation shall be filed as provided in Section 1103 and thereupon, subject to subdivision (c) of Section 110, the merger shall be effective as to each domestic constituent corporation; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall by virtue of the filing automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any domestic disappearing corporation as of the time of effectiveness in such foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations a copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original or, in lieu thereof, an executed

counterpart of such agreement, certificate or other document; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall automatically by such filing surrender its right to transact intrastate business.

(e) The provisions of the last two sentences of Section 1101 and Chapters 12 (commencing with Section 1200) and 13 (commencing with Section 1300) apply to the rights of the shareholders of any of the constituent corporations which are domestic corporations and of any domestic corporation which is a parent party of any foreign constituent corporation.

SEC. 12. Section 1109 of the Corporations Code is amended to read:

1109. Whenever a domestic or foreign corporation having any real property in this state merges or consolidates with another corporation pursuant to the laws of this state or of the state or place in which any constituent corporation was incorporated, and the laws of the state or place of incorporation (including this state) of any disappearing corporation provide substantially that the making and filing of the agreement of merger or consolidation or certificate of ownership or certificate of merger vests in the surviving or consolidated corporation all the real property of any disappearing corporation, the filing for record in the office of the county recorder of any county in this state in which any of the real property of such disappearing corporation is located of either (a) a certificate prescribed by the Secretary of State, or (b) a copy of the agreement of merger or consolidation or certificate of ownership or certificate of merger, certified by the Secretary of State or an authorized public official of the state or place pursuant to the laws of which the merger or consolidation is effected, shall evidence record ownership in the surviving or consolidated corporation of all interest of such disappearing corporation in and to the real property located in that county.

SEC. 13. Section 1110 of the Corporations Code is amended to read:

1110. (a) If a domestic corporation owns all the outstanding shares of a corporation or corporations, domestic or foreign, the merger of the subsidiary corporation or corporations into the parent corporation may be effected by a resolution adopted by the board of the parent corporation and the filing of a certificate of ownership as provided in subdivision (d). The resolution shall provide for the merger and shall provide that the parent corporation assumes all the liabilities of each subsidiary corporation.

(b) If a domestic corporation owns less than all the outstanding shares but at least 90 percent of the outstanding shares of each class of a corporation or corporations, domestic or foreign, the merger of the subsidiary corporation or corporations into the parent corporation may be effected by resolutions adopted by the boards of the parent and each subsidiary corporation and the filing of a certificate of ownership as provided in subdivision (d). The

resolution of the board of the parent corporation shall provide for the merger, shall provide that the parent corporation assumes all the liabilities of each subsidiary corporation and shall set forth the securities, cash, property or rights to be issued, paid, delivered or granted by the parent corporation upon surrender of each share of each subsidiary corporation not owned by the parent corporation. The resolution of the board of each subsidiary corporation shall approve the fairness of the consideration to be received for each share of the subsidiary corporation not owned by the parent corporation.

(c) In any merger pursuant to this section, the parent corporation may change its name, subject to Section 201, regardless of whether the name so adopted is the same as or similar to that of one of the disappearing corporations. In such case the resolution shall provide for the amendment of articles to change the name and shall establish the wording of the amendment as provided in Section 907.

(d) After adoption of the resolution or resolutions of merger, a certificate of ownership consisting of an officers' certificate of the parent corporation shall be filed, and a copy thereof for each domestic and qualified foreign disappearing corporation shall also be filed. The certificate of ownership shall:

(1) Identify the parent and subsidiary corporation or corporations.

(2) Set forth the share ownership by the parent corporation of each subsidiary corporation as 100 percent of the outstanding shares or as at least 90 percent of the outstanding shares of each class, as the case may be.

(3) Set forth the resolution adopted by the board of the parent corporation, including the resolution for change of name if applicable.

(4) Set forth the resolution adopted by the board of each subsidiary corporation, if required.

(e) The certificate of ownership shall not be filed, however, until there has been filed by or on behalf of each subsidiary corporation taxed under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), the existence of which is terminated by the merger, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by such law have been paid or secured.

(f) Upon the filing of the certificate of ownership, the merger shall be effective and any amendment of the articles of the surviving corporation set forth in the certificate shall be effective.

(g) A merger pursuant to this section may be effected if the parent corporation is a foreign corporation and if at least one subsidiary corporation is a domestic corporation but in such a case the certificate of ownership prepared as in subdivision (d) or the document required by subdivision (d) of Section 1108 shall be filed as to each domestic and qualified foreign subsidiary corporation, but no filing shall be made as to the foreign parent corporation.

(h) A foreign subsidiary corporation may not be merged as in this section provided and a foreign parent corporation may not act as in this section provided unless the laws of the state or place of its incorporation permit such action.

(i) In the event all of the outstanding shares of a subsidiary domestic corporation party to a merger effected under this section are not owned by the parent corporation immediately prior to the merger, the parent corporation shall, at least 20 days before the effective date of the merger, give notice to each shareholder of such subsidiary corporation that the merger will become effective on or after a specified date, which notice shall contain a copy of the resolutions of the boards of the parent and the subsidiary required by subdivision (b) and the information required by subdivision (a) of Section 1301. The notice shall be sent by mail addressed to the shareholder at the address of such shareholder as it appears on the records of the corporation. Any such shareholder shall have the right to demand payment of cash for the shares of such shareholder pursuant to the provisions of Chapter 13 (commencing with Section 1300).

SEC. 14. Section 1501 of the Corporations Code is amended to read:

1501. (a) The board shall cause an annual report to be sent to the shareholders not later than 120 days after the close of the fiscal year, unless in the case of a corporation with less than 100 holders of record of its shares (determined as provided in Section 605) this requirement is expressly waived in the bylaws. Such report shall contain a balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year, accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

Unless so waived, such report shall be sent to the shareholders at least 15 (or, if sent by third-class mail, 35) days prior to the annual meeting of shareholders to be held during the next fiscal year, but this requirement shall not limit the requirement for holding an annual meeting as required by Section 600.

Notwithstanding Section 114, the financial statements of any corporation with fewer than 100 holders of record of its shares (determined as provided in Section 605) required to be furnished by this subdivision and subdivision (c) of this section are not required to be prepared in conformity with generally accepted accounting principles if they reasonably set forth the assets and liabilities and the income and expense of the corporation and disclose the accounting basis used in their preparation.

(b) In addition to the financial statements required by subdivision (a), the annual report of any corporation having 100 or more holders of record of its shares (determined as provided in Section 605) and

having no class of securities registered under Section 12 of the Securities Exchange Act of 1934, or exempted from such registration by Section 12(g)(2) of that act, shall also describe briefly:

(1) Any transaction (excluding compensation of officers and directors) during the previous fiscal year involving an amount in excess of forty thousand dollars ($40,000) (other than contracts let at competitive bid or services rendered at prices regulated by law) to which the corporation or its parent or subsidiary was a party and in which any director or officer of the corporation or of a subsidiary or (if known to the corporation or its parent or subsidiary) any holder of more than 10 percent of the outstanding voting shares of the corporation had a direct or indirect material interest, naming such person and stating such person's relationship to the corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated; and provided, further that no such report need be made in the case of transactions approved by the shareholders (Section 153) under subdivision (a) of Section 310.

(2) The amount and circumstances of any indemnification or advances aggregating more than ten thousand dollars ($10,000) paid during the fiscal year to any officer or director of the corporation pursuant to Section 317; provided, that no such report need be made in the case of indemnification approved by the shareholders (Section 153) under paragraph (2) of subdivision (e) of Section 317.

(c) If no annual report for the last fiscal year has been sent to shareholders, the corporation shall, upon the written request of any shareholder made more than 120 days after the close of such fiscal year, deliver or mail to the person making the request within 30 days thereafter the financial statements required by subdivision (a) for such year. A shareholder or shareholders holding at least 5 percent of the outstanding shares of any class of a corporation may make a written request to the corporation for an income statement of the corporation for the three-month, six-month or nine-month period of the current fiscal year ended more than 30 days prior to the date of the request and a balance sheet of the corporation as of the end of such period and, in addition, if no annual report for the last fiscal year has been sent to shareholders, the statements referred to in subdivision (a) for the last fiscal year. The statements shall be delivered or mailed to the person making the request within 30 days thereafter. A copy of the statements shall be kept on file in the principal office of the corporation for 12 months and they shall be exhibited at all reasonable times to any shareholder demanding an examination of them or a copy shall be mailed to such shareholder.

(d) The quarterly income statements and balance sheets referred to in this section shall be accompanied by the report thereon, if any, of any independent accountants engaged by the corporation or the certificate of an authorized officer of the corporation that such

financial statements were prepared without audit from the books and records of the corporation.

(e) In addition to the penalties provided for in Section 2200, the superior court of the proper county shall enforce the duty of making and mailing or delivering the information and financial statements required by this section and, for good cause shown, may extend the time therefor.

(f) In any action or proceeding under this section, if the court finds the failure of the corporation to comply with the requirements of this section to have been without justification, the court may award an amount sufficient to reimburse the shareholder for the reasonable expenses incurred by the shareholder, including attorneys' fees, in connection with such action or proceeding.

(g) This section applies to any domestic corporation and also to a foreign corporation having its principal executive office in this state or customarily holding meetings of its board in this state.

SEC. 14.2. Section 1502 of the Corporations Code is amended to read:

1502. (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its incumbent directors; (2) the number of vacancies on the board, if any; (3) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer; (4) the street address of its principal executive office; (5) if the address of its principal executive office is not in this state, the street address of its principal business office in this state, if any; and (6) a statement of the general type of business which constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; retail department store).

(b) The statement required by subdivision (a) shall also designate, as the agent of such corporation for the purpose of service of process, a natural person residing in this state or a corporation which has complied with Section 1505 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth such person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the form nor the failure of the

corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 14.4. Section 1600 of the Corporations Code is amended to read:

1600. (a) A shareholder or shareholders holding at least 5 percent in the aggregate of the outstanding voting shares of a corporation or who hold at least 1 percent of such voting shares and have filed a Schedule 14B with the United States Securities and Exchange Commission (or, in case the corporation is a bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act, a Form F-6 with the appropriate federal bank regulatory agency) relating to the election of directors of the corporation shall have an absolute right to do either or both of the following: (1) inspect and copy the record of shareholders' names and addresses and shareholdings during usual business hours upon five business days' prior written demand upon the corporation, or (2) obtain from the transfer agent for the corporation, upon written demand and upon the tender of its usual charges for such a list (the amount of which charges shall be stated to the shareholder by the transfer agent upon request), a list of the shareholders' names and addresses, who are entitled to vote for the election of directors, and their shareholdings, as of the most recent record date for which it has been compiled or as of a date specified by the shareholder subsequent to the date of demand. The list shall be made available on or before the later of five business days after the demand is received or the date specified therein as the date as of which the list is to be compiled. A corporation shall have the responsibility to cause its transfer agent to comply with this subdivision.

(b) Any delay by the corporation or the transfer agent in complying with a demand under subdivision (a) beyond the time limits specified therein shall give the shareholder or shareholders properly making the demand a right to obtain from the superior court, upon the filing of a verified complaint in the proper county and after a hearing, notice of which shall be given to such persons

and in such manner as the court may direct, an order postponing any shareholders' meeting previously noticed for a period equal to the period of such delay. Such right shall be in addition to any other legal or equitable remedies to which the shareholder may be entitled.

(c) The record of shareholders shall also be open to inspection and copying by any shareholder or holder of a voting trust certificate at any time during usual business hours upon written demand on the corporation, for a purpose reasonably related to such holder's interests as a shareholder or holder of a voting trust certificate.

(d) Any inspection and copying under this section may be made in person or by agent or attorney. The rights provided in this section may not be limited by the articles or bylaws. This section applies to any domestic corporation and to any foreign corporation having its principal executive office in this state or customarily holding meetings of its board in this state.

SEC. 15. Section 1808 of the Corporations Code is amended to read:

1808. (a) Upon the final settlement of the accounts of the directors or other persons appointed pursuant to Section 1805 and the determination that the corporation's affairs are in condition for it to be dissolved, the court may make an order declaring the corporation duly wound up and dissolved. The order shall declare:

(1) That the corporation has been duly wound up, that any tax or penalty due under the Bank and Corporation Tax Law has been paid or secured and that its other known debts and liabilities have been paid or adequately provided for, or that such taxes, penalties, debts and liabilities have been paid as far as its assets permitted, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the order shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(2) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(3) That the accounts of directors or such other persons have been settled and that they are discharged from their duties and liabilities to creditors and shareholders.

(4) That the corporation is dissolved.

The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted.

(b) Upon the making of the order declaring the corporation dissolved, corporate existence shall cease except for the purposes of further winding up if needed; and the directors or such other persons shall be discharged from their duties and liabilities, except in respect

to completion of the winding up.

SEC. 16. Section 1905 of the Corporations Code is amended to read:

1905. (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(4) That the corporation is dissolved.

(b) The certificate of dissolution shall be filed and thereupon the corporate existence shall cease, except for the purpose of further winding up if needed. However, before any corporation taxed under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code) may file a certificate of dissolution it shall file or cause to be filed the certificate of satisfaction of the Franchise Tax Board that all taxes imposed under the Bank and Corporation Tax Law have been paid or secured.

SEC. 17. Section 2115 of the Corporations Code is amended to read:

2115. (a) A foreign corporation (other than a foreign association or foreign nonprofit corporation but including a foreign parent corporation even though it does not itself transact intrastate business) is subject to this section if the average of the property factor, the payroll factor and the sales factor (as defined in Sections 25129, 25132 and 25134 of the Revenue and Taxation Code) with respect to it is more than 50 percent during its latest full income year and if more than one-half of its outstanding voting securities are held of record by persons having addresses in this state. The property factor, payroll factor and sales factor shall be those used in computing the portion of its income allocable to this state in its franchise tax return or, with respect to corporations the allocation of whose income is governed by special formulas or which are not required to file separate or any tax returns, which would have been so used if they were governed by such three-factor formula. The

determination of these factors with respect to any parent corporation shall be made on a consolidated basis, including in a unitary computation (after elimination of intercompany transactions) the property, payroll and sales of the parent and all of its subsidiaries in which it owns directly or indirectly more than 50 percent of the outstanding shares entitled to vote for the election of directors, but deducting a percentage of such property, payroll and sales of any subsidiary equal to the percentage minority ownership, if any, in such subsidiary. For the purpose of this subdivision, any securities held to the knowledge of the issuer in the names of broker-dealers or nominees for broker-dealers shall not be considered outstanding.

(b) The following chapters and sections of this division shall apply to a foreign corporation subject to this section (to the exclusion of the law of the jurisdiction in which it is incorporated):

Chapter 1 (general provisions and definitions), to the extent applicable to the following provisions;

Section 301 (annual election of directors);

Section 303 (removal of directors without cause);

Section 304 (removal of directors by court proceedings);

Section 305, subdivision (c) (filing of director vacancies where less than a majority in office elected by shareholders);

Section 309 (directors' standard of care);

Section 316 (excluding paragraph (3) of subdivision (a) and paragraph (3) of subdivision (f)) (liability of directors for unlawful distributions);

Section 317 (indemnification of directors, officers and others);

Sections 500 to 505, inclusive (limitations on corporate distributions in cash or property);

Section 506 (liability of shareholder who receives unlawful distribution);

Section 600, subdivisions (b) and (c) (requirement for annual shareholders' meeting and remedy if same not timely held);

Section 708, subdivisions (a), (b) and (c) (shareholder's right to cumulate votes at any election of directors);

Section 1001, subdivision (d) (limitations on sale of assets);

Section 1101 (provisions following subdivision (e)) (limitations on mergers);

Chapter 12 (commencing with Section 1200) (reorganizations);

Chapter 13 (commencing with Section 1300) (dissenters' rights);

Sections 1500 and 1501 (records and reports);

Section 1508 (action by Attorney General);

Chapter 16 (commencing with Section 1600) (rights of inspection).

(c) Subdivision (a) shall become applicable to any foreign corporation only upon the first day of the first income year of the corporation commencing on or after the 30th day after the filing by it of the report pursuant to Section 2108 showing that the tests referred to in subdivision (a) have been met or on or after the entry of a final order by a court of competent jurisdiction declaring that

such tests have been met.

(d) Subdivision (a) shall cease to be applicable at the end of any income year during which a report pursuant to Section 2108 shall have been filed showing that at least one of the tests referred to in subdivision (a) is not met or a final order shall have been entered by a court of competent jurisdiction declaring that one of such tests is not met, provided that such filing or order shall be ineffective if a contrary report or order shall be made or entered before the end of such income year.

(e) This section does not apply to any corporation with outstanding securities listed on any national securities exchange certified by the Commissioner of Corporations under subdivision (o) of Section 25100, or to any corporation if all of its voting shares (other than directors' qualifying shares) are owned directly or indirectly by a corporation or corporations not subject to this section.

SEC. 18. Section 25103 of the Corporations Code is amended to read:

25103. The following transactions are exempted from the provisions of Section 25110 and Section 25120:

(a) Any negotiations or agreements prior to general solicitation of shareholders' approval, and subject to such approval, of a change in the rights, preferences, privileges, or restrictions of or on outstanding securities or a merger, consolidation or sale of corporate assets in consideration of the issuance of securities.

(b) Any change in the rights, preferences, privileges, or restrictions of or on outstanding securities, unless the holders of at least 25 percent of the outstanding shares or units of any class of securities which will be directly or indirectly affected substantially and adversely by such change have addresses in this state according to the records of the issuer.

(c) Any exchange incident to a merger, consolidation, or sale of corporate assets in consideration of the issuance of securities of another corporation, unless at least 25 percent of the outstanding shares of any class, any holders of which are to receive securities in the exchange, are held by persons who have addresses in this state according to the records of the corporation of which they are shareholders.

(d) For the purposes of subdivision (b) and subdivision (c) of this section, (1) any securities held to the knowledge of the issuer in the names of broker-dealers or nominees of broker-dealers and (2) any securities controlled by any one person who controls directly or indirectly 50 percent or more of the outstanding securities of that class shall not be considered outstanding. The determination of whether 25 percent of the outstanding securities are held by persons having addresses in this state, for the purposes of subdivision (b) and subdivision (c) of this section, shall be made as of the record date for the determination of the security holders entitled to vote on or consent to the action, if approval of such holders is required, or if not as of the date of directors' approval of such action.

(e) Any change (other than a stock split or reverse stock split) in the rights, preferences, privileges, or restrictions of or on outstanding shares, except the following if they materially and adversely affect any class of shareholders: (1) to add, change, or delete assessment provisions; (2) to change the rights to dividends thereon; (3) to change the redemption provisions; (4) to make them redeemable; (5) to change the amount payable on liquidation; (6) to change, add, or delete conversion rights; (7) to change, add, or delete voting rights; (8) to change preemptive rights; (9) to change, add, or delete sinking fund provisions; (10) to rearrange the relative priorities of outstanding shares; (11) to impose, change, or delete restrictions upon the transfer of shares in the articles of incorporation or bylaws; (12) to change the right of shareholders with respect to the calling of special meetings of shareholders; and (13) to change, add, or delete any rights, preferences, privileges, or restrictions of, or on, the outstanding shares or memberships of a mutual water company or other corporation organized primarily to provide services or facilities to its shareholders or members. Changes in the rights, preferences, privileges or restrictions of or on outstanding shares do not materially and adversely affect any class of shareholders within the meaning of this subdivision if they arise from (i) the addition to articles of incorporation of the provisions described or referred to in subdivision (a) of Section 158 upon the conversion of an existing corporation to a close corporation pursuant to subdivision (b) of Section 158, (ii) the deletion from the articles of incorporation of the provisions described or referred to in subdivision (a) of Section 158 upon the voluntary termination of close corporation status pursuant to subdivisions (c) and (e) of Section 158, (iii) the involuntary cessation of close corporation status pursuant to subdivision (e) of Section 158, or (iv) the termination of a shareholders' agreement pursuant to subdivision (b) of Section 300.

(f) Any stock split or reverse stock split, except the following: (1) any stock split or reverse stock split if the corporation has more than one class of shares outstanding and the split would have a material effect on the proportionate interests of the respective classes as to voting, dividends or distributions; (2) any stock split of a stock which is traded in the market and its market price as of the date of directors' approval of the stock split adjusted to give effect to the split was less than two dollars ($2) per shares; and (3) any reverse stock split if the corporation has the option of paying cash for any fractional shares created by such reverse split and as a result of such action the proportionate interests of the shareholders would be substantially altered. Any shares issued upon a stock split or reverse stock split exempted by this subdivision shall be subject to any conditions previously imposed by the commissioner applicable to the shares with respect to which they are issued.

(g) Any change in the rights of outstanding debt securities, except the following if they substantially and adversely affect any class of securities: (1) to change the rights to interest thereon; (2) to change

their redemption provisions; (3) to make them redeemable; (4) to extend the maturity thereof or to change the amount payable thereon at maturity; (5) to change their voting rights; (6) to change their conversion rights; (7) to change sinking fund provisions; and (8) to make them subordinate to other indebtedness.

SEC. 19. Sections 2.4, 2.6, 2.7, 2.8, 3.2, 3.4, 5.2, 8.2, 9.2 and 14.4 of this act shall only take effect if Assembly Bill No. 3186 is enacted and chaptered.

CHAPTER 371

An act to amend Sections 3513 and 3526 of the Government Code, relating to state employment relations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 3513 of the Government Code is amended to read:

3513. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state and which has as one of its primary purposes representing such employees in their relations with the state.

(b) "Recognized employee organization" means an employee organization which has been recognized by the state as the exclusive representative of the employees in an appropriate unit.

(c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, those state employees regularly working outside of the state, employees of the California Maritime Academy, employees of the Legislative Counsel Bureau and employees of the board.

(d) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the public agency and the recognized employee organization or recognized employee organizations through interpretation, suggestion and advice.

(e) "Managerial employee" means any employee having significant responsibilities for formulating or administering agency or departmental policies and programs or administering an agency or department.

(f) "Confidential employee" means any employee who is required

to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information contributing significantly to the development of management positions.

(g) "Board" means the Public Employment Relations Board. The Educational Employment Relations Board established pursuant to Section 3541 shall be renamed the Public Employment Relations Board as provided in Section 3540. The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter.

(h) "Maintenance of membership" means that all employees who voluntarily are, or who voluntarily become, members of a recognized employee organization shall remain members of such employee organization in good standing for a period as agreed to by the parties pursuant to a memorandum of understanding, commencing with the effective date of the memorandum of understanding. A maintenance of membership provision shall not apply to any employee who within 30 days prior to the expiration of the memorandum of understanding withdraws from the employee organization by sending a signed withdrawal letter to the employee organization and a copy to the State Controller's office.

SEC. 2. Section 3526 of the Government Code is amended to read:

3526. As used in this chapter:

(a) "Employee organization" means any organization which includes employees of the state, as defined in subdivision (c), and which has as one of its primary purposes representing its members in employer-employee relations.

(b) The provisions of this chapter apply only to the State of California. The "State of California" as used in this chapter means such state agencies, boards, commissions, administrative officers, or other representatives as may be designated by law.

(c) "Public employee," "state employee," "employee of the state," or "employee" means any person employed by the state, including employees of the Legislative Counsel Bureau and the Public Employment Relations Board, excepting those persons elected by popular vote or appointed to office by the Governor of this state, and excepting state civil service or exempt employees defined in subdivision (c) of Section 3513.

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 this act to be operative by July 1, 1978, and so facilitate the orderly administration of collective negotiations in the State of California it is necessary that this act take effect immediately.

CHAPTER 372

An act to amend Section 631.8 of the Code of Civil Procedure, relating to trial evidence.

[Approved by Governor July 10, 1978 Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 631.8 of the Code of Civil Procedure is amended to read:

631.8. After a party has completed his presentation of evidence in a trial by the court, the other party, without waiving his right to offer evidence in support of his defense or in rebuttal in the event the motion is not granted, may move for a judgment. The court as trier of the facts shall weigh the evidence and may render a judgment in favor of the moving party, in which case the court shall make findings as provided in Sections 632 and 634 of this code, or may decline to render any judgment until the close of all the evidence. The court may consider all evidence received, provided, however, that the party against whom the motion for judgment has been made shall have had an opportunity to present additional evidence to rebut evidence received during the presentation of evidence deemed by the presenting party to have been adverse to him, and to rehabilitate the testimony of a witness whose credibility has been attacked by the moving party. Such motion may also be made and granted as to any cross-complaint.

If the motion is granted, unless the court in its order for judgment otherwise specifies, such judgment operates as an adjudication upon the merits.

CHAPTER 373

An act to amend Sections 515.010 and 515.020 of the Code of Civil Procedure, relating to undertakings.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 515.010 of the Code of Civil Procedure is amended to read:

515.010. (a) The court shall not issue a temporary restraining order or a writ of possession until the plaintiff has filed with the court a written undertaking. The undertaking shall provide that the sureties are bound to the defendant in the amount of the

undertaking for the return of the property to the defendant, if return thereof be ordered, and for the payment to him of any sum he may recover against plaintiff. The undertaking shall be executed by two or more sufficient sureties in an amount not less than twice the value of the property as determined by the court.

(b) If the plaintiff seeks possession of a mobilehome whose purchase price is over fifteen thousand dollars ($15,000) under the provisions of a security agreement or conditional sales contract wherein the defendant has defaulted in the payments thereof, the amount of the undertaking shall be twice the value of the defendant's interest in such mobilehome.

The court may consider the market value of the mobilehome less the amount due and owing on the conditional sales contract or security agreement and all liens and encumbrances of record with the Department of Motor Vehicles, and such other factors as may be necessary to determine the defendant's interest in the mobilehome.

SEC. 2. Section 515.020 of the Code of Civil Procedure is amended to read:

515.020. (a) The defendant may prevent the plaintiff from taking possession of property pursuant to a writ of possession or regain possession of property so taken by filing with the court in which the action was brought a written undertaking executed by two or more sufficient sureties in an amount equal to either the amount of the plaintiff's undertaking required by Section 515.010 or, if there has been no judicial determination, the value of the property stated in the plaintiff's application for a writ of possession; provided however, that if the property possession of which is sought is a mobilehome whose purchase price is over fifteen thousand dollars ($15,000), the amount of the undertaking shall be equal to twice the value of the defendant's interest therein, as determined by the court. The undertaking shall state that, if the plaintiff recovers judgment on the action, the defendant shall pay all costs awarded to the plaintiff and all damages that the plaintiff may sustain by reason of the loss of possession of the property, not exceeding the amount of the undertaking. The damages recoverable by the plaintiff pursuant to this section shall include all damages proximately caused by the plaintiff's failure to gain or retain possession.

(b) The defendant's undertaking may be filed at any time before or after levy of the writ of possession. A copy of the undertaking shall be mailed to the levying officer and to the plaintiff. An affidavit stating that such copies have been mailed shall be filed with the court at the time the undertaking is filed.

(c) The defendant's undertaking shall state the address to which a copy of the notice of exception to sureties may be sent.

(d) If an undertaking for redelivery is filed and defendant's sureties are not excepted to, the levying officer shall deliver the property to the defendant, or, if the plaintiff has previously been given possession of the property, the plaintiff shall deliver such property to the defendant. If an undertaking for redelivery is filed

and defendant's sureties are excepted to, the provisions of Section 515.030 shall apply.

(e) Where possession of a mobilehome whose purchase price is over fifteen thousand dollars ($15,000) is sought, the court may waive the requirement of the defendant's undertaking, and may order that the plaintiff not take possession of the property pursuant to a writ of possession, or that the defendant may regain possession of the property, if the court finds that the defendant is unable to file an undertaking because of indigency.

CHAPTER 374

An act to amend Section 4101 of the Civil Code, relating to marriage.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 4101 of the Civil Code is amended to read:

4101. (a) Any unmarried male of the age of 18 years or upwards, and any unmarried female of the age of 18 years or upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage.

(b) Any unmarried male or female under the age of 18 years is capable of consenting to and consummating marriage if each of the following documents is filed with the clerk issuing the marriage license as provided in Section 4201:

(1) The consent in writing of the parents of each person who is underage, or of one of the parents or the guardian of each such person.

(2) After such showing as the superior court may require, an order of such court granting permission to such underage person to marry.

(c) As part of the order under subdivision (b), the court shall require the parties to such prospective marriage of a person under the age of 18 years to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if it deems such counseling necessary. Such parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in such premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for such counseling.

CHAPTER 375

An act to amend Section 606 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 606 of the Revenue and Taxation Code is amended to read:

606. When any tract of land is situated in two or more revenue districts, the part in each district shall be separately assessed; provided, however, where the owner of two or more contiguous parcels comprising the tract is identical, and the full value of any parcel is less than four hundred dollars ($400), such parcel may be combined with the contiguous parcel with the greatest assessed valuation.

CHAPTER 376

An act to amend Section 69898 of the Government Code, relating to courts.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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 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.

Any superior court may appoint the county clerk as executive officer, who shall hold office as such executive officer at the pleasure of the court and shall exercise such administrative powers and perform such other duties as may be required of such person by the court.

(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 377

An act to add Section 25910.5 to the Health and Safety Code, relating to asbestos.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 25910.5 is added to the Health and Safety Code, to read:

25910.5. (a) The State Department of Health Services shall adopt regulations prohibiting or regulating the use of asbestos notwithstanding Section 25910 if the state department finds that such use is dangerous to the public health.

(b) The State Department of Health Services shall enforce the regulations adopted pursuant to this section, and may commence and maintain all proper actions to enjoin and abate violations of such regulations or to compel the performance of any act specifically required of any person, officer, or board by such regulations to protect and preserve the public health.

SEC. 2. Section 1 of this act shall become operative on July 1, 1979.

CHAPTER 378

An act to amend Section 7267.2 of the Government Code, relating to public records.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 7267.2 of the Government Code is amended to read:

7267.2. Before the initiation of negotiations for real property, the public entity shall establish an amount which it believes to be just compensation therefor, and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the public entity's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, will be disregarded in determining the compensation for the property. The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. Where the property involved is owner occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

CHAPTER 379

An act to amend Section 22451.5 of the Financial Code, relating to personal property brokers.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. 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, 1981, and as of such 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 380

An act to amend Sections 3351.3, 3524, 6001, 7514, 12656, 19623, and 23320 of, to amend and renumber Sections 2144.5, as added by Chapter 668 of the Statutes of 1977, and 21880.5, as added by Chapter 383 of the Statutes of 1977, of, and to repeal Section 10150.8 and Article 2.5 (commencing with Section 10465) of Chapter 6 of Part 1 of Division 4 of, the Business and Professions Code, to amend Sections 54.1 and 7008 of the Civil Code, to amend Sections 5030, 8201, 8203, 8205, 8206, 8210, 8211, 8213, 8243, 8244, 8246, 8250, 8326, 8328, 8366, 8381, 8384, 12092, 22802, 54060, 54061, 58509, and 72121 of, to amend and renumber Sections 8512, as amended by Chapter 37 of the Statutes of 1977, and 66903.2, as added by Chapter 399 of the Statutes of 1977, of, and to repeal Section 8009 and the heading of Article 9 of Chapter 1 of Part 41 of, the Education Code, to amend Section 503 of the Elections Code, to amend Sections 4155 and 64591 of the Food and Agricultural Code, to amend Sections 3514.5, 3520, 7465, 14851, 15770.1, 18004, 19058, 21210, 35012, 35062, 35069, 35071, 35102, 35229.5, 35230, 35232, 35480, 53095, 53820, 53821, 53822, 53823, 53825, 53829, 53830, 53832, 53850, 53853, and 53859, to amend the heading of Article 4 (commencing with Section 68926) of Chapter 3 of Title 8 of, to amend and renumber Sections 58010, as amended and renumbered by Chapter 2043 of the Statutes of 1965, and 66634, as added by Chapter 1026 of the Statutes of 1977, of, and to repeal Chapter 18 (commencing with Section 7400) of Division 7 of Title 1 of, the Government Code, to amend Sections 320.5, 323.5, 324.2, 1157,

1216, 1701, 25941, 35731, and 35800 of, to amend and renumber Sections 41177, 41178, 41338, 41455, 41457, 41500, 41557, 41700, 41715, 42063, and 42064 of, to add Article 5 (commencing with Section 11850) to Chapter 1 of Part 2 of Division 10.5 of, Section 11977 to, Chapter 8.5 (commencing with Section 19820) to Part 3 of Division 13 of, and to repeal Sections 38224, 38261, 38261.2, 38500, 50517, 50958, 51125, 51127, 51230, 51310, 51350, 51368, 51853, and 51854 of, the Health and Safety Code, to amend Sections 1858.2, 11512.4, 11512.8, 11580.2, and 11656.6 of the Insurance Code, to amend and renumber Section 4458, as added by Chapter 466 of the Statutes of 1976, of, to add Division 10 (commencing with Section 12000) to, and to repeal Division 6 (commencing with Section 8000) of, the Labor Code, to amend Sections 894 and 895 of the Military and Veterans Code, to amend Sections 375, 830.4, 2931, 4852.13, and 12031 of the Penal Code, to amend Sections 5094.1, 25402.1, 25524.25, 30221, and 30312 of the Public Resources Code, to amend Sections 311, 1231.1, 1405, 1731, 5006, and 99244 of the Public Utilities Code, to amend Sections 434.5 and 23332.5 of, and to amend and renumber Section 11747 of, the Revenue and Taxation Code, to amend Sections 1656, 11614, 21967, 22511.5, 38246, and 42204 of the Vehicle Code, to amend Section 13550 of the Water Code, and to amend Sections 23, 206, 359, 362, 601.1, 601.2, 653, 654, 681, 707.4, 731, 755, 893, 900, 940, 1752.15, 1792.1, 4681, 4825, 9203, 10654, 10655, 11017.1, 11170, 14150.5, 15100, 16115.5, and 18330 of, to amend and renumber Section 701.1, 701.2, 701.3, 701.4, 701.5, and 701.7 of, to amend and renumber the heading of Article 1 (commencing with Section 19325) of Chapter 4 of Part 2 of Division 10 of, to add Sections 4656 and 4681.2 to, to add an article heading immediately preceding Section 19300 of, and to repeal Section 5907 and Article 5 (commencing with Section 19975.01) to Chapter 1 of Division 11 of the Welfare and Institutions Code, relating to maintenance of the codes.

[Approved by Governor July 10, 1978. Filed with Secretary of State July 10, 1978.]

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

SECTION 1. Section 2144.5 of the Business and Professions Code, as added by Chapter 668 of the Statutes of 1977, is amended and renumbered to read:

2144.3. (a) A physician or podiatrist shall not be liable for damages for injury or death caused in an emergency situation occurring in the physician's or podiatrist's office or in a hospital on account of a failure to inform a patient of the possible consequences of a medical procedure where the failure to inform is caused by any of the following:

(1) The patient was unconscious.

(2) The medical procedure was undertaken without the consent of the patient because the physician or podiatrist reasonably believed

that a medical procedure should be undertaken immediately and that there was insufficient time to fully inform the patient.

(3) A medical procedure was performed on a person legally incapable of giving consent, and the physician or podiatrist reasonably believed that a medical procedure should be undertaken immediately and that there was insufficient time to obtain the informed consent of a person authorized to give such consent for the patient.

(b) This section is applicable only to actions for damages for injuries or death arising because of a physician's or podiatrist's failure to inform, and not to actions for such damages arising because of a physician's or podiatrist's negligence in rendering or failing to render treatment.

(c) As used in this section:

(1) "Physician" means a person licensed as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or as a physician and surgeon pursuant to the Osteopathic Initiative Act.

(2) "Podiatrist" means a person licensed as a podiatrist pursuant to Article 19 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code.

(3) "Emergency situation occurring in a hospital" means a situation occurring in a hospital, whether or not it occurs in an emergency room, requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

(4) "Hospital" means a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(5) "Emergency situation occurring in the physician's or podiatrist's office" means a situation occurring in an office, other than a hospital, used by the physician or podiatrist for the examination or treatment of patients, requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

SEC. 2. Section 3351.3 of the Business and Professions Code is amended to read:

3351.3. This chapter does not apply to nor affect any physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 who does not directly or indirectly engage in the sale or offering for sale of hearing aids, nor to any audiologist with a valid and current certificate of clinical competency in audiology issued by the American Speech and Hearing Association, or to an individual supervised by such certificated audiologist in conducting fitting procedures, and who does not directly or indirectly engage in the sale or offering for sale of hearing aids.

SEC. 3. Section 3524 of the Business and Professions Code is

amended to read:

3524. A certificate which has expired may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last preceding regular renewal date. If the certificate is not renewed within 30 days after its expiration, the certified physician's assistant and approved supervising physician, 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 first occurs. If so renewed, the certificate shall continue in effect through the expiration date provided in Section 3523 which next occurs after the effective date of the renewal, when it shall expire, if it is not again renewed.

The provisions of this section govern the renewal, and the fees payable therefor, of certificates and approvals which expire under the law in effect before February 1, 1975, as well as certificates which expire on February 29, 1976, or thereafter.

SEC. 4. Section 6001 of the Business and Professions Code is amended to read:

6001. The State Bar of California is a public corporation. It is hereinafter designated as the State Bar.

The State Bar has perpetual succession and a seal and it may sue and be sued. It may, for the purpose of carrying into effect and promoting its objectives:

(a) Make contracts.

(b) Borrow money, contract debts, issue bonds, notes and debentures and secure the payment or performance of its obligations.

(c) Own, hold, use, manage and deal in and with real and personal property.

(d) Construct, alter, maintain and repair buildings and other improvements to real property.

(e) Purchase, lease, obtain options upon, acquire by gift, bequest, devise or otherwise, any real or personal property or any interest therein.

(f) Sell, lease, exchange, convey, transfer, assign, encumber, pledge, dispose of any of its real or personal property or any interest therein, including without limitation all or any portion of its income or revenues from membership fees paid or payable by members.

(g) Do all other acts incidental to the foregoing or necessary or expedient for the administration of its affairs and the attainment of its purposes.

No law of this state restricting, or prescribing a mode of procedure for the exercise of powers of state public bodies or state agencies, or classes thereof, including, but not by way of limitation, the provisions contained in Division 3 (commencing with Section 11000), Division 4 (commencing with Section 16100), and Part 1 (commencing with

Section 18000) and Part 2 (commencing with Section 18500) of Division 5, of Title 2 of the Government Code, shall be applicable to the State Bar, unless the Legislature expressly so declares.

SEC. 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 (4) of subdivision (d) 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. 6. Section 10150.8 of the Business and Professions Code is repealed.

SEC. 7. Article 2.5 (commencing with Section 10465) of Chapter 6 of Part 1 of Division 4 of the Business and Professions Code is repealed.

SEC. 8. Section 12656 of the Business and Professions Code is amended to read:

12656. The Department of Consumer Affairs, in cooperation with the retail food industry, shall adopt a standardized format for unit pricing. Such form shall include, but not be limited to, an identification of the item, including the brand name, the total price of the item, the volume, weight, or number of units of which the item is composed, and the price per unit. The department shall furthermore prepare for public distribution an informational pamphlet explaining the method of utilizing unit pricing as an effective means of formulating intelligent consumer choices.

SEC. 9. Section 19623 of the Business and Professions Code is amended to read:

19623. The money appropriated for the Los Angeles County Fair and the 48th District Agricultural Association by Section 19622 may be expended for the payment of premiums and, with the approval of the Department of Food and Agriculture for capital outlay purposes, including the purchase of land and construction, improvements, and equipment, and for the support, and maintenance of such fairs.

SEC. 10. Section 21880.5 of the Business and Professions Code, as added by Chapter 383 of the Statutes of 1977, is amended and renumbered to read:

21880.6. Any sealer enforcing provisions of this chapter shall have those powers granted pursuant to Division 5 (commencing with Section 12000).

SEC. 11. Section 23320 of the Business and Professions Code is

amended to read:

23320. The following are the types of licenses to be issued under this division and the annual fees to be charged therefor:

(1)	Beer manufacturer's license	
	(a) Steam beer manufacturer exclusively	$56.00 per year
	(b) All other beer manufacturer	828.00 per year
(2)	Winegrower's license or wine blender's license (to be computed only on the gallonage produced or blended), 5,000 gallons or less	22.00 per year
	Over 5,000 gallons to 20,000 gallons per year	44.00 per year
	Over 20,000 to 100,000 gallons per year	82.50 per year
	Over 100,000 to 200,000 gallons per year	110.00 per year
	Over 200,000 gallons to 1,000,000 gallons per year	165.00 per year
	For each 1,000,000 gallons or fraction thereof over 1,000,000 gallons an additional	110.00 per year
(3)	Brandy manufacturer's license	168.00 per year
(4)	Distilled spirits manufacturer's license	276.00 per year
(5)	Distilled spirits manufacturer's agent's license	276.00 per year
(5a)	California winegrower's agent's license	276.00 per year
(6)	Still license	12.00 per year
(7)	Rectifier's license	276.00 per year
(7a)	Distilled spirits rectifier's general license	276.00 per year
(8)	Wine rectifier's license	276.00 per year
(9)	Beer and wine importer's license	No fee
(10)	Beer and wine importer's general license	56.00 per year
(11)	Brandy importer's license	No fee
(12)	Distilled spirits importer's license	No fee
(13)	Distilled spirits importer's general license	276.00 per year
(14)	Public warehouse license	12.00 per year
(15)	Customs broker's license	12.00 per year
(16)	Wine broker's license	56.00 per year
(17)	Beer and wine wholesaler's license	56.00 per year
(18)	Distilled spirits wholesaler's license	276.00 per year
(18a)	California brandy wholesaler's license	276.00 per year
(19)	Industrial alcohol dealer's license	56.00 per year
(20)	Retail package off-sale beer and wine license	24.00 per year
(21)	Retail package off-sale general license	350.00 per year

(22)	On-sale beer license	168.00 per year
(23)	On-sale beer and wine license	168.00 per year
(24)	On-sale beer and wine license for trains (per train)	16.00 per year
(25)	On-sale beer license for fishing party boats (per boat)	32.00 per year
(26)	On-sale beer and wine license for boats (per boat)	56.00 per year
(27)	On-sale beer and wine license for airplanes (per scheduled flight)	16.00 per year
(28)	On-sale general license:	
	In cities of 40,000 population or over	580.00 per year
	In cities of less than 40,000 but more than 20,000 population	412.00 per year
	In all other localities	360.00 per year
(29)	On-sale general license for seasonal business:	
	In cities of 40,000 population or over	145.00 per quarter year
	In cities of less than 40,000 but more than 20,000 population	103.00 per quarter year
	In all other localities	90.00 per quarter year
(30)	(a) On-sale general license for bona fide clubs,	
	(b) Club license (issued under Article 4 of this chapter), or	
	(c) Veterans' club license (issued under Article 5 (commencing with Section 23450) of this chapter):	
	In cities of 40,000 population or over	330.00 per year
	In cities of less than 40,000 but more than 20,000	248.00 per year
	In all other localities	220.00 per year
(31)	On-sale general license for trains and sleeping cars	128.00 per year
	Duplicate on-sale general license for trains and sleeping car companies	32.00 per year
(32)	On-sale general license for boats	332.00 per year
(33)	On-sale general license for airplanes	332.00 per year
	Duplicate on-sale general license for air common carriers	10.00 per year
(34)	On-sale general license for vessels of more than 1,000 tons burden	128.00 per year
	Duplicate on-sale general license for vessels of more than 1,000 tons burden	32.00 per year
(35)	On-sale general bona fide public eating place intermittent dockside license for vessels of more than 15,000 tons	

displacement	360.00 per year
(36) On-sale special beer and wine license for hospitals, convalescent homes, and rest homes	56.00 per year

SEC. 12. Section 54.1 of the Civil Code is amended to read:

54.1. (a) Blind persons, visually handicapped persons, deaf persons, and other physically disabled persons shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats or any other public conveyances or modes of transportation, telephone facilities, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

As used in this section, "telephone facilities" means tariff items and other equipment and services which have been approved by the Public Utilities Commission to be used by physically disabled persons in a manner feasible and compatible with the existing telephone network provided by the telephone companies.

(b) (1) Blind persons, visually handicapped persons, deaf persons, and other physically disabled persons shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) "Housing accommodations" means any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations included within subdivision (a) or any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

(3) Nothing in this subdivision shall require any person renting, leasing or providing for compensation real property to modify his property in any way or provide a higher degree of care for a blind person, visually handicapped person, deaf person, or other physically disabled person than for a person who is not physically disabled.

(4) Except as provided in paragraph (5) of this subdivision, nothing in this part shall require any person renting, leasing, or providing for compensation real property, if such person refuses to accept tenants who have dogs, to accept as a tenant a physically disabled person who has a dog.

(5) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to a blind person or visually handicapped person on

the basis that such person uses the services of a guide dog, or to a deaf person on the basis that such person uses the services of a dog to signal the presence of intruders or unusual noises, or to refuse to permit such a blind person or visually handicapped person to keep a guide dog, or a deaf person to keep a signal dog, on the premises.

Except in the normal performance of duty as a mobility aid, nothing contained in this paragraph shall be construed to prevent the owner of a housing accommodation from establishing such terms in a lease or rental agreement which reasonably regulates the presence of guide dogs on the premises of a housing accommodation, nor shall this paragraph be construed to relieve a tenant from any liability otherwise imposed by law for real and personal property damages caused by a guide dog when proof of same exists.

As used in this subdivision, "guide dog" means any guide dog or seeing-eye dog which was trained by a person licensed under the provisions of Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(6) It shall be deemed a denial of equal access to housing accommodations within the meaning of this subdivision for any person, firm, or corporation to refuse to lease or rent housing accommodations to a blind person, visually handicapped person, deaf person, or other physically disabled person on the basis that such physically disabled person is partially or wholly dependent upon the income of his spouse, if the spouse is a party to the lease or rental agreement. Nothing in this subdivision shall, however, prohibit a lessor or landlord from considering the aggregate financial status of a physically disabled person and his spouse.

(c) Persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code, may take dogs, for the purpose of training them as guide dogs, in any of the places specified in paragraphs (a) and (b), above. Such persons shall carry and display, upon request, identification in such form as shall be prescribed by the State Board of Guide Dogs for the Blind.

SEC. 13. Section 7008 of the Civil Code is amended to read:

7008. The child may, if under the age of 12 years, and shall, if 12 years of age or older, be made a party to the action. If he is a minor and a party to the action he shall be represented by a guardian ad litem appointed by the court. The natural mother, each man presumed to be the father under Section 7004, and each man alleged to be the natural father, may be made parties and shall be given notice of the action in the manner prescribed in subdivision (f) of Section 7017 and an opportunity to be heard. The court may align the parties.

SEC. 14. Section 5030 of the Education Code is amended to read:

5030. Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization may, pursuant to Section 5019 at any time recommend one of the following alternate

methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That the member or members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he represents.

The recommendation shall provide that any affected incumbent member shall serve out his term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever the trustee areas are established or rearranged in a district, provision shall be made for one of the alternative methods of electing governing board members.

In counties with a population of less than 25,000, the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

SEC. 15. Section 8009 of the Education Code is repealed.

SEC. 16. Section 8201 of the Education Code is amended to read:

8201. The purpose of this chapter is as follows:

(a) To provide as a concomitant part of the educational system an integrated plan for the care and development of children in the absence of their parents which places primary emphasis upon: 1) the preparation of preschool age children for effective matriculation in the educational programs of their community when they reach school age, and 2) the improved educational performance of children of school age with particular emphasis upon those children who require special assistance including bilingual capabilities to attain their full potential.

(b) To provide parents with an opportunity to: 1) attain the capacity to provide support for their family through employment, 2) undertake educational activities which will assist them in providing an improved level of parental care and supervision of their children, and 3) participate with the child development program in assisting in provision of the full range of child development services contemplated by this chapter. It is the intent of the Legislature that any parent who enrolls his child in any child development program authorized by this chapter shall be allowed to participate in the planning, evaluation, and modification of child development programs.

(c) To provide a comprehensive system of child development services for prekindergarten and school-age children and their parents that includes a full range of education, supervision, health,

and social services through full- and part-time programs.

SEC. 17. Section 8203 of the Education Code is amended to read:

8203. 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 chapter 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. 18. Section 8205 of the Education Code is amended to read:

8205. The Superintendent of Public Instruction shall, pursuant to Section 204 of the Intergovernmental Cooperation Act of 1968, request such waivers of single state agency requirements as are necessary in order to utilize available federal funds for the purposes of this chapter.

SEC. 19. Section 8206 of the Education Code is amended to read:

8206. Until such waiver is granted by the federal goverment, the single state agency authorized by federal law to provide any child care service provided for in this chapter shall have only such functions, duties and responsibilities conferred by this chapter upon the Department of Education and the Superintendent of Public Instruction with respect to such child development services as are required by federal law and regulation. In such event, such single state agency shall provide child development services under a purchase of service agreement with the Superintendent of Public Instruction from funds appropriated for such services. The Superintendent of Public Instruction shall provide the necessary documents required by the federal government pursuant to this section to support the state's claim for federal reimbursement and shall certify that the school district, community college district, or other organization providing the care, has available the accounting records and other supporting documents to justify the claim for reimbursement and that such records are available for audit by the State Controller and by any authorized federal agency.

SEC. 20. Section 8210 of the Education Code is amended to read:

8210. Child development facility means any facility providing child care services or preschool programs pursuant to this chapter for less than 24 hours a day consistent with Section 8243 pursuant to this chapter.

SEC. 21. Section 8211 of the Education Code is amended to read:

8211. 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 chapter.

(c) Full- or part-day supervision and developmental activities for children five years of age or younger in a program approved pursuant to this chapter.

(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 adjustments to out-of-home-care situations, child development referral services, child placement counseling and other support services when the parent is employed, in training, or physically or mentally incapacitated.

(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 chapter.

(*l*) Full- or part-day supervision and developmental activities for children six weeks through two years of age at migrant child care centers, including care provided on Saturday or Sunday.

SEC. 22. Section 8213 of the Education Code is amended to read:

8213. Applicant or operating agency means a school district, or community college district, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity which is authorized to establish, maintain or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

SEC. 23. Section 8243 of the Education Code is amended to read:

8243. The Superintendent of Public Instruction shall be responsible for the formulation, promotion, approval, and monitoring of a variety of child development programs and delivery systems in all communities of this state where the need therefor exists. The Superintendent of Public Instruction may continue or adapt child development programs currently contracted with the Department of Education pursuant to this chapter. Such programs shall provide child development services at the minimum cost possible consistent with required quality of service and the specific needs of the particular child.

SEC. 24. Section 8244 of the Education Code is amended to read:

8244. The Superintendent of Public Instruction shall, within the limitation of funds allocated for such purpose, enter into agreements with appropriate applicant or operating agencies for the establishment, maintenance or operation of child development services pursuant to this chapter. The Superintendent of Public Instruction may also enter into agreements with any public or private agency for the furnishing of property, facilities, personnel, supplies, equipment, and other necessary items.

SEC. 25. Section 8246 of the Education Code is amended to read:

8246. 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 chapter 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 8206.

SEC. 26. Section 8250 of the Education Code is amended to read:

8250. 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 chapter. The costs incurred in the maintenance and operation of child development services shall be paid as required pursuant to Section 8328.

The Superintendent of Public Instruction shall adopt rules and regulations to facilitate the funding and reimbursement procedures required by this chapter.

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. 27. Section 8326 of the Education Code is amended to read:

8326. Notwithstanding any other provisions of this chapter, a public or private agency, a school district, a community college 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. 28. Section 8328 of the Education Code is amended to read:

8328. The governing board of any school district or community college district or the county superintendent of schools shall establish in the county treasury a fund to be known as the "child development fund" into which shall be paid all funds received by the district or the county for, or from the operation of, child development services under this chapter. The costs incurred in the maintenance and operation of child development services shall be paid from the fund, with accounting to reflect specific funding sources.

No other funds of a district derived from the receipt of district taxes or derived from moneys apportioned to the district for the

support of schools thereof, except state moneys appropriated for the support of child development services, fees, and federal funds, may be expended for, or in connection with child development services.

SEC. 29. Section 8366 of the Education Code is amended to read:

8366. Each person employed by a public or private agency as defined in Section 8213 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 chapter 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 45053, 45054, 87826, or 87827 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 September 18, 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 44908 or 87468 and 44975 or 87776 immediately prior to September 18, 1959, may be dismissed only in accordance with the provisions of Section 44949 or 87740.

Other persons who are employed as probationary employees in positions requiring such permits on or after September 18, 1959, may be dismissed in accordance with the provisions of Section 44949 or 87740.

SEC. 30. Section 8381 of the Education Code is amended to read:

8381. The Department of Education is hereby authorized to accept funds from the government of the United States and to apportion them to the governing board of such school districts, community college districts, or county superintendent of schools or other public or private agencies as conduct child development programs which are hereby authorized to accept such funds or funds

from any other source for any of the purposes of this chapter and all such funds may be accepted subject to such conditions as will further the purposes of this chapter.

SEC. 31. Section 8384 of the Education Code is amended to read:

8384. Each county shall, as a minimum, maintain the level of expenditure for child care services provided by the county during the 1970–1971 fiscal year. Funds provided pursuant to this chapter are to be utilized to expand child development services to children by supplementing, and not supplanting, the county share of expenditures for child care services provided by county funds during the 1970–1971 fiscal year.

SEC. 32. Section 8512 of the Education Code, as amended by Chapter 37 of the Statutes of 1977, is amended and renumbered to read:

8538. Effective July 1, 1977, (a) for noncredit classes or programs offered in community colleges pursuant to this chapter, average daily attendance for state apportionment purposes shall only be calculated for such classes or programs which by mutual agreement are the responsibility of the community colleges pursuant to Sections 8530 and 8531; and (b) for noncredit classes or programs offered in the community colleges and for classes for adults offered in high schools or adult schools pursuant to this chapter, average daily attendance for state apportionment purposes shall only be calculated for such classes or programs which by mutual agreement are the responsibility of the community colleges or of the high school or unified school districts pursuant to Sections 8532 and 8533.

SEC. 33. Section 12092 of the Education Code is amended to read:

12092. The Department of Education through the Director of Education is authorized to enter into agreements with governing boards of school districts for the education by such districts of veterans in accordance with the agreement between the Department of Education and the agency of the federal government.

SEC. 34. Section 22802 of the Education Code is amended to read:

22802. 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. 35. Section 54060 of the Education Code is amended to read:

54060. (a) For the 1977–78 fiscal year and each year thereafter the Superintendent of Public Instruction shall:

(1) Identify the unified school districts which received state allocations during the 1976–77 fiscal year pursuant to Section 54002, and determine those districts which have more than 12,022 students in average daily attendance in fiscal year 1975–76, and either of the following criteria:

(A) The product of the district factor determined pursuant to Section 54002 and the count for the 1975–76 fiscal year of children from families receiving aid to families with dependent children is equal to or greater than 3,731, or

(B) The district's index of family poverty determined pursuant to subdivision (b) of Section 54002 is greater than 1.5 and the total minority population in the district determined pursuant to the Racial and Ethnic Survey of 1973 is greater than 55 percent.

(2) For districts so identified, multiply the factor determined pursuant to Section 54002 by the district's aid to families with dependent children count for the 1975–76 fiscal year by the factor computed pursuant to subdivision (b) of Section 42238 and by a factor of 1.1 for districts having an average daily attendance greater than 58,800 in the 1975–76 fiscal year. He shall total the result for such districts and shall divide such sum into the amount appropriated by the Legislature for the purposes of this section for the fiscal year in question.

(3) Allocate to such districts an amount computed by multiplying the per unit amount in paragraph (2) by the district's factor, by the district's aid to families with dependent children count for the 1975–76 fiscal year. Such amounts shall be in addition to other amounts computed under this chapter.

(b) If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section, such allowances shall be reduced proportionately.

(c) The allowance prescribed by this section shall be deposited in the general fund of each recipient district and may be used for any purpose for which other funds so deposited may be used and shall not be included in the computation of the revenue limit of the district.

This section shall remain operative until June 30, 1980, and as of such date is repealed.

SEC. 36. Section 54061 of the Education Code is amended to read:

54061. (a) For the 1977–78 fiscal year and each year thereafter, the Superintendent of Public Instruction shall:

(1) Determine those districts which have a factor of 1.25 or more pursuant to Section 54002 utilizing data used to compute entitlements for the 1976–77 fiscal year under this chapter.

(2) Allocate to such districts an amount not to exceed 10 percent of such districts' 1975–76 entitlements. Such district allocations shall be adjusted for inflation at the rate of 6 percent in the 1978–79 fiscal year and the 1979–80 fiscal year. Such amounts shall be in addition to other apportionments computed under this chapter.

(b) The amount allowed pursuant to this section is limited to the amount appropriated by the Legislature for purposes of this section in any fiscal year, and if the sum appropriated is not sufficient to make the allowances specified by this section, such allowances shall be reduced proportionately.

(c) The allowances prescribed by this section shall be deposited in the general fund of each recipient district and may be used for any purpose for which other funds so deposited may be used and shall not be included in the computation of the revenue limit of the district.

SEC. 37. Section 58509 of the Education Code is amended to read:

58509. For the operation of alternative schools as herein defined, the Superintendent of Public Instruction may, upon application of a school district, waive any provisions of this code other than those relating to earthquake safety and the provisions of this chapter.

SEC. 38. Section 66903.2 of the Education Code, as added by Chapter 399 of the Statutes of 1977, is amended and renumbered to read:

66903.5. Pursuant to subdivision (4) of Section 66903, the commission shall participate in appropriate stages of the executive and legislative budget processes, as requested by the executive and legislative branches, to advise regarding the representation of women and minority employees at institutions of higher education.

All information generated by the institutions and collected by the commission pursuant to Section 66903.1 shall be available to the public.

This section shall remain in effect until January 1, 1985, and as of that date is repealed.

SEC. 39. The heading of Article 9 of Chapter 1 of Part 41 of the Education Code is repealed.

SEC. 40. Section 72121 of the Education Code is amended to read:

72121. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 72122 of, and subdivision (c) of Section 76041 of, this code, all meetings of the governing board of any community college district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at such meetings and shall be subject to the following requirements:

(a) Minutes must be taken at all such meetings, recording all actions taken by the governing board. Such minutes shall constitute public records, and shall be available to the public.

(b) A list of items on which action may be taken that will constitute the agenda for all regular meetings shall be posted at a place where parents and teachers may view the same at least 48 hours prior to the time of said regular meeting, and, in the case of special meetings, at least 24 hours prior to said special meeting.

This subdivision shall not preclude the taking of testimony at regularly scheduled meetings on matters not on the agenda which any member of the public may wish to bring before the board, provided that no action is taken by the board on such matters at the same meeting at which such testimony is taken. Nothing in this

paragraph shall be deemed to replace or limit further discussion on the same subject matter at a subsequent meeting.

SEC. 41. Section 503 of the Elections Code is amended to read:

503. (a) Except as provided in subdivisions (c) and (d), the affidavit of registration shall show all the facts required to be stated.

(b) Except as provided in subdivisions (d), (e), and (f), 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 the affidavit fails to state the affiant's occupation as prescribed in subdivision (h) of Section 500, it shall be presumed that the affiant is unemployed or has no occupation, and such missing information shall not affect the validity of the affidavit.

(e) If a properly executed affidavit is received by the county clerk on or before the 29th day prior to an election, or is received in the manner and on the dates prescribed in subdivision (b) of Section 305, 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 voter is registered to vote in the forthcoming election, and that his or her name will appear on the index kept at the polls.

(f) If a properly executed affidavit is received by the county clerk after the 29th day prior to an election and such affidavit is not subject to the provisions of subdivision (b) of Section 305, 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.

SEC. 42. Section 4155 of the Food and Agricultural Code is amended to read:

4155. The 22nd District Agricultural Association may expend up to two hundred fifty thousand dollars ($250,000) annually for the operation of a fair pursuant to Section 4001 for the purposes enumerated therein from the money received by the district from a lease of district property for horseracing purposes. Any such money received by the district over two hundred fifty thousand dollars ($250,000) may be expended in furtherance of the master plan developed pursuant to Section 4156. Any such money not expended in such manner, or accumulated to be expended in furtherance of the master plan, including the amortization of revenue bonds, shall be transferred by the district to the General Fund upon executive order of the Director of Food and Agriculture.

SEC. 43. Section 64591 of the Food and Agricultural Code is

amended to read:

64591. There is in the state government the California Beef Council which consists of 20 members and 20 alternates, all of whom shall be citizens and residents of this state and producers or slaughterers.

The director shall appoint to the council six range cattlemen, six cattle feeders, and six dairymen nominated as producers and two slaughterers as hereinafter provided for, giving due regard to proper geographic distribution. This requirement shall not, however, operate to remove from office any member of the council. As soon as feasible after January 1, 1974, the director shall appoint a slaughterer to the council, and the director shall appoint another slaughterer to the council at the time the first membership held by a dairyman becomes vacant. Subject to the provisions of this section and of Section 64592, present members of the council shall be eligible for reappointment.

SEC. 44. Section 3514.5 of the Government Code is amended to read:

3514.5. The initial determination as to whether the charges of unfair practices are justified, and, if so, what remedy is necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board. Procedures for investigating, hearing, and deciding these cases shall be devised and promulgated by the board and shall include all of the following:

(a) Any employee, employee organization, or employer shall have the right to file an unfair practice charge, except that the board shall not do either of the following: (1) issue a complaint in respect of any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge; (2) issue a complaint against conduct also prohibited by the provisions of the agreement between the parties until the grievance machinery of the agreement, if it exists and covers the matter at issue, has been exhausted, either by settlement or binding arbitration. However, when the charging party demonstrates that resort to contract grievance procedure would be futile, exhaustion shall not be necessary. The board shall have discretionary jurisdiction to review such settlement or arbitration award reached pursuant to the grievance machinery solely for the purpose of determining whether it is repugnant to the purposes of this chapter. If the board finds that such settlement or arbitration award is repugnant to the purposes of this chapter, it shall issue a complaint on the basis of a timely filed charge, and hear and decide the case on the merits; otherwise, it shall dismiss the charge. The board shall, in determining whether the charge was timely filed, consider the six-month limitation set forth in this subdivision to have been tolled during the time it took the charging party to exhaust the grievance machinery.

(b) The board shall not have authority to enforce agreements between the parties, and shall not issue a complaint on any charge based on alleged violation of such an agreement that would not also

constitute an unfair practice under this chapter.

(c) The board shall have the power to issue a decision and order directing an offending party to cease and desist from the unfair practice and to take such affirmative action, including but not limited to the reinstatement of employees with or without back pay, as will effectuate the policies of this chapter.

SEC. 45. Section 3520 of the Government Code is amended to read:

3520. (a) Judicial review of a unit determination shall only be allowed: (1) when the board, in response to a petition from the state or an employee organization, agrees that the case is one of special importance and joins in the request for such review; or (2) when the issue is raised as a defense to an unfair practice complaint.

Review may be sought in the superior court in any county in which the employees involved in the proceeding work. Notwithstanding the above, the board may order an election pending judicial review.

(b) Any charging party, respondent, or intervenor aggrieved by a decision or order of the board in an unfair practice case, except a decision of the board not to issue a complaint in such a case, shall have the right to seek review in the superior court in any county in which the practice in question occurred.

(c) Additionally, the board shall have the right to seek enforcement of any decision or order in the superior court in any county in which the employees affected by the decision or order work.

(d) The findings of the board on questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. Once the record of the case has been filed with the superior court, its jurisdiction shall be exclusive and its judgment final, except that it shall be subject to appeal to higher courts in this state.

SEC. 46. Chapter 18 (commencing with Section 7400) of Division 7 of Title 1 of the Government Code is repealed.

SEC. 47. Section 7465 of the Government Code is amended to read:

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 Loan.

(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.

SEC. 48. Section 14851 of the Government Code is amended to read:

14851. No printing for the promotion of sales for any industry shall be done in the Office of State Printing. No printing for the promotion of any agricultural district fair shall be done in the Office of State Printing.

The Office of State Printing may print checks and other printed matter necessary for the operation of any industry board or state agricultural district board at the expense of the state.

SEC. 49. Section 15770.1 of the Government Code is amended to read:

15770.1. The Director of the Employment Development Department shall meet with and advise the board whenever the board is engaged in activities imposed by Section 15799.2.

SEC. 50. Section 18004 of the Government Code is amended to read:

18004. (a) Unless the Legislature specifically provides that approval of the Department of Finance is not required, whenever any state agency is authorized by special or general statute to fix the salary or compensation of an employee or officer, which salary is payable in whole or in part out of state funds, the salary is subject to the approval of the Department of Finance before it becomes effective and payable, except as provided in subdivision (b).

(b) Whenever any state court or other judicial agency is authorized by statute to fix the salary of an employee or officer who is exempt from civil service under subdivision (b) of Section 4 of Article VII of the Constitution, the salary is subject to the approval of the Chairman of the Judicial Council before it becomes effective and payable.

SEC. 51. Section 19058 of the Government Code is amended to read:

19058. When there is no employment list from which a position may be filled, the appointing power with the consent of the board may fill such position by temporary appointment. Such temporary appointment shall continue only until eligibles are available from an appropriate employment list and not to exceed the period prescribed by Section 5 of Article VII of the Constitution; provided, that within the limits of the period prescribed by the Constitution any temporary appointment to a position the duration of which position is not to exceed the probationary period for the class may, in the discretion of the appointing power and with the approval of the board be continued for the life of such position. An appropriate employment list shall be established for each class to which temporary appointment is made before the expiration of such appointment.

SEC. 52. Section 21210 of the Government Code is amended to read:

21210. Notwithstanding the provisions of Sections 5105 and 5125 of the Civil Code, whenever payment or refund is made by this system to a member, former member, beneficiary of a member or estate of a member pursuant to any provision of this part, such payment shall fully discharge this system from all adverse claims thereto unless, before such payment or refund is made, this system has received at its office in Sacramento written notice by or on behalf of some other person that such person claims to be entitled to such payment or refund.

SEC. 53. Section 35012 of the Government Code is amended to read:

35012. Notwithstanding the provisions of Section 35011, upon approval of the commission a city may annex noncontiguous territory not exceeding 100 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100) of this part. If, after the completion of the annexation, the city sells such territory or any part thereof, all such territory which is no longer owned by the city shall cease to be a part of the city.

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it although such territory is contiguous to the territory annexed pursuant to this section.

Notwithstanding any other provision of this section to the contrary, a city which annexes territory pursuant to this section may annex additional territory which is owned by the United States government or the State of California and which is contiguous to such first annexed territory if the total acreage of the first annexed and the subsequently annexed territory together does not exceed 100 acres in area. If after the completion of such subsequent annexation, the city sells all or any part of such first annexed territory, the

subsequently annexed territory shall cease to be part of the city if it is no longer contiguous to territory owned by the city.

If territory annexed to a city pursuant to this section becomes contiguous to such city, the limitations imposed by this section shall cease to apply.

SEC. 54. Section 35062 of the Government Code is amended to read:

35062. The question or questions to be submitted at any special election or elections called pursuant to this part shall be in substantially the following form:

(a) For an incorporation:

"Shall the order adopted on _____, 19__ by the Board of Supervisors of _____ County ordering the incorporation of the territory described in said order and designated therein as

_____

(insert the distinct short form designation theretofore assigned by the commission)

be confirmed and a maximum property tax for such new city of _____ be approved?"

(b) For an annexation:

"Shall the order adopted on _____, 19__ by the

_____

(insert conducting authority)

ordering the annexation to said city of the territory described in said order and designated as

_____

(insert the short form designation theretofore assigned by the commission)

be confirmed?"

(c) For a detachment:

"Shall the order adopted on _____, 19__ by the

_____

(insert conducting authority)

ordering the detachment from said city of the territory described in said order and designated therein as

_____

(insert the short form designation theretofore assigned by the commission)

be confirmed?"

(d) For a consolidation:

"Shall the order adopted on _____, 19__ by the

_____

(insert conducting authority)

of the City of _____

(insert name of city)

ordering the consolidation of the cities of

_____

(insert names of all cities ordered consolidated)

into a single city known as the _____ be confirmed?"

(e) For a disincorporation:

"Shall the order adopted on _____, 19__ by the City Council of the City of _____ ordering the disincorporation of the City of _____ be confirmed?"

(f) For a municipal reorganization:

"Shall the order adopted on _____, 19__, by the

_____

(insert conducting authority)

ordering a municipal reorganization affecting the city(s) of

_____

(insert names of all affected cities)

and providing for

_____

(insert list of all changes of organization or new cities proposed to be incorporated)

be confirmed?"

SEC. 55. Section 35069 of the Government Code is amended to read:

35069. The provisions of Section 3787 of the Elections Code shall apply with regard to the preparation and submittal of rebuttal arguments.

SEC. 56. Section 35071 of the Government Code is amended to read:

35071. The canvass of ballots cast at any election held pursuant to this part shall be conducted by the conducting authority at its next regular meeting held at least three days after the election. The canvass shall be completed at the meeting, if practicable, or as soon thereafter as possible, avoiding adjournments.

SEC. 57. Section 35102 of the Government Code is amended to read:

35102. Whenever a city submits a resolution of application for a municipal reorganization or a change of organization pursuant to this part, the city shall submit with the resolution of application a plan for providing services within the affected territory of the municipal reorganization or change of organization. The plan for providing services shall include the following information and any additional information required by the commission or the executive officer: enumeration and description of the services to be extended to the affected territory; the level and range of such services; indication of when such services can feasibly be extended to the affected territory; indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the city would impose or require within the affected territory should the municipal reorganization or change of organization be completed; and how the services will be financed.

SEC. 58. Section 35229.5 of the Government Code is amended to read:

35229.5. Notwithstanding the provisions of Sections 35228 and 35229 the conducting authority, not less than 30 days after conclusion

of a hearing to detach inhabited or uninhabited territory, may by resolution, terminate such proceedings to detach territory.

SEC. 59. Section 35230 of the Government Code is amended to read:

35230. If, pursuant to subdivision (b) of Section 35228, the conducting authority adopts a resolution ordering annexation or detachment of territory subject to the confirmation by the voters, such election shall be called and held at the next regular election held at least 75 days after the date on which the resolution was adopted.

SEC. 60. Section 35232 of the Government Code is amended to read:

35232. The clerk of the conducting authority shall cause notice of the election to be given as prescribed in Section 35055.

SEC. 61. Section 35480 of the Government Code is amended to read:

35480. Upon written request by the legislative body of a newly incorporated city, the board of supervisors shall cause the county auditor to prepare, without cost, a statement of the value of the assessable property in the disincorporated city and the value of such property now contained in the incorporated city. If the statement shows that at least two-thirds of the assessed value of all assessable property formerly contained within the disincorporated city is contained within the boundaries of the newly incorporated city, the board of supervisors shall fix the relative proportion by an order entered in the minutes, and the newly incorporated city is liable for that proportion of the debts and liabilities of the disincorporated city.

SEC. 62. Section 53095 of the Government Code is amended to read:

53095. The provisions of this article shall prevail over Sections 39004 and 81035 of the Education Code and over Section 65402 of the Government Code.

SEC. 63. Section 53820 of the Government Code is amended to read:

53820. As used in this article, "local agency" means county, city, regional park district, school district, community college district, or any other municipal or public corporation or district.

SEC. 64. Section 53821 of the Government Code is amended to read:

53821. Subsequent to approval of the final budget and levy of taxes, if funds are needed for the immediate requirements of a local agency in any fiscal year to pay obligations lawfully incurred in the fiscal year and before the receipt of income for the fiscal year sufficient to meet the payments, money may be borrowed by:

(a) The legislative body of a county on the recommendation of the auditor and treasurer.

(b) The legislative body of the county having the largest area within the regional park district on the recommendation of the auditor and treasurer.

(c) A school district or community college district on the request of two-thirds of the members of its governing board, approved by the county auditor and treasurer.

(d) A regional park district on the request of four-fifths of the members of its legislative body, approved by the auditor and treasurer of the county having the largest area within the district.

(e) The legislative body of a city on the recommendation of the city treasurer and chief accounting officer.

(f) The legislative body of any other municipal or public corporation or district on the recommendation of the officers performing the functions of auditor and treasurer.

SEC. 65. Section 53822 of the Government Code is amended to read:

53822. Money may be borrowed on notes, tax anticipation warrants, or other evidences of indebtedness on behalf of the local agency in an amount not to exceed 50 percent of:

(a) The revenue from taxes for the current fiscal year or that portion of the taxes not collected at the time of borrowing, where the borrowing is by a county, city, or municipal or public corporation or district, other than a school district or community college district.

(b) The estimated income and revenue for the current fiscal year or that portion not collected at the time of borrowing, where the borrowing is by a school district or community college district.

SEC. 66. Section 53823 of the Government Code is amended to read:

53823. In addition, a school district or community college district may borrow money at any time between July 15th and August 30th of any fiscal year in an amount not to exceed 25 percent of the estimated income and revenue to be received during the current fiscal year by the district from apportionments of the state, high school, or community college fund and of the State General Fund, based on the average daily attendance of pupils in the schools or colleges of the district for the preceding school year. The notes shall be repaid not later than December 31st in the fiscal year exclusively from the state apportionments.

SEC. 67. Section 53825 of the Government Code is amended to read:

53825. The resolution shall state the necessity for the borrowing and:

(a) The amount of revenue from taxes provided for the county, city, or municipal or public corporation or district, other than a school district or community college district, for the current fiscal year.

(b) The amount of income and revenue provided for the current fiscal year for the school or community college district or the estimated amount of income and revenue to be received during the current fiscal year from apportionments from the State School Fund, high school fund, or community college fund and from the State General Fund, if the borrowing is by a school or community college

district and occurs before taxes are levied.

SEC. 68. Section 53829 of the Government Code is amended to read:

53829. The repayment of money borrowed by a county, city, or municipal or public corporation or district other than a school district or community college district constitutes a first lien and charge against the taxes levied for the fiscal year in which it was borrowed and shall be repaid from the first money received by the county, city, or municipal or public corporation or district other than a school district or community college district from the taxes.

SEC. 69. Section 53830 of the Government Code is amended to read:

53830. The repayment of money borrowed by any school or community college district constitutes a first lien and charge against the taxes, revenue, and other income collected during the fiscal year in which the money was borrowed and shall be repaid from the first money received by such school or community college district from the taxes, revenue, and income.

SEC. 70. Section 53832 of the Government Code is amended to read:

53832. Loans made pursuant to this article shall be made solely for the purpose of anticipating income. In the case of a county, a city, or a municipal or public corporation or district other than a school district or community college district, the loans shall be made solely upon the credit of revenue from taxes provided for the fiscal year in which loans are made. In the case of a school or community college district, the loans shall be made solely upon the credit of income and revenue provided for the fiscal year in which loans are made.

SEC. 71. Section 53850 of the Government Code is amended to read:

53850. As used in this article, "local agency" means county, city and county, city, school district of any type, community college district, or any other municipal or public corporation or district.

SEC. 72. Section 53853 of the Government Code is amended to read:

53853. The note or notes shall be issued pursuant to a resolution authorizing the issuance thereof adopted by the legislative body of the local agency, except that the note or notes of a school or community college district shall be issued in the name of the school or community college district by the board of supervisors of the county, the county superintendent of which has jurisdiction over the school or community college district, as soon as possible following receipt of a resolution of the governing board of the school or community college district requesting the borrowing. Notes authorized to be issued may be issued from time to time as provided in said resolution. Said resolution shall set forth the form and the manner of execution of the note or notes.

SEC. 73. Section 53859 of the Government Code is amended to read:

53859. As used in this article: (a) "local agency" means county, city and county, city, school district, community college district, or any other municipal or public corporation or district.

(b) "Grant anticipation note" means a note issued upon the security of specified accounts receivable from state or federal governments for which funds have been committed and appropriated.

SEC. 74. Section 58010 of the Government Code as amended and renumbered by Chapter 2043 of the Statutes of 1965 is amended and renumbered to read:

58011. In case of a conflict between the provisions of this chapter and the provisions of the law providing for the creation of a particular district or type of district, the provisions of this chapter shall prevail.

SEC. 75. Section 66634 of the Government Code, as added by Chapter 1026 of the Statutes of 1977, is amended and renumbered to read:

66633.1. The Legislature finds and declares that because the San Francisco Bay Conservation and Development Commission must rely on the expertise provided by volunteer members of advisory boards to make decisions which relate to the public safety, members of the advisory boards should be entitled to the same immunity from liability provided commission members and other public employees.

Members of the advisory bodies appointed pursuant to Section 66633 while performing duties required by this title or by the commission shall be entitled to the same rights and immunities granted public employees by the provisions of Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1. Such rights and immunities are deemed to have attached and shall attach as of the date of appointment of a member to the advisory body. This provision shall apply to members heretofore and hereafter appointed to the Engineering Criteria Review Board (14 Cal. Adm. Code 10298), the Design Review Board (14 Cal. Adm. Code 10295) and any other advisory bodies hereafter created pursuant to Section 66633.

SEC. 76. The heading of Article 4 (commencing with Section 68926) of Chapter 3 of Title 8 of the Government Code is amended to read:

Article 4. Fees in the Supreme Court and Courts of Appeal

SEC. 77. Section 320.5 of the Health and Safety Code is amended to read:

320.5. A State Child Health Board is hereby established within the state 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 Health Services 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 state 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. 78. Section 323.5 of the Health and Safety Code is amended to read:

323.5. 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 Services 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 321.2. 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. 79. Section 324.2 of the Health and Safety Code is amended to read:

324.2. 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 Services, 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 waiver pursuant to Section 323.5 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. 80. Section 1157 of the Health and Safety Code is amended to read:

1157. In lieu of any other provisions of this chapter, upon request of the board of supervisors of any county of less than 40,000 population and upon the appropriation for public health purposes by such county of a sum of not less than fifty-five cents ($0.55) per capita for the total county population, the State Department of Health Services may organize and operate a local public health service in such county. The State Department of Health Services may conduct such local public health service either directly, or by contract with other agencies, or by some combination of these methods as may be agreed upon by the State Department of Health Services and the board of supervisors of the county concerned. The creation of a county board of public health or a similar local advisory group shall be at the discretion of the board of supervisors. The state financial assistance which is appropriated for public health services in counties which have not qualified or do not elect to qualify for such funds under other provisions of this chapter, is hereby made available to the State Department of Health Services for such purposes. Funds expended pursuant to this section shall be in accordance with law

regarding expenditures of money appropriated out of the State Treasury, including those in the Budget Act and any applicable provisions of the Government Code.

SEC. 81. Section 1216 of the Health and Safety Code is amended to read:

1216. Proceedings for the revocations of licenses under this chapter 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 department shall have all powers granted therein.

SEC. 82. Section 1701 of the Health and Safety Code is amended to read:

1701. There is in the State Department of Health Services a Cancer Advisory Council composed of nine physicians and surgeons licensed to practice medicine in, and residing in, this state, three persons who are not physicians and surgeons, two persons representing nonprofit cancer research institutes recognized by the National Cancer Institute, and the director of the department, who shall be an ex officio member. The members of the council shall be appointed by the Governor to serve for terms of four years. The Governor, in appointing the first members, shall appoint at least one member from the faculty of each of the schools teaching medicine and surgery and located in this state that are approved by the Board of Medical Quality Assurance. The Governor shall endeavor to maintain one member from the faculty of each school in making subsequent appointments.

SEC. 83. Article 5 (commencing with Section 11850) is added to Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code, to read:

Article 5. Treatment for Drinking Drivers

11850. (a) As an alternative to the provisions of law relating to suspension of a person's privilege to operate a motor vehicle upon conviction for driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, as set forth in Section 13201.5 and subdivisions (a), (c), and (e) of Section 13352 of the Vehicle Code, a court may refrain from suspending such privilege and the Department of Motor Vehicles may not suspend or revoke such privilege because of such a conviction if the person convicted of that offense has consented to participate, for at least one year and in a manner satisfactory to the court, in a program for the supervision of such persons and for treatment of their problem drinking or alcoholism that is approved pursuant to this article.

(b) In determining whether to refer such a person to an approved program, the court may consider any relevant information about the person made available pursuant to a presentence investigation or other screening procedure. No such information may be furnished,

however, by any person who also provides services in a privately operated, approved program or who has any direct interest in a privately operated, approved program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in an approved program pursuant to the provisions of this article.

(c) The court may refer persons only to approved programs. If an approved program does not exist in the county on the date of conviction of the person and if the county does not have an agreement pursuant to Section 11851 to allow referral of persons to approved programs located in another county, the provisions of Section 13352 of the Vehicle Code shall apply.

(d) The court may refer a person to an approved program, even though the person's privilege to operate a motor vehicle is suspended or revoked, if the period of suspension or revocation will terminate within six months after the person's commencement of participation in the program.

(e) As used in this article, "program" means all the elements of the program described in the amendment to the county alcoholism program budget submitted pursuant to subdivision (c) of Section 11850.6.

11850.1. (a) In utilizing any such program, the court shall require periodic reports concerning the performance of each person referred to and participating in a program and the immediate report of any failure of any such person to comply with the program's rules and regulations. If, at any time after referral to or while participating in a program, a participant fails to comply with the rules and regulations of the program, the court, upon finding such fact, shall immediately suspend, or order suspension or revocation of, the privilege of such person to operate a motor vehicle for the period prescribed by law.

(b) If, at any time after referral to or while participating in a program, a participant refuses, for any reason, to consent to a chemical test that he or she is required to submit to pursuant to Section 13353 of the Vehicle Code, his or her participation in the program shall be terminated and the Department of Motor Vehicles shall immediately suspend or revoke his or her privilege to operate a motor vehicle for the period prescribed in Section 13352 of the Vehicle Code, according to the offense for which he or she was convicted immediately prior to referral to the program. Such period of suspension or revocation shall be in addition to the period of suspension imposed by the Department of Motor Vehicles pursuant to Section 13353 of the Vehicle Code.

(c) In the event the state department withdraws approval of a program, the Department of Motor Vehicles shall suspend or revoke, for the period prescribed by law, the privilege to operate a motor vehicle of every person previously participating in the program who does not commence participation, in a manner satisfactory to the

court, in an approved program within 21 days after the date approval was withdrawn from the previous program.

(d) In addition to any other condition of probation, the court shall have the discretion to determine whether any person desiring to participate in a program shall be required to furnish proof of ability to respond in damages, as defined in Section 16430 of the Vehicle Code, as a condition to participation in the program.

11850.2. The court, upon convicting a person of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, shall transfer jurisdiction of all postjudgment matters in the case to the court in the county where such person resides for further proceedings pursuant to this article if the court finds that such person has consented to participate in an approved program in, or closer to, his county of residence in a manner satisfactory to the court. The state department shall establish reporting procedures for transfers of jurisdiction pursuant to this section in order to assure effective implementation of this section. Upon receiving notice that a person has not commenced participation, in a manner satisfactory to the court to which jurisdiction has been transferred, in an approved program within 21 days after the date of conviction, excluding any days of imprisonment served by such person pursuant to sentence imposed for conviction for such offense, the Department of Motor Vehicles shall suspend or revoke the person's privilege to operate a motor vehicle for the period prescribed by law.

11850.3. No person may be admitted or readmitted into a program for the supervision and treatment of problem drinking or alcoholism pursuant to this article until four years after such person ceases his or her prior participation in such a program. The four-year period shall commence either on the date the court orders the suspension or revocation of such person's privilege to operate a motor vehicle pursuant to Section 11850.1 or on the date such person successfully completes the program, whichever is later. With respect to any person arrested for the offense of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug subsequent to the commencement of a four-year period, such person's eligibility to participate in the program again shall be determined on the basis of the date on which such person is alleged to have committed that offense.

11850.4. (a) The state department shall have sole authority to approve programs pursuant to this article. No program, regardless of how it is funded, may be approved unless it meets the standards established by the state department, which shall include, but need not be limited to, the following:

(1) Each program shall provide for close and regular supervision of the person, including face-to-face interviews at least once every other calendar week, regarding the person's progress in the program. Such interviews shall be conducted individually with each person being supervised and shall occur at times during which any

group to which such person is assigned is not participating in any other activities of the program.

(2) The state department shall approve all fee schedules for such programs and shall require that each program make provision for persons who cannot afford such fees in order to enable such persons to participate. The state department shall ensure that such fees are set at amounts which will enable programs to provide adequately for the services required pursuant to this article. Such fees shall be used only for the purposes set forth in this article. The state department may not approve any program if the state department finds that any element of the administration of the program does not assure the fiscal integrity of the program.

(3) Each program shall include a variety of treatment services for problem drinkers and alcoholics or shall have the capability of referring such persons to, and regularly and closely supervising such persons while in, appropriate treatment services for their problem drinking or alcoholism. In addition to the requirements of paragraph (1) of this subdivision, the state department shall prescribe in its standards what other services the program shall provide its participants, which services may include lectures, classes, group discussions, individual counseling in addition to the interviews required by paragraph (1), or any combination thereof. However, any class or group discussion, other than lectures, shall not exceed 15 persons at any one meeting.

(4) In order to assure effective treatment and supervision in any program, the state department shall require, whenever appropriate, that the program provides services to ethnic minorities, women, youth, or any other group that has particular needs relating to the program.

(5) The goal of each program shall be to enable the person participating in the program to address successfully his or her alcohol abuse or alcoholism problem, to eliminate any dependence on alcoholic beverages, and to protect the public's health and safety upon the highways.

(b) Each program may be an extension of an existing program or a new program. No such program may be approved, however, unless the county complies with the requirements of Section 11817.

(c) The state department shall adopt standards, which it may issue in the form of regulations, in addition to any of the standards set forth in this section in order to assure effective implementation of the procedure established by this article.

11850.5. (a) No person may participate in any program that has not been approved or reapproved by the state department pursuant to the standards established pursuant to this article. The state department shall reapprove existing programs in the demonstration counties that were selected pursuant to Section 13201.5 of the Vehicle Code, as added by Chapter 1133 of the Statutes of 1975, if such programs meet the standards established pursuant to this article; and no person may participate in any such program until it

is reapproved pursuant to this article.

(b) The state department may charge a reasonable fee for approval or reapproval of a program. The fee shall be set at a level sufficient to cover all administrative costs of the program incurred by the state department and the Department of Motor Vehicles. All such fees received by the state department shall be deposited in the General Fund for reimbursing the state department and the Department of Motor Vehicles their costs incurred in approving or reapproving programs and their administrative costs, when appropriated for that purpose by the Legislature.

11850.6. (a) The Legislature recognizes that were the state department to be charged with monitoring closely the programs established pursuant to this article, it would require significantly increased staff. The Legislature also recognizes that such monitoring by state agencies often is ineffective and misleads the Legislature and public into believing that the state can and has adequately fulfilled such responsibilities. The Legislature also recognizes that the governing body and responsible county staff are much closer to, and more informed about, the daily activities of the programs approved pursuant to this article and about the impact that failure of such programs might have for the citizens of their county. The Legislature also recognizes that if a program is deficient, clients may receive inadequate supervision and treatment and may therefore remain a danger to the public health and safety and a burden to themselves, their family, and the community. Therefore, the Legislature places the major responsibility for assuring programmatic and fiscal integrity of each program with the governing body of each county utilizing a program pursuant to this article.

(b) The governing body shall delegate to the alcoholism administrator, pursuant to the provisions of Article 2 (commencing with Section 11790) of this chapter, the responsibility to assure compliance with the standards of the state department by any program designated by the county for operation therein and approved by the state department. In any county in which such an administrator has not been appointed, the head of the health-related agency or department designated pursuant to Section 11793 shall assume the duties of the alcoholism administrator and administer the program pursuant to the provisions of this article.

(c) The alcoholism administrator shall submit to the governing body a description of each program to be utilized in the county in the form of a proposed amendment to the county alcoholism program budget required by Article 3 (commencing with Section 11810) of this chapter. Prior to such submission, the advisory board shall review the proposal, and its comments shall be included in the submission to the governing body. If the governing body approves the amendment, it shall submit the amendment to the state department for approval. The state department shall approve the amendment if it finds that the program meets the requirements of

this article. The state department may approve a program on a provisional basis.

(d) In addition to the provisions of Section 11797, no person may serve as a member of the advisory board who is an employee, director, or member of any advisory body, or holds any similar position or title on a compensated or noncompensated basis in any program which seeks or possesses approval pursuant to this article.

11850.7. (a) The alcoholism administrator, or the advisory board acting through the alcoholism administrator, shall inform the governing body immediately if it is determined that any program is not meeting the standards established by the state department. The governing body shall immediately notify the state department, which, if it finds that such program does not meet such standards or cannot meet such standards within 30 days of notice by the state department, shall withdraw approval of the program.

(b) If the state department modifies any of its standards, the alcoholism administrator shall assure within a time period established by the state department that each program within his or her county has met such standards. The state department shall withdraw approval of any program that does not at any time meet the standards established by the state department.

(c) The alcoholism administrator, chief probation officer, the director, or their authorized representatives may enter, in a nondisruptive manner, any class, lecture, group discussion, or any other program element to observe such activities.

(d) Within its staff and time limitations, the state department may require reapproval of all programs on a periodic basis commencing January 1, 1979, and may charge a fee pursuant to subdivision (b) of Section 11850.5 for such reapproval.

(e) Notwithstanding the provisions of subdivision (a) of Section 11850.6, the state department may audit, or contract for the auditing of, any approved program.

11850.8. (a) The state department shall authorize each alcoholism administrator to retain, in an amount to be specified by the state department, a portion of the fees charged for participation in the program that is sufficient to reimburse the county for the costs and expenses which the administrator reasonably incurs in discharging his or her duties pursuant to this article.

(b) A county may not use for any purpose set forth in this article any funds allocated to it by the state department pursuant to Article 4 (commencing with Section 11830) of this chapter. The governing body may authorize the use of any other funds for any such purpose.

11850.9. As an element of the program, the probation department may provide any of the face-to-face interviews required pursuant to paragraph (1) of subdivision (a) of Section 11850.4 and may supplement any of the other services required to be provided by a program. The participation of the probation department shall be described in the amendment to the county alcoholism program budget.

11851. The Legislature encourages all counties to utilize the procedure described in this article, but recognizes that it is not feasible for every county to establish its own programs. Accordingly, two or more counties may jointly establish programs pursuant to subdivision (b) of Section 11790 of this code or Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code or may furnish by contract such program services to residents of another county pursuant to Section 11803 of this code. The governing body of the county in which the program is located shall be responsible for assuring the integrity of the program as required pursuant to subdivision (a) of Section 11850.6.

11851.1. The state department, in cooperation with the Department of Motor Vehicles, shall establish uniform statewide reporting procedures and forms for the submission of any appropriate documents or information from governing bodies, alcoholism administrators, administrators of programs, and program participants to assure effective implementation of this article.

11851.2. The Legislature finds and declares that, in order to provide for orderly and effective implementation of this article, to prevent the courts and programs in each county from being overburdened at the commencement of the implementation of this article, and to protect the public health and safety, this article shall apply only on a prospective basis. Therefore, this article shall apply only to persons either (a) who are alleged to have committed the offense of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug on or after January 1, 1978, and are subsequently convicted, for that offense or (b) who are alleged to have committed that offense on or after the date when a program, to which such a person may be referred by the court upon conviction for that offense, has been approved by the state department, and are subsequently convicted for that offense, whichever date is later.

SEC. 84. Section 11977 is added to the Health and Safety Code, to read:

11977. Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with performance of any narcotic and drug abuse program shall be confidential and shall be disclosed only for the purposes and under the circumstances expressly authorized by this section. The content of any record referred to in this section may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, or:

(a) To licensed medical personnel to the extent necessary to meet a bona fide medical emergency.

(b) To qualified personnel for the purpose of conducting scientific research, management audits, or program evaluation, but such personnel shall not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(c) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services program. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

SEC. 85. Chapter 8.5 (commencing with Section 19820) is added to Part 3 of Division 13 of the Health and Safety Code, to read:

CHAPTER 8.5. CHILDREN'S CLOTHING

19820. (a) After July 1, 1974, no person shall sell, or offer for sale, new children's sleepwear to and including size 14 which does not meet federal flammability standards for children's sleepwear to and including size 6X, and such other standards as may from time to time be adopted by the federal government. The requirements prescribed by this chapter shall be in addition to those prescribed by Chapter 8 (commencing with Section 19810) of this part.

(b) Violation of subdivision (a) is a misdemeanor.

(c) No later than July 1, 1974, the State Fire Marshal shall promulgate, in accordance with the provisions of the Administrative Procedure Act (commencing with Section 11371 of the Government Code), flammability regulations covering such other articles of new children's clothing to and including size 14 as it shall determine to be in the public interest. Such regulations shall become effective not later than July 1, 1975.

(d) Violation of any rule or regulation promulgated pursuant to subdivision (c) is a misdemeanor.

19821. The Legislature finds and declares that results from recent research and testing by the federal government indicate the chemical tris (2, 3-dibromopropyl) phosphate, hereafter referred to as "Tris," which is widely used in children's sleepwear as a flame retardant, may be a cancer-causing agent.

The State Fire Marshal shall adopt regulations prohibiting the use of Tris in all clothing. The State Fire Marshal, in conjunction with the Department of Consumer Affairs, shall prepare and disseminate information to consumers on how to identify clothing, including children's clothing subject to the provisions of Section 19820, which has been treated with Tris or any other flame-retardant chemicals used in the manufacture of consumer products which a state or federal agency has determined under state or federal law to be a health hazard of sufficient magnitude to warrant prohibition of their manufacture or sale.

SEC. 86. Section 25941 of the Health and Safety Code is amended to read:

25941. Within indoor rooms, indoor chambers, or indoor places of

public assembly in publicly owned buildings in which public business is conducted requiring or providing direct participation or observation by the general public there shall be a contiguous area of not less than 50 percent of the total area of such room, chamber or place designated and posted by signs of sufficient number and posted in such locations as to be readily seen by persons within such area, where the smoking of tobacco is prohibited while a public meeting is in progress. A public body, commission, agency, or other entity conducting a public meeting may waive the requirements of this section with respect to its own members, provided that the rights of nonsmoking members are not adversely affected.

SEC. 87. Section 35731 of the Health and Safety Code is amended to read:

35731. The commission and the division are empowered to prevent and eliminate violations of Section 35720.

(a) Any person claiming to be aggrieved by an alleged violation of Section 35720 may file with the division a verified complaint in writing which shall state the name and address of the person alleged to have committed the violation complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the division.

The filing of a complaint and pursuit of conciliation or remedy under this part shall not prejudice the complainant's right to pursue effective judicial relief under other applicable laws, but if a civil action has been filed under Section 52 of the Civil Code, the division shall terminate proceedings upon notification of the entry of final judgment unless such judgment is a dismissal entered at the complainant's request.

(b) The Attorney General, the commission, or the chief may, in a like manner, make, sign, and file such complaints citing practices which appear to violate the purpose of this part or any specific provisions of this part.

No complaint may be filed after the expiration of 60 days from the date upon which the alleged violation occurred. This period may be extended for not to exceed 60 days following the expiration of the initial 60 days, if a person allegedly aggrieved by such violation first obtained knowledge of the facts of such alleged violation after the expiration of the initial 60 days from date of its occurrence.

(c) The division may thereupon proceed upon such complaint in the same manner and with the same powers as provided in Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code in the case of an unlawful employment practice.

(d) If an accusation is not issued within 150 days after the filing of a complaint, or if the division earlier determines that no accusation will issue, the division shall promptly notify the person claiming to be aggrieved. This notice shall, in any event, be issued no more than 30 days after the date of the determination or 30 days after the date of the expiration of the 150-day period, whichever date first occurs. Such notice shall indicate that the person claiming to be aggrieved

may bring a civil action under this part against the person named in the verified complaint within one year from the date such notice is mailed. The superior courts of the State of California shall have jurisdiction of such actions. Such an action may be brought in any county in the state in which the violation is alleged to have been committed, or in the county in which the records relevant to such alleged violation are maintained and administered, but if the defendant is not found within any such county, such an action may be brought within the county of defendant's residence or principal office. In a civil action brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney fees.

SEC. 88. Section 35800 of the Health and Safety Code is amended to read:

35800. This part shall be known and may be cited as The Housing Financial Discrimination Act of 1977.

SEC. 89. Section 38224 of the Health and Safety Code is repealed.

SEC. 90. Section 38261 of the Health and Safety Code is repealed.

SEC. 91. Section 38261.2 of the Health and Safety Code is repealed.

SEC. 92. Section 38500 of the Health and Safety Code is repealed.

SEC. 93. Section 41177 of the Health and Safety Code is amended and renumbered to read:

50517. 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 50408, 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 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, (6) recommendations, as needed, to improve operations of the revolving loan fund, and (7) the number of loans made at interest rates lower than the average rate returned by the investment of state funds through the Pooled Money Investment Board for the past five fiscal years and the income of households assisted by such loans.

(e) (1) Except as provided in paragraph (2) of this subdivision, 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.

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low income households, as described in Section 50105, provided, however, that if the department eliminates interest on a loan, it shall charge a loan origination fee of not to exceed 2 percent of the loan amount.

SEC. 94. Section 41178 of the Health and Safety Code is amended and renumbered to read:

50517.5. (a) The department shall establish a Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants shall be made to local public entities and nonprofit corporations for the construction or rehabilitation of housing for agricultural employees and their families. Under such program, grants may also be made for the purchase of land in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to such housing. No part of a grant made pursuant to this section may be used for project organization or planning.

Such program shall be administered by the Director of Housing and Community Development and such officers and employees of the department as he may designate. It is the intent of the Legislature that, in administering the program, the director shall facilitate, to the greatest extent possible, the construction and rehabilitation of permanent dwellings for year-around occupancy

and ownership by agricultural employees, including ownership of the sites upon which such dwellings are located.

(b) The Farmworker Housing Grant Fund is hereby created in the State Treasury. All money in the fund is continuously appropriated to the department for making grants pursuant to this section and for costs incurred by the department in administering such grant program.

(c) Grants made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.

(d) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents such as may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds granted pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that such increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds granted pursuant to this section.

(4) Require that grantees and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds granted pursuant to this section enter into an agreement with the department providing for regulation of the disposition of such housing. In order to assure that the housing assisted pursuant to this section remains continuously available to carry out the purposes of this section, such agreement shall, among other things, require prior department approval of any sale or conveyance of housing assisted under this section. In the event that a sale or conveyance of such assisted housing will result in continued use of such housing by agricultural employees, the department may approve such sale or conveyance provided that (i) no profit is realized by the grantee as a result of the sale, or (ii) if a loss cannot be avoided in such a sale, that the net proceeds of the sale be apportioned between the grantee and the department in proportion that the grantee's funds or contributions bears to the state's grant funds in the project at the time of the sale and that the department's share of such excess funds be returned to the department for deposit in the Farmworker Housing Grant Fund.

In the event that the department determines that the assisted housing is no longer suitable for such purposes or that there is no

need for such housing, it may approve a sale at a profit, provided (i) that the entire amount of the grant made by the department be returned to it for deposit in the Farmworker Housing Grant Fund, and (ii) that proceeds of such sale in excess of the state's and grantee's funds and contributions be apportioned between the grantee and the department in the proportion that the grantee's funds or contributions bears to the state's grant funds in the project at the time of the sale and that the department's share of such excess funds be returned to the department for deposit in the Farmworker Housing Grant Fund. However, if a loss cannot be avoided in such a sale, the department may approve the sale provided (i) the state has first claim to the net proceeds from the sale up to the amount of its original grant to the project in the event that the sponsor is a nonprofit corporation or (ii) in the event that the sponsor is a local public entity, that the net proceeds of the sale be apportioned between the grantee and the department in the proportion that the grantee's funds or contributions bears to the state's grant funds in the project at the time of the sale and that the department's share of such excess funds be returned to the department for deposit in the Farmworker Housing Grant Fund. For purposes of this paragraph, construction loans or long-term financing made to a grantee by a public or private lender to construct or rehabilitate housing assisted pursuant to this section shall not be considered as part of the grantee's funds or contributions in calculating the grantee's share in the event of the disposition or resale of the assisted housing.

(5) Regulate the terms of occupancy agreements to be used in housing assisted pursuant to this section.

(6) Provide bilingual services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit which is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order such repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 50408, a current report of the Farmworker Housing Grant Program. Such report shall include, but need not be limited to: (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants made to each nonprofit corporation

and local public entity in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant under this section, and an identification of each such source, and (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance.

(g) As used in this section:

(1) "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 stock cooperative as defined in Section 11003.2 of the Business and Professions Code.

(2) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code.

(3) "Housing" may include, but need not be limited to, conventionally constructed units, factory-built units constructed in accordance with the provisions of Part 6 (commencing with Section 19960) of Division 13 of this code, and mobilehome units constructed in accordance with the provisions of the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401 et seq.).

SEC. 95. Section 41338 of the Health and Safety Code is amended and renumbered to read:

50958. Loans made pursuant to this part to housing sponsors, other than nonprofit housing sponsors, of rental housing developments shall not exceed 95 percent of the development costs of the housing development for which the loan is made. Loans made pursuant to this part to local public entities and nonprofit housing sponsors shall in no event exceed 100 percent of development costs and shall not exceed 98 percent of development costs unless (1) the local public entity or nonprofit housing sponsor has or will participate in the housing development with another local public entity or nonprofit housing sponsor which has a significant past record of successful residential development and not more than 30 percent of the units in such housing development will be occupied by very low income family households, or (2) the housing development will be designed for occupancy by elderly or handicapped households. In evaluating the significance of the past record of a nonprofit housing sponsor for purposes of this section, the agency shall take into consideration exclusionary or discriminatory lending policies or practices of the mortgage finance industry or government mortgage programs which have limited the record of past housing production or development by the nonprofit housing sponsor.

SEC. 96. Section 41455 of the Health and Safety Code is amended and renumbered to read:

51125. The agency may invest in, purchase, or make commitments to purchase, and take assignments from qualified mortgage lenders of, construction loans, mortgage loans, obligations

secured by construction loans or mortgage loans, and participations therein for financing or refinancing of housing developments.

The agency may also invest in, purchase, or make commitments to purchase, and take assignments from qualified mortgage lenders of, loans for rehabilitation or home improvements not secured by a mortgage but wholly or partially insured by an agency or instrumentality of the United States, or participation in such loans.

Such construction loans, mortgage loans, obligations secured by construction loans or mortgage loans, rehabilitation and home improvement loans, or participations therein may be held or sold by the agency, or the agency may create pools of such loans, obligations, and participations held by the agency and may sell securities backed by such pools.

SEC. 97. Section 41457 of the Health and Safety Code is amended and renumbered to read:

51127. The agency may insure or guarantee any obligation held by the agency and secured by a mortage on a single-unit housing development for the purpose of increasing its acceptability or value for sale or as security for other obligations. The agency may also insure or guarantee any loan, or participation in a loan, for rehabilitation or home improvement which is insured by an agency or instrumentality of the United States and which is held by the agency. Nothing in this section shall, however, be construed as authorizing the creation of a debt or liability of the state within the meaning of Section 1 of Article XVI of the State Constitution.

SEC. 98. Section 41500 of the Health and Safety Code is amended and renumbered to read:

51230. Not less than 30 percent nor more than 40 percent of the units financed by the agency during each fiscal year for very low-income households shall be designed specifically for occupancy by elderly persons. The agency shall in each fiscal year, finance at least that number of rental units designed for occupancy and accessibility by persons with orthopedic disabilities necessary to make such units equal to the same percentage relationship to the total number of rental units as such persons comprise when compared to the total population of the state. The percentage shall only, however, relate to those persons qualified by income and the percentage relationship shall be verified according to submarket areas within the state.

SEC. 99. Section 41557 of the Health and Safety Code is amended and renumbered to read:

51310. 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 51063. Relocation payments shall also be made to owners involuntarily displaced because of inability to afford costs of compliance required pursuant to this chapter.

SEC. 100. Section 41700 of the Health and Safety Code is

amended and renumbered to read:

51350. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 51360, 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 tax-exempt 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), 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.

SEC. 101. Section 41715 of the Health and Safety Code is amended and renumbered to read:

51368. 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 payments 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.

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. 102. Section 42063 of the Health and Safety Code is amended and renumbered to read:

51853. In addition to insurance of loans authorized by Section 51852, 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.

(c) Loans for rehabilitation or home improvements wholly or partially insured or guaranteed by an agency or instrumentality of the United States or participation in such loans.

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. 103. Section 42064 of the Health and Safety Code is amended and renumbered to read:

51854. 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, or the loan shall be wholly or partially insured or guaranteed by an agency or instrumentality of the United States.

(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 prinicipal 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 51302.

(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 51063. 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 costs 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. 104. Section 50517 of the Health and Safety Code is repealed.

SEC. 105. Section 50958 of the Health and Safety Code is repealed.

SEC. 106. Section 51125 of the Health and Safety Code is repealed.

SEC. 107. Section 51127 of the Health and Safety Code is repealed.

SEC. 108. Section 51230 of the Health and Safety Code is repealed.

SEC. 109. Section 51310 of the Health and Safety Code is repealed.

SEC. 110. Section 51350 of the Health and Safety Code is repealed.

SEC. 111. Section 51368 of the Health and Safety Code is repealed.

SEC. 112. Section 51853 of the Health and Safety Code is repealed.

SEC. 113. Section 51854 of the Health and Safety Code is repealed.

SEC. 114. Section 1858.2 of the Insurance Code is amended to read:

1858.2. At the election of the commissioner, or if the insurer organization group or association does not make such changes as may be necessary to correct the noncompliance specified in the notice issued under Section 1858.1, or at the request of such person as provided for in Section 1858.1, or if such person has failed to establish to the satisfaction of the commissioner that such noncompliance does not exist, then the commissioner may hold a public hearing by mailing a notice to such person not less than 30 days prior to the date set for hearing specifying the matters to be considered at the hearing.

SEC. 115. Section 11512.4 of the Insurance Code is amended to read:

11512.4. (a) Blanket hospital service contracts may be issued to a college or school or to the head or principal thereof or to the governing board of any school district providing for services to pupils of such schools when such services are required as the result of accident to such pupils while they are required to be in or on buildings or other premises of the school or district during the time they are required to be therein or thereon by reason of their attendance upon a college or regular day school or any regular day school of a school district or while being transported to and from school or other place of instruction. No pupil shall be compelled to accept such service without the consent of his parent or legal guardian.

(b) A blanket hospital service contract authorized by this section may include either a coordination of benefits contract provision or a nonduplication of benefits contract provision, at the option of the contracting agency. Any contract containing such a provision shall disclose to the contracting agency, or the parents or legal guardians of pupils served by such contract, the essential features of any such provision. All such disclosures shall state whether or not the services

provided under such blanket hospital service contract are subject to reduction, to the extent provided in such contract, if an individual covered thereunder is entitled to benefits, whether on an indemnity basis or on a provision-of-service basis, for hospital, medical, dental, or surgical expenses under any other valid and collectible individual, group, or blanket insurance policy or contract, hospital or medical service program, or group-practice prepayment plan, except for automobile medical payments insurance.

The disclosure material shall be submitted to the commissioner for review along with the blanket hospital service contract.

(c) A blanket hospital service contract providing the coverages specified under the provisions of subdivisions (a), (b), (c), (d), and (e) of Section 10270.2, other than accidental death or dismemberment benefits, may be issued to any class of persons eligible for such coverages under Section 10270.2, or a group hospital services contract providing the coverages specified under the provisions of paragraph (5) of subdivision (a) of Section 10270.5, other than accidental death or dismemberment benefits, may be issued to any class of persons eligible for such coverages under paragraph (5) of subdivision (a) of Section 10270.5.

SEC. 116. Section 11512.8 of the Insurance Code is amended to read:

11512.8. A hospital service contract may provide for payment of professional mental health expenses upon a reimbursement basis, or for the exclusion of such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the employee first pay such expenses. No such contract shall prohibit the subscriber 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, any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code to perform the particular services covered under the terms of the contract, such certificate or license holder being expressly authorized by law to perform such services.

SEC. 116.5. 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, 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 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 involvent 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 workers' 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 workers' 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 of 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 workers' 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 jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor become 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. 117. Section 11656.6 of the Insurance Code is amended to read:

11656.6. An insurer may issue a workers' compensation policy insuring an organization or association of employers as a group if such organization or association complies with the following conditions:

(a) Files with the commissioner or a licensed workers' compensation rating organization designated by him:

(1) A copy of its articles of incorporation and bylaws or its agreement of association and rules and regulations governing the conduct of its business, all certified by the custodian of the originals thereof;

(2) A statement setting forth its reasons for desiring insurance as a group;

(3) A statement certifying that at least 75 percent of its regular membership is engaged in a common trade or business, and an agreement that such percentage of membership will be maintained during such time as a group workers' compensation policy issued to such organization or association is in force;

(4) An agreement that only those members who are engaged in a common trade or business shall be named by the organization or

association in any statement to the commissioner, a licensed workers' compensation rating organization or insurer as eligible for insurance as a member of the group, and an agreement that it will immediately notify its insurer if any member of such organization fails to remain a member in good standing in accordance with the basic law, rules and regulations of such organization or association;

(5) A statement in writing undertaking to establish and maintain a safety committee which by education and otherwise will seek to reduce the incidence and severity of accidents; and

(6) An agreement in writing duly executed guaranteeing that, if the insurer notifies the organization or association of the nonpayment of a premium by an insured member of the organization or association within 60 days after the premium was due, the organization or association will pay to the insurer the amount of any past due premium which does not exceed the amount of the dividends that are due to the organization or association or its members from the insurer. The organization or association shall promptly notify the insurer of the known insolvency of any member of the group plan, and shall request upon learning of such insolvency, removal of the member from the group plan. A copy of the resolution of the governing board of such organization or association authorizing the execution of the guarantee agreement shall be filed with the commissioner or a licensed workers' compensation rating organization designated by him and with any insurer issuing a group policy.

(b) "Common trade or business" as used in this article shall mean:

(1) In agricultural enterprises, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to farms; nurserymen; cultivating or gardening of flowers; and classifications embracing such other operations as may be conducted by a nonprofit cooperative association composed of producer members and combinations of nonprofit cooperative agricultural marketing associations having a central organization composed of member associations.

(2) In the building and construction industry, operations in the construction or repair of commercial or residential buildings or in general engineering construction in which the principal payroll develops under any combination of the classifications applicable to such construction or repair as they appear in the Manual of Rules, Classifications and Basic Rates for Workers' Compensation Insurance approved by the Insurance Commissioner. Commercial buildings as defined in this subsection shall mean any nonresidential buildings.

(3) In the transportation and warehousing industry, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to for-hire

motor carriers and warehousemen subject to regulation by the California Public Utilities Commission.

(4) In the timber and lumber industry, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classification and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to land clearing; logging or lumbering; log, chip, and lumber hauling; planing or molding mills; sawmills or shingle mills; veneer or veneer products manufacturing; box or box shook manufacturing; cabinet works; door, door frame or sash manufacturing and wood fiber preparation. However, no classification applicable to for-hire motor carriers under the provisions of paragraph (3) of this subdivision shall be included in any combination of classifications authorized by this paragraph.

(5) For public agencies providing industrial, domestic, or agricultural water service, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classification and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to irrigation, drainage, reclamation or waterworks operations.

(6) For sheltered workshops and rehabilitation facilities licensed pursuant to Section 1191.5 of the Labor Code, operations in which the principal payroll of the employer develops under any combination of classifications of the Manual of Rules, Classification and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner.

(7) For all other enterprises, operations in which the principal payroll develops under a single manual classification.

(c) "Principal payroll," for the purpose of this section, means not less than 51 percent of the total payroll for the preceding policy year or in the case of an employer who has no preceding full year's payroll, not less than 51 percent of his estimated annual payroll.

SEC. 118. Section 4458 of the Labor Code, as added by Chapter 466 of the Statutes of 1976, is amended and renumbered to read:

4458.5. If a member suffers "an injury" following termination of active service, and within the time prescribed in Section 3212, 3212.2, 3212.3, 3212.4, 3212.5, 3212.6, 3212.7, or 3213, then, irrespective of his remuneration from any postactive service employment, his average weekly earnings for the purposes of determining temporary disability indemnity, permanent total disability indemnity, and permanent partial disability indemnity, shall be taken at the maximum fixed for each such disability, respectively, in Section 4453.

SEC. 119. Division 6 (commencing with Section 8000) of the Labor Code is repealed.

SEC. 120. Division 10 (commencing with Section 12000) is added to the Labor Code, to read:

DIVISION 10. CONSTRUCTION AND REPEALS

12000. Wherever in this code reference is made to any officer or agency of the Department of Industrial Relations, it is made in the same sense and with the same legal effect as was attributable thereto in the statute whence derived and which would continue to be so attributable but for the adoption of this code.

12001. The following acts and sections, together with all amendments thereof and all acts supplementary thereto, are hereby repealed:

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SEC. 121. Section 894 of the Military and Veterans Code is amended to read:

894. For students of collegiate, community college, business and trade school rank the amount expended by the department as an allowance for living expenses shall not exceed fifty dollars ($50) per month. Dependents enrolled in the fifth year of any course requiring five years may be considered to be at the undergraduate level. For students of high school rank the amount shall not exceed twenty dollars ($20) per month, during the time the student is in actual attendance at a day school. Absence during the month on account of illness shall be included as part of such attendance.

SEC. 122. Section 895 of the Military and Veterans Code is amended to read:

895. For tuition and fees:

(a) The amount expended on account of any one applicant of undergraduate, collegiate, community college, business, and trade school rank under the provisions of this article shall not exceed the maximum rate authorized for the regular school year under Section 69566 of the Education Code and not to exceed one-third more for students pursuing a summer session or full year course.

(b) For students of high school rank the sum shall not exceed two hundred dollars ($200) a year for students pursuing a regular course and two hundred forty dollars ($240) a year for students pursuing a summer session or full year course.

SEC. 123. 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) 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. 124. 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) The hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and police officers designated by him pursuant to Section 4312 or 4492, respectively, 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 39671 or 72333 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 in pursuit 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.

(20) Transit police officers of the Southern California Rapid Transit District. Before exercising the powers of a peace officer, any person so employed shall have satisfactorily completed the courses of instruction required by Section 832.

(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; provided, that the primary duty of any such peace officer pursuant to paragraph (20) of subdivision (a) shall be the enforcement of the law in or about properties owned, operated or administered by the district when performing necessary duties with

respect to patrons, employees and properties of the district; 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 from within or about properties owned, operated or administered by the district when performing necessary duties with respect to patrons, employees and properties of the district; (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 or about properties owned, operated or administered by the district; 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.

SEC. 125. Section 2931 of the Penal Code is amended to read:

2931. (a) In any case in which an inmate was sentenced to the state prison pursuant to Section 1170, or if he committed a felony before July 1, 1977, and he would have been sentenced under Section 1170 if the felony had been committed after July 1, 1977, 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 given to 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.

(4) A change in custodial status.

(b) Total possible good behavior and participation credit shall result in a four-month reduction for each eight months served in prison or in a reduction based on this ratio for any lesser period of time. Three months of this four-month reduction, or a reduction based on this ratio for any lesser period, 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-month reductions, or a formula based on this ratio for a lesser period, shall be based solely upon participation in work, educational, vocational, therapeutic or other prison activities. 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 for each failure to participate. However, those confined either by choice or due to behavior problems shall be given specified activities commensurate with the custodial status.

SEC. 126. Section 4852.13 of the Penal Code is amended to read:

4852.13. If, after hearing, the court finds that the petitioner has demonstrated by his course of conduct his rehabilitation and his fitness to exercise all of the civil and political rights of citizenship, the court shall make an order declaring that the petitioner has been rehabilitated, and recommending that the Governor grant a full pardon to the petitioner. Such order shall be filed with the clerk of the court, and shall be known as a certificate of rehabilitation.

SEC. 127. 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 persons 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. 128. Section 5094.1 of the Public Resources Code is amended to read:

5094.1. The Secretary of the Resources Agency, with the approval of the Director of Finance and upon specific authorization by the Legislature, may indicate in writing the state's intent to agree to administer any federal multiple-purpose water project land and water areas for recreation or fish and wildlife enhancement, or both of these purposes, as provided in Public Law 89-72. The secretary, as to each proposed state participation, shall submit any proposed indication of intent, together with supporting material, to the Legislature.

The secretary, before requesting legislative authorization, shall determine that the proposed state participation in the project is in compliance with all comprehensive water, recreation, and fish and wildlife plans of the state.

Notwithstanding the provisions of this section, the Department of Fish and Game may review and coordinate the development of fish and wildlife enhancement features at federal water projects with fish and wildlife plans of the state, irrespective of whether the state agrees to administer the project.

SEC. 129. Section 25402.1 of the Public Resources Code is amended to read:

25402.1. In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following:

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by various classes of buildings with various types of occupancies. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

(b) Include a prescriptive method of complying with the standards including design aids such as a manual, sample calculations

and model structural designs. The prescriptive program shall be based on the standards developed pursuant to Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as it existed prior to the effective date of this section.

(c) Produce, no later than 180 days after adoption of the standards, an energy conservation manual for use by designers, builders, and contractors of nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies. The manual shall contain, but not be limited to, the following:

(1) The standards for energy conservation established by the commission.

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings.

(6) The prescriptive method for use as an alternative to the computer program.

(d) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of such services.

(e) The provisions of subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivisions (a) and (b) of Section 25402 and this section applicable to such building.

(2) Where there is no such local building department the

commission shall enforce the provisions of subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto the commission may provide such enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or a city and county may by ordinance or resolution prescribe a schedule of fees sufficient to pay the costs incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by such enforcement.

(f) The provisions of subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to such buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of local energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section provided that the commission finds that such standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections.

(g) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of such regulations.

(h) Should a dispute arise between an applicant for a building permit and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties.

(i) Nothing in Section 25130, 25131, or 25402, or in this section shall be construed to prevent enforcement of any regulation adopted

pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to the effective date of this section.

SEC. 130. Section 25524.25 of the Public Resources Code is amended to read:

25524.25. (a) Notwithstanding any other provision of this division, the commission shall, no later than January 16, 1978, transmit, to each house of the Legislature, its determination as to whether all of the findings required by Sections 25524.1 and 25524.2 can be made at that time. In the event that the commission determines that any of such findings cannot then be made, it shall include in its determination a recommendation as to whether any facilities, or any unit thereof, for which a notice of intention has been filed with the commission before January 1, 1977, should be exempted from the requirements of Sections 25524.1 and 25524.2, and what conditions, if any, should be attached to such exemption.

In making the recommendation required by this subdivision the commission shall consider the following:

(1) The commission's most recent energy and demand forecast as updated to indicate the energy requirement, capacity and supply for the area proposed to be served by any such facilities as identified in the notice of intention at the time the commission's recommendation is made.

(2) The extent to which the need identified in paragraph (1) can be reduced by nongenerational alternatives to the proposed facilities or by reasonable conservation measures, or both.

(3) Whether any practical alternative technology is or will be available to meet the need as determined pursuant to paragraph (1) or (2). For purposes of this paragraph "practical alternative technology" means a facility which uses a form of primary energy for generation other than that proposed for use in the facilities which are the subject of such notice of intention, which alternative facility is or will be economically comparable, for which technology is or will be available, which is environmentally acceptable, and which, in prudent judgment, could be certified and constructed in sufficient time to meet the need determined pursuant to paragraphs (1) and (2) or within the same time period as the facilities subject to this section, whichever is longer.

For purposes of making the findings required by paragraphs (1), (2), and (3) of this subdivision, the commission shall consider, among other things, the record of the proceedings on the notice of intention for such facilities and shall hold such hearings as it deems necessary.

(b) In the event that the commission recommends that the proposed facilities be exempted from Sections 25524.1 and 25524.2, the Legislature, within 90 days of receipt of such recommendation, shall act on it.

SEC. 131. Section 30221 of the Public Resources Code is amended to read:

30221. Oceanfront land suitable for recreational use shall be

protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

SEC. 132. Section 30312 of the Public Resources Code is amended to read:

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.

SEC. 133. Section 311 of the Public Utilities Code is amended to read:

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

The examiners may administer oaths, examine witnesses, issue subpoenas, and receive evidence, under such rules as the commission adopts.

SEC. 134. Section 1231.1 of the Public Utilities Code is amended to read:

1231.1. In each annual budget report prepared by the California Highway Commission and the Department of Public Works under Section 143.1 of the Streets and Highways Code, commencing with the 1966-67 fiscal year, a sum not to exceed one million dollars ($1,000,000) shall be set aside for allocations to the Public Utilities Commission, for the purpose of paying to the railroad or street railroad corporations the share of the cost to cities, counties, and cities and counties of maintaining automatic grade-crossing protection. Payment shall be made on the basis of verified claims filed with the commission by the railroad or street railroad corporation responsible for maintenance of automatic grade-crossing protection. The specific amount of the total allocation shall be determined by the California Highway Commission and shall constitute the amount necessary for such maintenance. In arriving at such amount, the California Highway Commission shall consult with representatives of the Public Utilities Commission. Any amounts not

expended by the Public Utilities Commission in any one fiscal year may be credited to subsequent annual allocations.

Funds appropriated for the purposes specified herein shall be available for allocation and expenditure without regard to fiscal years.

SEC. 135. Section 1405 of the Public Utilities Code is amended to read:

1405. Upon the filing of the petition the commission shall make its order to show cause. The order shall specify the nature of the proceeding, contain a general description of the lands, property, and rights which petitioner desires to acquire by condemnation or otherwise, and direct the owners and claimants named in the petition, who shall also be named in the order, to appear before the commission at a time and place specified in the order, to show cause, if any they have, why the commission should not proceed to hear the petition and to fix the just compensation to be paid for the lands, property, and rights.

The order shall direct the executive director of the commission to serve or cause to be served upon each owner and claimant a copy of the order certified under the seal of the commission to which shall be attached a copy of the petition.

SEC. 136. 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 issued pursuant to Article 5 (commencing with Section 816) and Article 6 (commencing with Section 851) of Chapter 4 of this division relating to security transactions and the transfer or encumbrance of utility property.

SEC. 137. Section 5006 of the Public Utilities Code is amended to read:

5006. The commission shall, within 30 days prior to commencement of the regular session of the Legislature, submit to the Governor a full and true report of transactions under this chapter during the preceding biennium, including a complete statement of

receipts and expenditures during the period.

SEC. 138. Section 99244 of the Public Utilities Code is amended to read:

99244. Each transportation planning agency shall annually identify, analyze, and recommend potential productivity improvements which could lower the operating costs of those operators who operate at least 50 percent of their vehicle service miles, as defined in subdivision (h) of Section 99247, within the area under its jurisdiction. However, where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall have the responsibility of the transportation planning agency with respect to potential productivity improvements. The recommendations for improvements and productivity shall include, but not be limited to, those recommendations related to productivity made in the performance audit conducted pursuant to Section 99246.

A committee for the purpose of providing advice on productivity improvements shall be formed by the responsible entity. The membership of this committee shall consist of representatives from the management of the operators, organizations of employees of the operators, and users of the transportation services of the operators located within the area under the jurisdiction of the responsible entity.

Prior to determining the allocation to an operator for the next fiscal year, the responsible entity shall review and evaluate the efforts made by the operator to implement such recommended improvements.

If the responsible entity determines that the operator has not made a reasonable effort to implement the recommended improvements, the responsible entity shall not approve the allocation to the operator for the support of its public transportation system for the next fiscal year which exceeds the allocation to the operator for such purposes for the current fiscal year.

SEC. 139. Section 434.5 of the Revenue and Taxation Code is amended to read:

434.5. (a) On March 1, 1977, and March 1 of each year thereafter, up to and including March 1, 1979, timberland shall be valued according to the following schedule:

Redwood Region		Pine-Mixed Conifer Region	
Site I	$80	Site I	60
Site II	$60	Site II	$50
Site III	$50	Site III	$40
Site IV	$30	Site IV	$30
Site V (and inoperable)	$20	Site V (and inoperable)	$20

When the assessor, pursuant to Section 434, designates a

timberland parcel or portion thereof as inoperable, such timberland parcel or portion thereof shall be valued as if it is Site V.

The Legislature finds and declares that the foregoing values are consistent with the taxation of timberland used primarily for growing timber and that these values are consistent with the intent of subdivision (j) of Section 3 of Article 13 of the Constitution.

(b) On or before January 1, 1980, and every third year thereafter, the board after consultation with the timber advisory committee and in compliance with procedures set forth for adoption of rules under the Administrative Procedure Act, shall adopt schedules reestablishing the value of each grade of timberland graded pursuant to Section 434 as if it were bare of forest growth, and recognizing that the restricted use of the land is for growing and harvesting timber and compatible uses. The board shall certify such values to county assessors by January 10 of each year. Such schedule shall remain in effect until subsequent revision pursuant to the provisions of this subdivision.

(c) Commencing January 1, 1977, the board shall collect such data as may be necessary to accurately value timberland pursuant to subdivision (b).

(d) In promulgating regulations pursuant to subdivision (b) the board shall determine the value of such timberland subject to the following:

(1) The board shall base the value of such land upon the existence of a 10-year enforceable restriction using commonly accepted systems of valuation.

(2) When the board is valuing timberland property within a timberland preserve zone by comparison with sales of other timberland properties in order to be considered comparable, the properties sold shall be at least 160 acres in size and shall be similarly restricted under a timberland preserve zone. Size and any discount for size and amenities shall not be factors in determining the value of land zoned as timberland preserve which is valued by a method employing the use of comparable sales.

(e) For purposes of this section, the value of each acre of timberland within each site class, within a timberland preserve zone, shall be presumed no greater than the value derived pursuant to subdivision (f).

(f) The board shall:

(1) Prepare, or cause to be prepared, timberland site capability tables which shall prescribe by site classification the potential annual yield of wood by species or mixture of species per acre.

(2) Multiply the potential annual yield by 10 percent.

(3) Multiply the result of paragraph (2) by an immediate harvest value, averaged for the previous 20 quarters, that is appropriate for the geographical area wherein such timberland values shall be applied.

(4) Divide the result of paragraph (3) by a capitalization rate of 10 percent expressed as a decimal.

Pursuant to paragraph (2) of this subdivision, the Legislature declares that 10 percent is the average percent of income from potential annual yield of wood that can be attributed to timberland as a productive component contributing to such income, and the Legislature finds that it is in the public interest that values derived from analysis of sales of timberland restricted under timberland preserve zones shall not exceed this percentage.

(g) For the purposes of this section, the value of each acre of timberland within a timberland preserve zone shall be presumed to be no less than twenty dollars ($20) per acre.

SEC. 140. Section 11747 of the Revenue and Taxation Code is amended and renumbered to read:

17747. (a) (1) If—

(A) A trust (or another trust to which the property is distributed) sells or exchanges property at a gain not more than two years after the date of the initial transfer of the property in trust by the transferor, and

(B) The fair market value of such property at the time of the initial transfer in trust by the transferor exceeds the adjusted basis of such property immediately after such transfer,

there is hereby imposed a tax determined in accordance with paragraph (2) on the includable gain realized on such sale or exchange.

(2) The amount of the tax imposed by paragraph (1) on any includable gain realized on the sale or exchange of any property shall be equal to the sum of—

(A) The excess of—

(i) The tax which would have been imposed under this part for the taxable year of the transferor in which the sale or exchange of such property occurs had the amount of the includable gain realized on such sale or exchange, reduced by any deductions properly allocable to such gain, been included in the gross income of the transferor for such taxable year, over

(ii) The tax actually imposed under this part for such taxable year on the transferor,

plus

(B) If such sale or exchange occurs in a taxable year of the transferor which begins after the beginning of the taxable year of the trust in which such sale or exchange occurs, an amount equal to the amount determined under subparagraph (A) multiplied by the annual rate established under Section 18686.

(3) The tax imposed by paragraph (1) shall be imposed for the taxable year of the trust which begins with or within the taxable year of the transferor in which the sale or exchange occurs.

(4) The tax imposed by this section for any taxable year of the trust shall be in addition to any other tax imposed by this part for such taxable year.

(b) For purposes of this section, the term "includable gain" means the lesser of—

(1) The gain realized by the trust on the sale or exchange of any property, or

(2) The excess of the fair market value of such property at the time of the initial transfer in trust by the transferor over the adjusted basis of such property immediately after such transfer.

(c) For purposes of subdivision (a)—

(1) The character of the includable gain shall be determined as if the property had actually been sold or exchanged by the transferor, and any activities of the trust with respect to the sale or exchange of the property shall be deemed to be activities of the transferor, and

(2) The portion of the includable gain subject to the provisions of Section 18211 and Sections 18212 to 18218, inclusive, shall be determined in accordance with regulations prescribed by the Franchise Tax Board.

(d) If the trust sells the property referred to in subdivision (a) in a short sale within the two-year period referred to in such subdivision such two-year period shall be extended to the date of the closing of such short sale.

(e) Subdivision (a) shall not apply to property—

(1) Acquired by the trust from a decedent or which passed to a trust from a decedent (within the meaning of Section 18044), or

(2) Acquired by a pooled income fund (as defined in Section 17734(e)), or

(3) Acquired by a charitable remainder annuity trust (as defined in Section 17763.1(d)(1)) or a charitable remainder unitrust (as defined in Section 17763.1(d)(2) and (3)), or

(4) If the sale or exchange of the property occured after the death of the transferor.

(f) If the trust elects to report income under Section 17577 or 17578 on any sale or exchange to which subdivision (a) applies, under regulations prescribed by the Franchise Tax Board—

(1) Subdivision (a) shall be applied if each installment were a separate sale or exchange of property to which such subdivision applies, and

(2) The term "includable gain" shall not include any portion of an installment received by the trust after the death of the transferor.

(g) This section shall apply to transfer in trusts made after taxable years beginning after December 31, 1976.

SEC. 141. Section 23332.5 of the Revenue and Taxation Code is amended to read:

23332.5. If a financial corporation ceases doing business, dissolves, or withdraws from the state during any taxable year beginning after December 31, 1972, the tax for the taxable year during which cessation of doing business, dissolution or withdrawal occurs shall be computed as prescribed by subdivision (b) or (d) of Section 23183, 23183.1, or 23183.2. In determining the amount of such tax, a financial corporation will be allowed an offset against the amounts paid during such taxable year to this state as personal property taxes, or as license fees or excise taxes as described in subdivisions (a) to (d), inclusive,

of Section 23184. However, after the allowance of such offsets, the tax on a financial corporation shall not be less than the tax prescribed in Section 23184.

SEC. 142. Section 1656 of the Vehicle Code is amended to read:

1656. (a) The department shall publish the complete text of the California Vehicle Code together with other laws relating to the use of highways or the operation of motor vehicles at least once every two years and may republish the code and laws and distribute the same as may be deemed advisable without charge upon written request of any state or local governmental officer or agency, or of any federal agency. Paperback copies of the Vehicle Code may be distributed without charge to any public secondary school in this state in quantities not to exceed one for each driver training and education instructor and one for each public secondary school library. The department shall sell and distribute the California Vehicle Code to all other persons upon the payment of one dollar ($1) per copy. The receipts from the sale of such publications shall be deposited in the Motor Vehicle Account in the Transportation Tax Fund.

(b) The department shall publish a synopsis or summary of the laws regulating the operation of vehicles and the use of the highways and may deliver a copy thereof without charge with each original vehicle registration and with each original driver's license. The department shall publish such number of copies of the snyopsis or summary in the Spanish language as the director determines are needed to meet the demand for such copies. The department shall furnish both English and Spanish copies to its field offices and to law enforcement agencies for general distribution and, when it does so, shall furnish the copies without charge.

SEC. 143. Section 11614 of the Vehicle Code is amended to read:

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 known, to be untrue or misleading; or to so make or disseminate or cause to be so disseminated any such statement as part of a plan or scheme with the intent not to sell any vehicle or 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.

SEC. 144. Section 21967 of the Vehicle Code is amended to read:

21967. Except as provided in Section 21968, a local authority may adopt rules and regulations by ordinance or resolution prohibiting or restricting persons from riding or propelling skateboards in roadways.

SEC. 145. 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, who is blind, 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 (pO_2) is less than 60 mm/Hg on room air at rest, or who is impaired by cardiovascular disease to the extent that his functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association, 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) Prior to issuing a distinguishing license plate to a person who indicates that he suffers from lung disease or cardiovascular disease to the extent specified in this section, the Department of Motor Vehicles may require a certificate, signed by a licensed physician and surgeon, stating that such person does suffer from lung disease or cardiovascular disease to such an extent.

(c) As used in this section, "blind" means having central visual acuity that does not exceed 20/200 in the better eye, with corrective lenses, as measured by the Snellen test, or visual acuity that is greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle not greater than 20 degrees. The blindness of any person applying to the Department of Motor Vehicles for a distinguishing license plate or placard shall be certified by a licensed physician and surgeon who specializes in diseases of the eye.

(d) 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.

(e) 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. 146. Section 38246 of the Vehicle Code is amended to read:

38246. (a) A penalty shall be added upon any application for

renewal of identification made on or after the day following the expiration date except as provided in Section 4605, 38122, or 38247.

(b) If the fee specified in subdivision (a) or (b) of Section 38255 is not paid within 10 days after such fee becomes delinquent, a penalty shall be added thereto.

(c) When renewal fee penalties have not accrued and the ownership of the vehicle is transferred, the transferee shall have a period of 20 days from the date of such transfer to pay any identification fees which become due without payment of any penalties that would otherwise be required as provided in subdivision (a).

(d) Except as otherwise provided in this section, if any fee is not paid within 20 days after such fee becomes delinquent a penalty shall be added thereto.

SEC. 147. Section 42204 of the Vehicle Code is amended to read:

42204. Notwithstanding any other provisions of law, 50 percent of all fines and forfeitures collected for violations of Division 16.5 (commencing with Section 38000) shall be deposited in the Off-Highway Vehicle Fund for use and disbursement pursuant to Section 38270, and 50 percent of such fines and forfeitures shall be deposited and distributed in the same manner as specified in Section 42201.5.

SEC. 148. Section 13550 of the Water Code is amended to read:

13550. The Legislature hereby finds and declares that the use of potable domestic water for the irrigation of greenbelt areas, including, but not limited to, cemeteries, golf courses, parks, and highway landscaped areas, is a waste or an unreasonable use of such water within the meaning of Section 2 of Article X of the California Constitution when reclaimed water which the state board, after notice and a hearing, finds meets the following conditions is available:

(a) The source of reclaimed water is of adequate quality for such use and is available for such use.

(b) Such reclaimed water may be furnished to such greenbelt areas at a reasonable cost for facilities for such delivery. In determining reasonable cost, the state board shall consider all relevant factors, including, but not limited to, the present and projected costs of supplying potable domestic water to affected greenbelt areas and the present and projected costs of supplying reclaimed water to such areas, and shall find that the cost of supplying such reclaimed water is comparable to, or less than, the cost of supplying such potable domestic water.

(c) After concurrence with the State Department of Health Services, the use of reclaimed water from the proposed source will not be detrimental to public health.

(d) Such use of reclaimed water will not adversely affect downstream water rights, will not degrade water quality, and is determined not to be injurious to plantlife.

The state board may require a public agency to furnish such

information as may be relevant to making the findings required by this section.

SEC. 149. Section 23 of the Welfare and Institutions Code is amended to read:

23. Whenever in any provision of law there is a reference to Chapter 1 (commencing with Section 7000) of Division 7 of the Welfare and Institutions Code relating to community care facilities as defined by Section 1502 of the Health and Safety Code or Chapter 1 (commencing with Section 16000) of Part 4 of Division 9 of the Welfare and Institutions Code or to Chapter 3 (commencing with Section 16200) of Part 4 of Division 9 of the Welfare and Institutions Code, it shall be deemed to mean Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

SEC. 150. Section 206 of the Welfare and Institutions Code is amended to read:

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 Department of Justice as a record of arrest.

SEC. 151. Section 359 of the Welfare and Institutions Code is amended to read:

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 restricted 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 State Department of Mental Health 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. 152. Section 362 of the Welfare and Institutions Code is amended 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 2 (commencing with Section 1250) or 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 Services or State Department of Social Services, 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. 153. Section 601.1 of the Welfare and Institutions Code is amended to read:

601.1. Any person under the age of 18 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of school authorities, and is thus beyond the control of such authorities, or who is a habitual truant from school within the meaning of any law of this state, shall, prior to any referral to the juvenile court of the county, be referred to a school attendance review board pursuant to Section 48263 of the Education Code.

SEC. 154. 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 48291 or Section 48454 of the Education Code.

SEC. 155. 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 300, 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 with 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. 156. 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 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) Maintain and operate sheltered-care facilities, or contract with private or public agencies to provide such services. 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) 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 sheltered-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) Maintain and operate counseling and educational centers, or 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. 157. Section 681 of the Welfare and Institutions Code is amended 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 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 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. 158. Section 701.1 of the Welfare and Institutions Code is amended and renumbered to read:

355.1. Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence of the minor's need of proper and effective parental care, and such proof shall be sufficient to support a finding that the minor is described by subdivision (a) of Section 300.

SEC. 159. Section 701.2 of the Welfare and Institutions Code is amended and renumbered to read:

355.2. Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence that the minor's home is an unfit place for him by reason of the neglect of either of his parents, his guardian, or other person who has the care or custody of said minor, and such proof shall be sufficient to support a finding that the minor is described by subdivision (d) of Section 300.

SEC. 160. Section 701.3 of the Welfare and Institutions Code is amended and renumbered to read:

355.3. Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence that the minor's home is an unfit place for him by reason of the cruelty to him by either of his parents, his guardian, or other person who has the care or custody of said minor, and such proof shall be sufficient to support a finding that the minor is described by subdivision (d) of Section 300.

SEC. 161. Section 701.4 of the Welfare and Institutions Code is amended and renumbered to read:

355.4. Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence that the minor's home is an unfit place for him by reason of the physical abuse of him by either of his parents, his guardian, or

other person who has the care or custody of said minor, and such proof shall be sufficient to support a finding that the minor is described by subdivision (d) of Section 300.

SEC. 162. Section 701.5 of the Welfare and Institutions Code is amended and renumbered to read:

355.5. Proof that either parent, the guardian, or other person who has the care or custody of a minor who is the subject of a petition filed under Section 300, has physically abused, neglected, or cruelly treated another minor shall be admissible in evidence.

SEC. 163. Section 701.7 of the Welfare and Institutions Code is amended and renumbered to read:

355.7. Testimony by a parent, guardian, or other person who has the care or custody of the minor made the subject of a proceeding under subdivision (a) or (d) of Section 300 shall not be admissible as evidence in any other action or proceeding.

SEC. 164. 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 22 (commencing with Section 825) of this chapter until such time as the juvenile court may issue an order that they be sealed pursuant to Section 781.

SEC. 165. 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 sheltered-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 or offenses which brought or continued the minor under the 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. 166. 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 further hearing and order of the court.

SEC. 167. Section 893 of the Welfare and Institutions Code is amended to read:

893. (a) The board of supervisors of any county with a population of five million or more may provide and maintain a school or schools at a juvenile home, ranch or camp for the purpose of meeting the special educational needs of wards and dependent children of the juvenile court. Such school or schools shall be conducted in such a manner and under such conditions as will minister to the specific individualized educational and training needs of each ward and dependent child in furtherance of the objective of assisting each of them, as much as possible, to fulfill his potential to be a contributing, law-abiding member of society. In the event the board of supervisors determines that such objective may be promoted as well as or better by provision of educational and training services by a qualified private organization, the board of supervisors on behalf of the county may enter into annual contracts, with or without options to renew, for the provision of such services by such an organization.

(b) The Legislature hereby finds and determines that there are persons whose educational and vocational backgrounds and personal leadership qualities peculiarly fit them to instruct and train wards of the court in promotion of the aforesaid objective, but who lack certification qualifications. Accordingly, the probation officer is hereby authorized to certify to the county board of education and the Superintendent of Public Instruction that a person employed or to be employed by the probation officer or by an organization retained by contract to provide vocational training or vocational training courses at or in connection with the school or schools is peculiarly fit to provide wards of the court such vocational training in promotion of the aforesaid objective.

Such certification shall specify the type or types of service the person is qualified to provide. Upon filing of such certification, such person shall be deemed to be a certificated employee for purposes of authorizing him to provide the services described in the certificate and for apportionment purposes.

(c) The individual school or schools shall have a maximum enrollment of 100 students.

(d) The county superintendent of schools shall report on behalf of the county the average daily attendance for the schools and classes maintained by the county in such school or schools in the manner provided in Sections 41601 and 84701 of the Education Code and other provisions of law.

(e) The Superintendent of Public Instruction shall compute the amount of allowance to be made to the county by reasons of the average daily attendance at such school or schools by multiplying the average daily attendance by the foundation program amount for a high school district which has an average daily attendance of 301 or more during the fiscal year, and shall make allowances based thereon and shall apportion to the county, the allowances so computed in the same manner and at the same times as would be done with respect to allowances and apportionments to the county school service fund.

SEC. 168. Section 900 of the Welfare and Institutions Code is amended to read:

900. (a) If it is necesssary 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. 169. Section 940 of the Welfare and Institutions Code is amended to read:

940. The board of supervisors in every county may provide and maintain, at the expense of the county, in a location approved by the judge of the juvenile court, or in counties having more than one judge of the juvenile court, by the presiding judge of the juvenile court, a 24-hour school. The school shall be established to provide

education and training for minors in accordance with the provisions of Article 1 (commencing with Section 48600) of Chapter 4 of Part 27 of the Education Code.

SEC. 170. Section 1752.15 of the Welfare and Institutions Code is amended 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 200) 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 300 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. 171. Section 1792.1 of the Welfare and Institutions Code is amended to read:

1792.1. The director shall make annual allocations from funds made available to him for such purposes for administrative expenses to county delinquency prevention commissions established pursuant to Sections 233 and 235 not to exceed one thousand dollars ($1,000) per year for each commission.

SEC. 172. Section 4656 is added to the Welfare and Institutions Code, to read:

4656. (a) A qualified physician and surgeon who diagnoses a developmental disability, as defined in subdivision (a) of Section 4512, of a patient who is a minor shall attempt to determine from the patient, the parents or guardian of the patient, or the regional center for the area whether such person has been previously referred to the regional center for the area. If the patient has not been previously

referred to the regional center, the physician and surgeon shall inform a parent or the guardian of the patient of the existence of the regional center for the area, its address and telephone number, and shall describe to such person the services available through the regional center, and shall, upon request of the parent or guardian of the patient, refer in writing the patient through his parent or guardian to the regional center. Upon obtaining the consent of the patient's parent or guardian, the physician and surgeon shall notify the regional center of such referral.

For the purposes of this section, "qualified physician and surgeon" means those physicians and surgeons who have recognized and accredited training and a specialized pediatric practice in childhood disabilities.

(b) Each regional center shall maintain a record of every developmentally disabled person under the age of 18 years known by the regional center to have been referred to it for its services, whether or not services are actually provided.

(c) The state department shall transmit a copy of this section and of subdivision (a) of Section 4512 to every physician and surgeon licensed to practice in this state and every general acute care hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. A list of the name and address of each regional center and such other pertinent information as the state department deems appropriate shall also be transmitted, both in English and Spanish.

(d) It is not the intent of the Legislature in enacting this section to prevent any physician and surgeon subject to subdivision (a) from providing care or treatment to a developmentally disabled minor or to deprive developmentally disabled minors of adequate care provided through sources other than a regional center.

SEC. 173. Section 4681 of the Welfare and Institutions Code is amended to read:

4681. By July 1, 1977, and each year thereafter, the department shall establish rates, which shall be reviewed by the state council. Such rates shall annually be proposed to the Legislature by March 1 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 department shall 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, 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 department, 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 individual program plan developed pursuant to Section 4646 shall determine the amount of "direct supervision" required for each individual. 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 rates 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, taxes, interest, insurance, depreciation, 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 develcpmental disabilities.

(f) When applicable, rates established for proprietary facilities shall include a reasonable "proprietary fee."

(g) Rates established for all facilities shall include as a "factor" an amount to reflect differences in the cost of living for different geographic areas in the state.

SEC. 174. Section 4681.2 is added to the Welfare and Institutions Code, to read:

4681.2. The Legislative Analyst shall conduct a study of the feasibility of establishing an independent rate-setting commission responsible for the establishment of rates and fees for community care facilities as defined in Section 1502 of the Health and Safety Code, and health facilities, as defined in Section 1250 of the Health and Safety Code, for developmentally disabled persons and report thereon to the Legislature no later than March 1, 1978. The study shall evaluate the feasibility of adopting a system similar to the rate-setting system for public utilities in California.

SEC. 175. Section 4825 of the Welfare and Institutions Code is amended to read:

4825. This chapter shall not be construed to terminate any appointment of the State Department of Mental Health as guardian of a developmentally disabled person prior to July 1, 1971.

It is the intent of this section that the Director of Developmental Services 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 of the Health and Safety Code.

Notwithstanding Section 6000, 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 4563 and 4803. 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 4566, any adult developmentally disabled person who is competent to do so may apply for and receive any services provided by a regional center.

SEC. 176. Section 5907 of the Welfare and Institutions Code is repealed.

SEC. 177. Section 9203 of the Welfare and Institutions Code is amended to read:

9203. The commission may accept gifts and grants from any source, public or private, to assist it in the performance of its functions, and such gifts and grants shall operate to augment any appropriation made for the support of the commission, provided that

the department shall serve as the fiscal agent for the accounting of such gifts and grants and that no gifts or grants shall be used for the operation by the commission of direct service programs which would conflict with the department's duties and functions as described in law.

SEC. 178. Section 10654 of the Welfare and Institutions Code is amended to read:

10654. The Division of Vocational Education of the State Department of Education shall have primary responsibility for the education and training of public assistance recipients. The Secretary of the Health and Welfare Agency shall through the Employment Development Department work with the State Department of Education to develop vocational education programs which will meet the particular requirements and needs of recipients of public assistance whenever it is determined that such special programs will substantially improve such recipients' capacity to achieve self-support or self-direction. The Employment Development Department shall determine the kinds, quality, and number of persons requiring such education.

SEC. 179. Section 10655 of the Welfare and Institutions Code is amended to read:

10655. The Employment Development Department shall have primary responsibility for placement and other employment services for public assistance recipients; provided, however, that a county department may refer a public assistance recipient to a private employment agency at the same time the recipient is referred to the Employment Development Department. For the purposes of this section, a county department is authorized to enter into contracts with any private employment agencies under such terms and conditions and for such rates as the county department deems reasonable; provided, that once a public assistance recipient has been placed in employment by such an agency, a county department may not contract again with a private employment agency for placement of that recipient within six months of the original date of placement.

No referral or contract authorized under this section shall result in the recipient's paying any fee, part of wages or other charges to the county department or private employment agency for such services.

SEC. 180. Section 11017.1 of the Welfare and Institutions Code is amended to read:

11017.1. Notwithstanding the provisions of Section 11017, the State Department of Social Services, at the next computation of annual cost-of-living adjustments for public assistance payments on and after August 28, 1969, under Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code, shall make all such adjustments to the nearer fifty cents ($0.50) in order that all future grant computations and payments may be made to the nearer dollar. Thereafter subsequent cost-of-living adjustments shall be made to the nearer dollar.

SEC. 181. Section 11170 of the Welfare and Institutions Code is

amended to read:

11170. Upon discovery that persons receiving public assistance were improperly granted homeowners' exemptions for fiscal year 1972–1973 and preceding fiscal years, a county may request from the Director of Social Services, as unmet shelter needs, the amounts required to cancel any escape assessment existing at the time of the request.

SEC. 182. Section 14150.5 of the Welfare and Institutions Code is amended to read:

14150.5. (a) 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 Sections 41200 and 84200 of the Education Code for the local roll of the county with the factors so certified for the two immediately preceding years, such factors being those as corrected pursuant to subdivision (b) of Section 1819 of the Revenue and Taxation Code. 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.

(b) For the 1977–78 fiscal year only, the amount determined pursuant to subdivision (a) of this section shall be reduced for each county by the amount by which (1) the sum of the actual amount determined under Section 12400 for the 1976–77 fiscal year plus the

amount determined under Section 14150 for the 1976–77 fiscal year exceeds (2) the sum of the amounts that would have been derived for the 1976–77 fiscal year under Sections 12400 and 14150, if the factor for the base year certified under Sections 41200 and 84200 of the Education Code had been used to determine the base-year modified assessed value, instead of the average of the factor certified for the base year with the factors certified for the two immediately preceding years.

If the amount determined under (2) exceeds the amount determined under (1), then the amount determined pursuant to subdivision (a) shall be used as the basis for determining the amount due from each county.

SEC. 183. Section 15100 of the Welfare and Institutions Code is amended to read:

15100. A revolving fund in the State Treasury is hereby created to be known as the Welfare Advance Fund. All moneys in the fund are appropriated for the purpose of making payments or advances to counties or the Employment Development Department of the state and federal shares of assistance, work incentive or medical care programs or the cost of administration of such programs, and for the payment of refunds.

Payments or advances of funds to counties or the Employment Development Department, which are properly chargeable to appropriations made from other funds in the State Treasury, may be made by Controller's warrant drawn against the Welfare Advance Fund. For every warrant so issued, the several purposes and amounts for which it was drawn shall be identified for the payee.

The amounts to be transferred to the Welfare Advance Fund at any time shall be determined by the department, and, upon order of the Controller, shall be transferred from the funds and appropriations otherwise properly chargeable therewith to the Welfare Advance Fund.

Refunds of amounts disbursed from the Welfare Advance Fund shall, on order of the Controller, be deposited in the Welfare Advance Fund, and, on order of the Controller, shall be transferred therefrom to the funds and appropriations from which such amounts were originally derived. Claims for amounts erroneously paid into the Welfare Advance Fund shall be submitted by the department to the State Controller who, if he approves such claims, shall draw his warrant in payment thereof against the Welfare Advance Fund.

All amounts increasing the cash balance in the Welfare Advance Fund, which were derived from the cancellation of warrants issued therefrom, shall, on order of the Controller, be transferred to and in augmentation of the appropriations from which such amounts were originally derived.

SEC. 184. Section 16115.5 of the Welfare and Institutions Code is amended to read:

16115.5. It is not the intent of Chapter 1724 of the Statutes of 1971 to increase expenditures but to provide for temporary payments to

selected adoptive parents in the same way that such persons would be eligible to receive aid payments if they were to apply for a boarding home license.

SEC. 185. Section 18330 of the Welfare and Institutions Code is amended to read:

18330. In each case where the Director of the State Department of Aging determines that the failure or inability of any contractor adequately to perform the terms of a contract for a nutrition project established pursuant to this chapter requires the suspension, termination or withholding of funding for that project in accordance with applicable law, the State Department of Aging may provide on a purchase-of-service basis the services which otherwise would have been provided by that project for a period not to exceed 60 consecutive days where necessary to avoid interruption of provision of nutrition services to eligible individuals.

SEC. 186. An article heading is added immediately preceding Section 19300 of the Welfare and Institutions Code, to read:

Article 1. General Provisions

SEC. 187. The heading of Article 1 (commencing with Section 19325) of Chapter 4 of Part 2 of Division 10 of the Welfare and Institutions Code is amended and renumbered to read:

Article 2. Vocational Evaluation and Work Adjustment

SEC. 188. Article 5 (commencing with Section 19975.01) of Chapter 1 of Division 11 of the Welfare and Institutions Code is repealed.

SEC. 189. Any section of any act enacted by the Legislature during the 1978 portion of the 1977–78 Regular Session, which takes effect on or before January 1, 1979, and which amends, amends and renumbers, adds, or repeals a section amended, amended and renumbered, or repealed by this act, shall prevail over this act, whether such act is enacted prior to subsequent to this act.

CHAPTER 381

An act relating to county service areas, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978]

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

SECTION 1. Notwithstanding Sections 54902, 54902.1 and 54903 of the Government Code, any county service area which is formed to provide recreation services, the formation of which is completed by January 12, 1978, shall be effective for assessment and taxation purposes for the 1978–79 fiscal year if the statement and map or plat required by Sections 54900 and 54901 of the Government Code were filed with the State Board of Equalization and each assessor whose roll is used for the levy on or before January 18, 1978.

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 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. 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 assessment and taxation of property in county service areas providing recreation services may be accomplished in fiscal year 1978–79 in accordance with county service area boundary changes which have taken place, it is necessary that this act take effect immediately.

CHAPTER 382

An act to add Section 61601.6 to the Government Code, relating to the Baker Community Services District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 61601.6 is added to the Government Code, to read:

61601.6. Notwithstanding the provisions of Sections 61600 and 61601, whenever the Board of Directors of the Baker Community Services District determines by resolution that it is feasible, economically sound, and in the public interest for the district to exercise its power for the purpose of constructing, improving, maintaining, and operating television translator facilities and related services, or for the purpose of providing, maintaining, operating, and contracting for emergency medical health care facilities and services, the board shall adopt such additional purpose by resolution

entered in the minutes, and the powers of such district may be exercised therefor; provided, no more than six translators shall be erected by such district and no more than six television channels shall be provided by such district.

If such district adopts as an authorized purpose the providing, maintaining, operating, and contracting for emergency medical health care facilities and services, such district may exercise any of the powers, functions, and duties which are vested in, or imposed upon, a hospital district pursuant to the Local Hospital District Law, Division 23 (commencing with Section 32000) of the Health and Safety Code, insofar as these powers, functions, and duties relate to the provision of emergency medical health care facilities and services.

Such board may thereafter divest such district of the power to provide such facilities and services in the same manner as it may acquire such power.

SEC. 2. The Legislature finds and declares that the Baker Community Services District has a special need for the power to provide television translator services and emergency medical health care facilities and services within the area of the Baker Community Services District. The Legislature further finds and declares that a general law cannot be made applicable to this special situation and it is, therefore, necessary to enact Section 1 of this act.

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

This act will authorize the Baker Community Services District to provide for much needed continuous emergency medical health care which is not presently available in the area. In order that such care may be provided at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 383

An act to amend Section 2019 of the Code of Civil Procedure, relating to discovery.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 2019 of the Code of Civil Procedure is amended to read:

2019. (a) (1) A party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. The notice shall state the time and place for

taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. Such notice must be at least 10 days, adding also one day for every 300 miles of the distance of the place of examination from the residence of the person to whom the notice is given, except that on motion of any party, with or without notice, and for good cause shown, the court may enlarge or shorten the time, or may stay the taking of the deposition until the hearing and determination of a motion for an order pursuant to subdivision (b) of this section. Service of such notice or motion may be made upon any party or his attorney in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) Notwithstanding Section 1989 and the distance provisions specified in paragraph (4) of this subdivision, the deposition, whether of a party or any other person, shall be taken only in the county of residence of the deponent or at a place not more than 75 miles from the residence of the deponent or, if the deponent is a party in the county of place of trial when the place of depostion is less than 150 miles from the residence of the deponent, unless the court, pursuant to paragraph (1) or (2) of subdivision (b) of this section, otherwise orders. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions.

(3) If an adverse party is in default for not appearing within the time allowed by the law or the court, or if, in a special proceeding, some or all of the parties interested have not appeared, a depostion may be taken without the giving of any notice to the party so in default or not appearing; and in any case on motion of any party, with or without notice, and for good cause shown, the court may authorize the taking of a deposition without the giving of notice to parties who have not been served with summons.

(4) In the case of depositions of a party to the record of any civil action or proceeding or of anyone who at the time of taking the deposition is an officer, director or managing agent of any such party, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney for such party or to the party, if he has no attorney. In the case of depositions of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who at the time of taking the deposition is an officer, director, or managing agent of any such person, the service of a subpoena upon any such deponent is not required if proper notice of the taking of such deposition is given to the attorney of the party prosecuting or defending the action or proceeding for the immediate benefit of the deponent or to such party, if he has no attorney. A notice to take the deposition of a person described in this paragraph cannot require the attendance of such person at a place more than 150 miles from the

residence of such person, unless the party desiring to take such deposition first obtains an order pursuant to the provisions of paragraph (2) of subdivision (b) of this section.

(5) In the case of depositions for which the production of books, documents, or other things is required of a party to the record of any civil action or proceeding or person for whose immediate benefit an action or proceeding is prosecuted or defended or anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena duces tecum and affidavit upon any such person is not required if proper notice is served upon the attorney of such party or person. Such notice shall specify the exact materials or things to be produced.

(6) A party may, in his notice or in a subpoena, name as the deponent a public or private corporation or partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent, to testify on its behalf, and may set forth, for each person designated, the matters on which he will testify in accordance with the demand. A subpoena shall advise a non-party organization of its duty to make such a designation. The person so designated shall testify as to matters known or reasonably available to the organization. This subdivision does not preclude taking a deposition by any other procedure authorized by law and does not preclude the party, on such terms as are just, from offering evidence by other witnesses regarding the matters specified in the notice or subpoena.

(b) (1) Upon motion seasonably made by any party or by the person to be examined or notified to produce books, documents, or other things and upon notice, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case for good cause shown, the court in which the action is pending may make an order that the deposition shall not be taken, or that it may be taken only at some designated time or place other than stated in the notice of taking the deposition, or that the deposition may be taken outside the county of residence and at a place more than 75 miles and less than 150 miles from the residence of the deponent in cases not provided for by paragraph (2) of subdivision (a) of this section, or that it shall not be taken except by allowing written interrogatories by one or more parties, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, books, documents, or other things, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed the deposition shall be opened only by order of the court, or that secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; or the court may make any other order which justice

requires to protect the party or witness from annoyance, embarrassment, or oppression. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs and expenses, including attorney's fees, as the court may deem reasonable.

(2) Notwithstanding Section 1989, the court may, upon motion on 10 days' written notice and for good cause shown, make an order requiring a deponent who is a party to the record of any civil action or proceeding or is a person for whose immediate benefit the action is prosecuted or defended or is at the time of the taking of the deposition an officer, director, or managing agent of any such party or person to attend a deposition at a place more than 150 miles from the residence of such deponent. In granting or refusing such order, the court shall consider whether the moving party selected the forum, whether the deponent will be present at the trial, the convenience of the deponent, the suitability of discovery through a deposition by written interrogatories or other discovery methods, the number of depositions sought under this section, the expense to the parties of requiring the deposition to be taken within 150 miles of the residence of the deponent, the whereabouts of the deponent at the time the deposition is scheduled to be taken, and all other factors tending to show whether or not the interests of justice and the convenience of the parties and witnesses will be served by requiring the deponent to appear for his deposition at a place more than 150 miles from his residence. Such order may provide that the party desiring to take such deposition shall pay the reasonable expenses incurred by the deponent in attending such deposition and that he furnish an undertaking approved by the court to secure such payment and may contain such other terms and conditions as are equitable and just.

(c) The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim.

(d) At any time during the taking of the deposition, on motion of any party or of the deponent, or upon the court's own motion and after giving counsel an opportunity to be heard, and in either case upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or

the superior court in the county where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subdivision (b) of this section. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. In granting or refusing such order the court may impose upon either party or upon the witness the requirement to pay such costs or expenses, including attorney's fees, as the court may deem reasonable.

(e) Unless the parties agree on the record to another procedure for reading, correcting, and signing the original of the deposition, when the testimony is fully transcribed the officer shall notify the deponent and counsel in writing that the original of the deposition is available for reading, correcting, and signing at the office of the officer, and shall remain so available during business hours of business days for a period of 30 calendar days following such notification. The examination and reading of the transcribed testimony may be waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition. The deponent may correct or approve or refuse to approve the deposition for a period of 30 days following the notification prescribed in this subdivision by means of a letter addressed and mailed or delivered to the transcribing officer indicating any changes to be made, approval, or refusal to approve the deposition. Such changes, approval, or refusal to approve the deposition, when made by letter, shall be equivalent to personal changes, approval, or refusal to approve the deposition.

If the deponent fails to appear at the office of the officer or notify him by letter as provided in this subdivision within such 30-day period, or if the witness so appears or sends such letter but refuses to approve or sign the deposition, the officer shall indicate on the original the fact that the deponent failed to appear, or the fact that the deponent refused to sign together with any reason given therefor, and file it with the court. Thereafter the deposition shall have the same force and effect as though it had been read, corrected and signed by the deponent, unless on a motion to suppress under subdivision (d) of Section 2021 the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) (1) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly file it with the court in which the action is pending or send it by registered mail to the clerk thereof for filing.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

(3) The party taking the deposition shall give prompt notice of its filing to all other parties.

(g) (1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the amount of the reasonable expenses incurred by him and his attorney in so attending, including reasonable attorney's fees.

CHAPTER 384

An act to amend Section 75105 of, and to add Section 75005 to the Government Code, relating to the Judges' Retirement Law.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 75005 is added to the Government Code, to read:

75005. Notwithstanding any other provision of law, the provisions of this chapter shall be administered and governed by the Board of Administration of the Public Employees' Retirement System and the term "State Controller" or "Controller" as used in this chapter, or any other provision of law relating to the chapter, shall be construed to refer to and mean the "Board of Administration of the Public Employees' Retirement System"; however, the State Controller shall continue to perform the duties prescribed in Sections 75101 and 75102.

All payments from the Judges' Retirement Fund shall be made upon warrants drawn by the State Controller upon demands by the Board of Administration of the Public Employees' Retirement System.

SEC. 2. Section 75105 of the Government Code is amended to read:

75105. The Board of Administration of the Public Employees' Retirement System shall have authority to invest the money

contained in the Judges' Retirement Fund in the same manner and subject to the same restrictions as investments of the Public Employees' Retirement Fund.

SEC. 3. The Department of Finance shall make the necessary budgetary adjustments to reflect the provisions of this act.

SEC. 4. The Legislative Analyst shall investigate and study the efficiency of administration of the Judges' Retirement Law by the Board of Administration of the Public Employees' Retirement System and the rate of return on the investment of funds of the Judges' Retirement Fund by the board pursuant to this act, and shall report his findings and recommendations thereon on or before March 1, 1983, to the Senate Committees on Finance and Public Employment and Retirement and to the Assembly Committees on Ways and Means and Public Employees and Retirement.

SEC. 5. This act shall become operative July 1, 1979.

CHAPTER 385

An act to amend Sections 20330, 20981, 20983.5, 20983.6, and 21101 of, to add Section 7508 to, and to repeal Sections 21156, 21158, 31671.01, and 31671.02 of, the Government Code, relating to mandatory retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 7508 is added to the Government Code, to read:

7508. No public pension and retirement plan shall require any members to retire prior to the attainment of age 70.

This section shall not be construed to apply to persons engaged in active law enforcement or who are firemen.

SEC. 2. 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) Participants, other than staff officers and employees, in the California Conservation Corps.

SEC. 3. Section 20981 of the Government Code is amended to read:

20981. Every state miscellaneous member, school member and local miscellaneous member shall be retired on the first day of the calendar month succeeding that in which he attains age 70; provided that:

(a) Any member who is employed in a teaching capacity on a semester or school-year basis may elect to continue in active service until the end of the semester or school year during which he attains compulsory retirement age.

(b) Any member who is a state college president may elect to continue in active service until the end of the quarter, semester, or academic year during which he attains compulsory retirement age.

(c) Any member who is an academic teaching and administrative employee, as defined in this section, may elect to continue in active service until the end of the quarter, semester, or academic year during which he attains compulsory retirement age. Academic teaching and administrative employee means a state college employee of the rank of professor or lower, department heads and division heads whose principal duty is teaching at the state college and an employee whose principal duty is connected with the administration of the teaching program or related service, and includes, but is not limited to deans, business managers, admission officer, registrar, placement officer and professional librarians.

SEC. 4. Section 20983.5 of the Government Code is amended to read:

20983.5. Notwithstanding any provision of law, every state member and every school member employed by a contracting agency who has attained age 70, other than a patrol or state safety member, shall have the right to continue in employment upon certification of the member's competence in his position by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by the State Personnel Board, the respective county superintendents of schools or their designees, the Regents of the University of California, or Trustees of the California State University and Colleges with respect to employees under their respective jurisdictions. In such case, the effective date of retirement shall be delayed until the day following the last day for which salary is payable. The member shall be subject to the same rights and liabilities as all other members and employer and members contributions shall continue until retirement or until death before retirement.

SEC. 5. Section 20983.6 of the Government Code is amended to read:

20983.6. Notwithstanding any other provisions of law, every local member who has attained age 70, other than a local safety member, shall have the right to continue in employment upon certification of

the member's competence in the member's position by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by each respective governing body. In such case, the effective date of retirement shall be delayed until the day following the last day for which salary is payable. The member shall be subject to the same rights and liabilities as all other members and employer and member contributions shall continue until retirement or until death before retirement.

This section shall not apply to 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 the effective date of this section, by express provision in such contract making the contracting agency subject to the provisions of this section.

SEC. 6. Section 21101 of the Government Code is amended to read:

21101. The board may reinstate a person from retirement upon (a) his application to the board for reinstatement; (b) the determination of the board, based upon medical examination, that he is not incapacitated for the duties to be assigned to him; and (c) the determination of the board that his age at the date of application for reinstatement is at least six months less than the age of compulsory retirement for service applicable to members of the class or category in which it is proposed to employ him. The provisions of clause (c) of this section shall apply only to patrol and safety members. The effective date of such reinstatement for purposes of this article shall be the first day of compensated employment following approval of reinstatement.

SEC. 7. Section 21156 of the Government Code is repealed.

SEC. 8. Section 21158 of the Government Code is repealed.

SEC. 9. Section 31671.01 of the Government Code is repealed.

SEC. 10. Section 31671.02 of the Government Code is repealed.

SEC. 11. The Legislature hereby declares that mandatory retirement on the basis of age of public employees prior to the attainment of age 70 is contrary to public policy and is a burden upon the public health and welfare.

The provisions of this act shall not be construed to be applicable to persons engaged in active law enforcement or who are firemen.

SEC. 12. 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.

SEC. 13. Except for Sections 6, 12, 14, and this section, all sections of this act shall become operative on January 1, 1979.

SEC. 14. 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 enactment of Public Law 95-256 (H.R. 5383), effective January 1, 1979, prohibits mandatory retirement at ages less than 70. In order to prevent inequity which could result from delay in the enactment of this act, it must take effect immediately.

CHAPTER 386

An act to amend Section 8832 of, and to repeal Section 8891 of, the Fish and Game Code, relating to commercial fishing.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 8832 of the Fish and Game Code is amended to read:

8832. Trawl nets and Chinese shrimp nets may be used in marine and brackish waters inside of the Golden Gate Bridge to take shrimp, oriental gobies, longjaw mudsuckers, and staghorn sculpin only in accordance with regulations which the commission may prescribe.

SEC. 2. Section 8891 of the Fish and Game Code is repealed.

CHAPTER 387

An act to amend Section 34898 of the Government Code, relating to charter city elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 34898 of the Government Code is amended to read:

34898. If the members of the governing body of a chartered city are nominated or elected "by districts" or "from districts," as defined in Section 34871, upon the initial establishment thereof, such districts shall be as nearly equal in population as may be according to the latest federal decennial census or, if the city's charter so provides, according to the federal mid-decade census or the official census of the city, as provided for pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of this title, as the case may be. After the initial establishment of such districts, the districts shall

continue to be as nearly equal in population as may be according to the latest federal decennial census or, if authorized by the charter of the city, according to the federal mid-decade census.

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 chartered cities that nominate or elect the members of their governing bodies by or from districts may be as nearly equal in population as possible for the upcoming General Election in November of 1978, it is essential that this act take effect immediately.

CHAPTER 388

An act to amend Sections 7501, 7502, 7503, and 7504 of the Government Code, relating to public retirement systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 7501 of the Government Code is amended to read:

7501. It is the intent and purpose of the Legislature, in enacting Sections 7502, 7503, and 7504, to safeguard the solvency of all public retirement systems and funds. The Legislature finds and declares that public agencies maintaining retirement systems can benefit from periodic and independent analysis of their financial condition. It is the purpose of those sections to enable the State Controller to gather information to compare and evaluate the financial condition of such systems and to make such comparisons and evaluations.

SEC. 2. Section 7502 of the Government Code is amended to read:

7502. The State Controller shall review the annual financial report of each state and local public retirement system submitted pursuant to Section 7504 giving particular consideration to the adequacy of funding of each system. The State Controller shall also review the triennial valuation of each public retirement system submitted pursuant to Section 7504 and shall give particular consideration to the assumption concerning the inflation element in salary and wage increases, mortality, service retirement rates, withdrawal rates, disability retirement rates, and rate of return on total assets.

The State Controller shall establish an advisory committee which shall include enrolled actuaries, as defined in Section 7504, and state and local public retirement system administrators, to assist in

carrying out the duties imposed by this section.

SEC. 3. Section 7503 of the Government Code is amended to read:

7503. All state and local public retirement systems shall prepare an annual report in accordance with generally accepted accounting principles.

SEC. 4. Section 7504 of the Government Code is amended to read:

7504. (a) All state and local public retirement systems shall, not less than triennially, secure the services of an enrolled actuary. An enrolled actuary, for the purposes of this section, means an actuary enrolled under subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who has demonstrated experience in public retirement systems. The actuary shall perform a valuation of the system utilizing actuarial assumptions and techniques established by the agency which are, in the aggregate, reasonably related to the experience and the actuaries' best estimate of anticipated experience under the system.

(b) All state and local public retirement systems shall secure the services of a qualified public accountant to perform an attest audit of the system's financial statements. A qualified public accountant means:

(1) A person who is licensed to practice as a certified public accountant in this state by the State Board of Accountancy, or

(2) A person who is registered and entitled to practice as a public accountant in this state by the State Board of Accountancy, or

(3) A county auditor in any county subject to the County Employees Retirement Law of 1937.

(c) All state and local public retirement systems shall submit audited financial statements to the State Controller within six months of the close of each fiscal year. However, the Controller may delay the filing date for reports due in the first year until such time as report forms have been developed which in his judgment will satisfy the requirements of this section. The financial statements shall be prepared in accordance with generally accepted accounting principles in the form and manner prescribed by the State Controller. The penalty prescribed in Section 53895 shall be invoked for failure to comply with this section. Upon a satisfactory showing of good cause, the State Controller may waive the penalty for late filing provided by this subdivision.

(d) The State Controller shall compile and publish a report annually on the financial condition of all state and local public retirement systems containing, but not limited to, the data required in Section 7502.

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 this act may become operative prior to the date that

retirement system reports are due to the Controller, it is necessary that this act take immediate effect.

CHAPTER 389

An act to amend Sections 104.6, 104.10, and 104.13 of the Streets and Highways Code, relating to state highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 104.6 of the Streets and Highways Code is amended to read:

104.6. The authority conferred by this code to acquire real property for state highway purposes includes authority to acquire for future needs. Structures maintained or allowed to remain on property which has been acquired, or is acquired in the future, for future highway needs shall be maintained in conformance with standards established in the building and safety ordinances of the city or county having jurisdiction. The standards to which such structure shall be made to conform are those standards, except for such variances as may be applicable to the structure when acquired, of the city or county having jurisdiction which are in effect at the time of acquisition by the department.

The department is authorized to lease any lands which are held for state highway purposes and are not presently needed therefor on such terms and conditions as the director may fix and to maintain and care for such property in order to secure rent therefrom. Except for any rent required under the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000) of Division 17), or any bond indenture executed under that act, to be deposited in some other fund, all such rent shall be deposited to the credit of the State Highway Account in the State Transportation Fund. Twenty-four percent of such rent in the State Highway Account shall be allocated pursuant to Section 104.10.

Whenever it is determined by the department that any rental revenue collected under this section represents overpayment or payment in duplicate, the department may make refund of such overpayment or payment in duplicate from the State Highway Account.

Any reference in any law or regulation to the Highway Properties Rental Fund or to the Highway Properties Rental Account in the Transportation Tax Fund shall be deemed to refer to the State Highway Account.

SEC. 2. Section 104.10 of the Streets and Highways Code is

amended to read:

104.10. The Department of Transportation shall, not later than the first day of November following the close of any fiscal year, pay the rents computed pursuant to Section 104.6 to the county in which such real property is situated. The Department of Transportation shall certify to the Department of Finance the amount of such rentals attributable to each county and shall notify each county of the rental and location of each piece of rental property for which rents are deposited in the State Highway Account in the State Transportation Fund.

The county auditor shall distribute any payment received by the county pursuant to this section, to the county, 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 in the amount as determined by the board of supervisors, except that one-half of the allocation for a rental property shall be allocated to the city in which the rental property is located.

As used in this section, the terms "taxing agency" and "revenue district" have the same meanings given them in the Revenue and Taxation Code.

The money received by the respective jurisdictions under this section shall be expended only for purposes authorized by Article XIX of the California Constitution.

SEC. 3. Section 104.13 of the Streets and Highways Code is amended to read:

104.13. (a) Any person leasing real property from the department may, in any year, apply to the department for a credit against future rental payments on the property, or for a refund from the State Highway Account in the State Transportation Fund if the person is no longer leasing the property, upon submission of evidence to the department that the person had paid the tax imposed for that year for the person's possessory interest in the property.

(b) The credit or the refund, as the case may be, shall be deducted from the payments made pursuant to Section 104.10 to the county in which the property is located.

(c) The department shall report the amount of credit and refund granted pursuant to subdivision (a) in each county during the prior fiscal year to the Department of Finance by October 1.

(d) The credit and refund authorized shall be applicable to all taxes paid on or after January 1, 1975, for the possessory interest in real property leased by the department.

(e) This section shall apply only to real property held for future state highway needs and to real property originally held for that purpose, which the department has determined is no longer needed therefor, prior to its sale or exchange by the department.

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 Superior Court for the County of Alameda, in June 1977, ruled that Section 104.10 of the Streets and Highways Code is unconstitutional in authorizing allocations, from the Highway Properties Rental Account in the Transportation Tax Fund, to local entities to be expended for purposes not authorized by Article XIX of the California Constitution.

In order to conform to that decision and to continue without delay the allocation of 24 percent of the state highway property rental income to the counties, it is necessary that this act take effect immediately.

CHAPTER 390

An act to amend Section 1788.12 of the Civil Code, relating to debt collection, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 1788.12 of the Civil Code is amended to read:

1788.12. No debt collector shall collect or attempt to collect a consumer debt by means of the following practices:

(a) Communicating with the debtor's employer regarding the debtor's consumer debt unless such a communication is necessary to the collection of the debt, or unless the debtor or his attorney has consented in writing to such communication. A communication is necessary to the collection of the debt only if it is made for the purposes of verifying the debtor's employment, locating the debtor, or effecting garnishment, after judgment, of the debtor's wages, or in the case of a medical debt for the purpose of discovering the existence of medical insurance. Any such communication, other than a communication in the case of a medical debt by a health care provider or its agent for the purpose of discovering the existence of medical insurance, shall be in writing unless such written communication receives no response within 15 days and shall be made only as many times as is necessary to the collection of the debt. Communications to a debtor's employer regarding a debt shall not contain language that would be improper if the communication were made to the debtor. One communication solely for the purpose of verifying the debtor's employment may be oral without prior written contact.

(b) Communicating information regarding a consumer debt to any member of the debtor's family, other than the debtor's spouse

or the parents or guardians of the debtor who is either a minor or who resides in the same household with such parent or guardian, prior to obtaining a judgment against the debtor, except where the purpose of the communication is to locate the debtor, or where the debtor or his attorney has consented in writing to such communication;

(c) Communicating to any person any list of debtors which discloses the nature or existence of a consumer debt, commonly known as "deadbeat lists", or advertising any consumer debt for sale, by naming the debtor; or

(d) Communicating with the debtor by means of a written communication that displays or conveys any information about the consumer debt or the debtor other than the name, address and telephone number of the debtor and the debt collector and which is intended both to be seen by any other person and also to embarrass the debtor.

(e) Notwithstanding the foregoing provisions of this section, the disclosure, publication or communication by a debt collector of information relating to a consumer debt or the debtor to a consumer reporting agency or to any other person reasonably believed to have a legitimate business need for such information shall not be deemed to violate this title.

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 present language in Section 1788.12 is creating an unintended problem for hospitals in receiving information on patient medical insurance for the purpose of billing.

CHAPTER 391

An act to amend Section 232 of the Civil Code, Section 1027 of the Penal Code, and Sections 5251, 5261, and 6307 of the Welfare and Institutions Code, relating to psychologists.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any person under the age of 18 years declared free from the custody and control of either or both of his parents when such person comes within any of the following descriptions:

(1) Who has been left without provision for his identification by his parent or parents or by others or has been left by both of his

parents or his sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for his support, or without communication from such parent or parents, with the intent on the part of such parent or parents to abandon such person. Such failure to provide identification, failure to provide, or failure to communicate shall be presumptive evidence of the intent to abandon. Such person shall be deemed and called a person abandoned by the parent or parents abandoning him. If in the opinion of the court the evidence indicates that such parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by such parent or parents. In those cases in which the child has been left without provision for his identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

The fact that a child is in a foster care home, licensed under subdivision (a) of Section 16000 of the Welfare and Institutions Code, shall not prevent a licensed adoption agency which is planning adoption placement for the child, from instituting, under this subdivision, an action to declare such child free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel and if there is no county counsel, the district attorney shall institute such action.

(2) Who has been cruelly treated or neglected by either or both of his parents, if such person has been a dependent child of the juvenile court, and such parent or parents deprived of his custody for the period of one year prior to the filing of a petition praying that he be declared free from the custody and control of such cruel or neglectful parent or parents.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when such controlled substances are used as part of a medically prescribed plan, or are morally depraved, if such person has been a dependent child of the juvenile court, and the parent or parents deprived of his custody because of such disability, or moral depravity, for the period of one year continuously immediately prior to the filing of the petition praying that he be declared free from the custody and control of such parent or parents. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which such parent or parents were convicted are of such nature as to prove the unfitness of such parent or parents to

have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be mentally deficient or mentally ill, if, in the state or country in which the parent or parents are hospitalized or resident, the Director of Mental Health or the Director of Developmental Services, or his equivalent, if any, and the superintendent of the hospital of which, if any, such parent or parents are inmates or patients certify that such parent or parents so declared to be mentally deficient or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are, and will remain incapable of supporting or controlling the child in a proper manner because of mental deficiency or mental illness, if there is testimony to this effect from two physicians and surgeons who must have been certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code or licensed psychologists who have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. If, however, the parent or parents reside in another state or in a foreign country, the testimony herein may be supplied by two physicians and surgeons who are residents of such state or foreign country, if such physicians and surgeons have been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine and if the court determines that the certification requirements of such organization or society are comparable to those of the American Board of Psychiatry and Neurology.

The parent or parents shall be cited to be present at the hearing, and if he or they have no attorney, the court shall appoint an attorney or attorneys to represent the parent or parents and fix the compensation to be paid by the county for such services, if he determines the parent or parents are not financially able to employ counsel.

(7) Who has been cared for in one or more foster homes under the supervision of the juvenile court, the county welfare department or other public or private licensed child-placing agency for two or more consecutive years, providing that the court finds beyond reasonable doubt that return of the child to his parent or parents would be detrimental to the child and that the parent or parents have failed during such period, and are likely to fail in the future, to

(i) Provide a home for said child;

(ii) Provide care and control for the child; and

(iii) Maintain an adequate parental relationship with the child.

Physical custody of the child by the parent or parents for insubstantial periods of time during the required two-year period will not serve to interrupt the running of such period.

(b) A licensed adoption agency may institute under this section, an action to declare a child, as described in this section, free from the custody and control of his parents. When the requesting agency is a

licensed county adoption agency, the county counsel, or if there is no county counsel, the district attorney shall in a proper case institute such action.

SEC. 2. Section 1027 of the Penal Code is amended to read:

1027. When a defendant pleads not guilty by reason of insanity the court must select and appoint two, and may select and appoint three, psychiatrists, or licensed psychologists who have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, to examine the defendant and investigate his sanity. It is the duty of the psychiatrists or psychologists so selected and appointed to examine the defendant and investigate his sanity, and to testify, whenever summoned, in any proceeding in which the sanity of the defendant is in question. The psychiatrists or psychologists so appointed by the court shall be allowed, in addition to their actual traveling expenses, such fees as in the discretion of the court seems just and reasonable, having regard to the services rendered by the witnesses. The fees allowed shall be paid by the county where the indictment was found or in which the defendant was held for trial.

Nothing contained in this section shall be deemed or construed to prevent any party to any criminal action from producing any other expert evidence as to the sanity of the defendant; where expert witnesses are called by the district attorney in such action, they shall only be entitled to such witness fees as may be allowed by the court.

Any psychiatrist or psychologist so appointed by the court may be called by either party to the action or by the court itself and when so called shall be subject to all legal objections as to competency and bias and as to qualifications as an expert. When called by the court, or by either party, to the action, 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 or psychologist 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 action the adverse party may examine him the same as in the case of any other witness called by such party.

SEC. 3. Section 5251 of the Welfare and Institutions Code is amended to read:

5251. For a person to be certified under this article, a notice of certification shall be signed by two people. The first person shall be the professional person, or his designee, in charge of the agency or facility providing evaluation services. A designee of the professional person in charge of the agency or facility shall be a physician or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

The second person shall be a physician or psychologist who

participated in the evaluation. The physician shall be, if possible, a board-qualified psychiatrist. The psychologist shall be licensed and have at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

If the professional person in charge, or his designee, is the physician who performed the medical evaluation or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a social worker or a registered nurse who participated in the evaluation shall sign the notice of certification.

SEC. 4. Section 5261 of the Welfare and Institutions Code is amended to read:

5261. For a person to be certified under this article, a second notice of certification must be signed by the professional person in charge of the facility providing 14-day intensive treatment under Article 4 (commencing with Section 5250) to the person and by a physician, if possible a board-qualified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. The physician or psychologist who signs shall have participated in the evaluation and finding referred to in subdivision (a) of Section 5260.

If the professional person in charge is the physician who performed the medical evaluation and finding or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a social worker or a registered nurse who participated in such evaluation and finding shall sign the notice of certification.

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, each of whom shall have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis of emotional and mental disorders, or psychiatrists, each of whom shall be a holder of a valid and unrevoked physician's and surgeon's certificate and have 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 phychiatrists so appointed may be designated by the defendant, and one by the people.

CHAPTER 392

An act to amend Section 6926 of the Business and Professions Code, relating to collection agencies.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 6926 of the Business and Professions Code is amended to read:

6926. The assignment by a customer to a licensee of an account for collection creates a fiduciary relationship between the customer and the licensee. Such relationship imposes upon every licensee and employee a fiduciary duty to the customer the same as that imposed upon a trustee.

In carrying out the purpose of such fiduciary relationship every licensee or employee is bound to act in the highest good faith toward his beneficiary and every licensee or employee shall not:

(a) Obtain any advantage over the beneficiary by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind.

(b) Use or deal with the trust property for his own profit, other than normal interest paid by a bank, or for any other purpose unconnected with the trust, in any manner. The licensee shall pay to the customer the bank interest earned on any funds held by the licensee for more than 30 days which accrues after the 30th day.

(c) Use the influence which his position gives him to obtain any advantage from his beneficiary.

(d) Willfully mingle the trust property with his own so as to constitute himself in appearance its absolute owner.

All transactions between a licensee or employee and the beneficiary during the existence of the trust, or while the influence acquired by the trustee remains, by which he obtains any advantage from his beneficiary, are presumed to be entered into by the latter without sufficient consideration, and under undue influence.

Any licensee or employee who uses or disposes of the trust property contrary to the provisions of this chapter or the administrative rules established thereunder may at the option of the beneficiary be required to account for all profits so made, or to pay the value of its use, and if he has disposed thereof to replace it, with its fruits, or to account for its proceeds, with interest.

A violation of any of the above provisions by a licensee or employee constitutes grounds for the institution of disciplinary proceedings and revocation of a license or other disciplinary action.

CHAPTER 393

An act to amend Sections 1136, 1163, and 1190 of, and to add Section 1211 to, the Harbors and Navigation Code, relating to pilots for San Francisco, San Pablo, and Suisun Bays.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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 and the 1977–1978 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 and the 1977–1978 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 1163 of the Harbors and Navigation Code is amended to read:

1163. (a) (1) Each retired or disabled pilot shall receive, as a monthly pension, that amount which is forty-five dollars ($45) multiplied by the number of full years of service he performed as a pilot licensed under this division.

(2) A pilot who retires or becomes disabled shall not begin to receive a pension until the benefit year next following the date on which he retires or becomes disabled.

(3) No retired pilot shall receive benefits pursuant to the pension plan in any benefit year unless his resignation as an active pilot was submitted, in writing, to the Board of Pilot Commissioners, prior to

December of the immediately preceding calendar year. His resignation shall become effective no later than the last day of the month preceding the start of such benefit year.

(4) If a retired or disabled pilot who is receiving a pension dies without a wife surviving him, his successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(b) (1) The widow of a deceased pilot who would be eligible for a pension pursuant to subdivision (c) of Section 1164 shall receive, as a monthly pension, that amount which is twenty dollars ($20) multiplied by the number of full years of service her deceased husband performed as a pilot licensed under this division.

(2) If a retired or disabled pilot receiving a pension dies, his widow shall continue to receive the full pension to which her deceased husband was entitled for the balance of the benefit year, after which she shall receive the amount specified in paragraph (1) of this subdivision.

(3) When a widow receiving a pension dies, her successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(c) For the purposes of the computations described in paragraph (1) of subdivision (a) of this subdivision, six months or more of service by a pilot shall be considered a full 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 14.75 mills ($0.01475) 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.

SEC. 4. Section 1211 is added to the Harbors and Navigation Code, to read:

1211. It is the intent of the Legislature that the adjustments in pilotage rates previously granted in order to pay for the most recently acquired pilot vessel shall be reexamined when such vessel has been fully amortized.

CHAPTER 394

An act to amend Sections 661, 2070, 2071, 2072, 2073, 2093, and 2094 of, to add and repeal Section 1237 to, and to repeal Section 622 of, the Financial Code, relating to banks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 622 of the Financial Code is repealed.

SEC. 1.5. Section 661 of the Financial Code is amended to read:

661. Whenever it appears that the capital of a bank or trust company is impaired or reduced below the amount required by law, the superintendent shall order the bank to restore its capital within 60 days of the date of his order. The directors of the bank or trust company to which the order is issued, unless the capital is otherwise restored, shall levy and collect an assessment upon its common shares pursuant to Chapter 3 (commencing with Section 2700) of Part 5 of Division 1 of Title 1 of the Corporations Code as in effect December 31, 1976. The common shares of every corporation doing a banking business in this state are subject to such assessment, whether or not the fact that the shares are subject to such assessment is noted on the face of the certificates representing such shares, and if the shares are subject to assessment only upon order of the superintendent as provided in this section no statement of that fact need be noted on the certificates.

SEC. 2. Section 1237 is added to the Financial Code, to read:

1237. (a) Notwithstanding anything provided to the contrary in this division, the superintendent is empowered to prescribe such rules and regulations as will permit a bank, upon the security of residential property, to make loans and advance credit thereon, upon the execution by the borrower of mortgage payment instruments not authorized under the existing law, provided such instruments have prior approval of the superintendent, and the aggregate at any one time of the outstanding loans by a bank evidenced by such mortgage payment instruments, does not exceed 10 percent of the bank's assets.

(b) The rules and regulations of the superintendent shall be designed to permit limited experimentation to furnish valuable experience and information to the superintendent, the banking industry, and to the public relating to the substance of any permanent regulations or laws which may be forthcoming and to permit banks to operate selected pilot projects on a limited basis. The pilot projects and effective period of the regulations shall not exceed four years from the date of the issuance of such regulations and shall place a high priority on the protection for the consumer and

encouraging integration and home ownership of those persons who have previously been excluded from or failed to avail themselves of home ownership. Such regulations, among other things, shall contain provisions relating to the various types of instruments for experimentation, which shall be limited to forms of graduated payment mortgages, reverse annuity mortgages, flexible payment and flexible rate mortgages and combinations of such mortgages, with the further provision that such alternative mortgage instruments shall be limited in number, simple and comprehensible, and provide adequate opportunities and protections to those persons and classes of persons who have previously not been able to participate in home ownership. The regulations shall also contain a provision requiring that full disclosure be made to potential applicants, among other things, of, the nature and effect of the alternative mortgage payment instrument, the payment due each month of the payment term, and all costs or savings attributed to the alternative mortgage instrument.

(c) A bank offering any loan authorized by this section shall also offer any borrower who qualifies for its standard mortgage loan a choice of a standard mortgage loan at current market terms. A standard mortgage loan means a standard fixed-rate, level-payment mortgage loan.

(d) A report shall be submitted by the superintendent to the Legislature annually on the 15th day of February of each year commencing the second year following the effective date of this legislation, and the report shall include the numbers and types of such mortgage instruments, and the impact of such instruments on minorities, women, young families, low- and middle-income families, and elderly persons.

(e) This section shall remain in effect until January 1, 1984, and on such date is repealed.

SEC. 3. Section 2070 of the Financial Code is amended to read:

2070. Any two or more banks and trust companies organized under the laws of this state may be merged into one of such constituent banks or trust companies upon compliance with the provisions of this article and upon compliance with the provisions of Part 8 (commencing with Section 3600) of Division 1 of Title 1 of the Corporations Code, as in effect December 31, 1976, provided that in the case of a merger the provisions of Article 2 (commencing with Section 4300) of Chapter 3, Part 8, Division 1, Title 1 of the Corporations Code as in effect December 31, 1976, shall apply only to shareholders and shares owned by them in the bank or trust company being merged into a surviving bank or trust company. The merger or consolidation of such banks shall have the same force and effect as is provided in the Corporations Code for the merger or consolidation of domestic corporations.

SEC. 4. Section 2071 of the Financial Code is amended to read:

2071. Any agreement for the merger or consolidation of two or more banks or trust companies and any certificate of ownership

executed pursuant to Section 4124 of the Corporations Code as in effect December 31, 1976, pertaining to such a merger or consolidation shall have the approval of the superintendent endorsed thereon before the same is filed with the Secretary of State. An application for such approval shall be in such form and contain such information as the superintendent may require, and be accompanied by a fee of one thousand dollars ($1,000).

SEC. 5. Section 2072 of the Financial Code is amended to read:

2072. When any agreement for consolidation or any agreement for merger or any certificate of ownership has been filed with the Secretary of State with the approval of the superintendent endorsed thereon, a copy thereof, certified by the Secretary of State, shall immediately be filed with the superintendent and upon, but not until, such filing the merger or consolidation shall be and become effective for all purposes. In the case of a consolidation, the superintendent, thereupon, and as of the hour and day of such filing, shall issue his certificate authorizing the consolidated bank or trust company to engage in the commercial banking or trust business or both of such businesses, as the case may be; and in the case of a merger if the surviving corporation acquires additional powers by such merger, the superintendent shall issue to it his certificate authorizing it to engage in the commercial banking or trust business or both of such businesses, as the case may be.

SEC. 6. Section 2073 of the Financial Code is amended to read:

2073. Whenever any bank qualified to do a trust business or any trust company has been merged into or consolidated with a bank or trust company, the surviving bank or trust company or the consolidated bank or trust company, as the case may be, ipso facto and by operation of law and without further transfer, substitution, act, or deed succeeds to the rights, properties, assets, investments, deposits, demands, agreements, and trusts of the constituent bank or trust company under all trusts, executorships, administrations, guardianships, agencies, and all other fiduciary or representative capacities to the same extent as though it had originally assumed the same and succeeds to and is entitled to take and execute the appointment to all executorships, trusteeships, guardianships, and other fiduciary and representative capacities to which the constituent corporation may be named or is thereafter named in wills, whenever probated, or to which it is or may be named or appointed by any other instrument.

SEC. 7. Section 2093 of the Financial Code is amended to read:

2093. Nothing in this division restricts one or more national banking associations from merging into or consolidating with one or more banks organized under the laws of this state. For the purpose of effecting any such merger or consolidation a national banking association shall be deemed a "foreign corporation" as that term is used in Chapter 3 (commencing with Section 4100), Part 8, Division 1, Title 1 of the Corporations Code as in effect December 31, 1976, and the laws of Congress shall be deemed the "laws of the state" in

which a national banking association is formed. If the surviving or consolidated bank or trust company is a bank or trust company organized under the laws of this state, the provisions of Part 8 (commencing with Section 3600) of Division 1, Title 1 of the Corporations Code, as in effect December 31, 1976, shall apply; provided, that in the case of a merger the provisions of Article 2 (commencing with Section 4300) of Chapter 3, Part 8, Division 1, Title 1 of the Corporations Code, as in effect December 31, 1976, shall apply only to shareholders and shares owned by them in the bank or trust company being merged into a surviving bank or trust company.

SEC. 8. Section 2094 of the Financial Code is amended to read:

2094. Whenever a state bank results from the merger or consolidation of one or more national banking associations with one or more state banks and the agreement for consolidation or merger has been filed with the Secretary of State with the approval of the superintendent endorsed thereon (An application for such approval of the superintendent shall be filed in such form and contain such information as the superintendent may require, and be accompanied by a fee of one thousand dollars ($1,000).), a copy thereof, certified by the Secretary of State, shall immediately be filed with the superintendent and upon, but not until, such filing the merger or consolidation shall be and become effective for all purposes. In the case of a consolidation, the superintendent, thereupon, and as of the hour and day of such filing, shall issue his certificate authorizing the consolidated bank or trust company to engage in the commercial banking or trust business or both of such businesses, as the case may be; and, in the case of a merger, if the surviving corporation acquires additional powers by such merger, the superintendent shall issue to it his certificate authorizing it to engage in the commercial banking or trust business or both of such businesses, as the case may be.

SEC. 9. When the Legislature, by Section 30.5 of Chapter 235 of the Statutes of 1977, postponed from January 1, 1978, to January 1, 1979, the date on which the General Corporation Law would become applicable to banks (as defined in Section 102 of the Financial Code) and provided that banks would until January 1, 1979, continue to be subject to the General Corporation Law as in effect on December 31, 1976, the Legislature intended also that the effective date of Sections 42.1 to 42.7, inclusive, of Chapter 641 of the Statutes of 1976 be postponed from January 1, 1978, to January 1, 1979; and, from the enactment of Chapter 641 of the Statutes of 1976 to the present time, it has been the continuous intent of the Legislature that the provisions of Sections 661, 2070, 2071, 2072, 2073, 2093, and 2094 of the Financial Code remain in effect as such provisions were in effect on December 31, 1976.

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:

With regard to Section 1 of this act, the 6-percent limitation to

dividends on preferred stock is an obsolete and archaic prohibition which seriously impairs state-chartered banks from competing in the marketplace for additional capital. In order that state-chartered banks may raise needed capital, it is necessary for this act to take effect immediately.

With regard to Sections 1.5, 3, 4, 5, 6, 7, 8, and 9 of this act, confusion regarding the effects of Sections 42.1 to 42.7, inclusive, of Chapter 641 of the Statutes of 1976, may impair banks in assessing their common shares and in merging or consolidating with other banks. In order that such confusion be resolved, it is necessary for this act to take effect immediately.

With regard to Section 2 of this act, Chapter 968 of the Statutes of 1977 authorized the Savings and Loan Commissioner to adopt regulations permitting savings and loan associations to make loans upon the security of residential property which are not otherwise authorized under existing law. This act would extend similar authority to the Superintendent of Banks to adopt regulations permitting banks to make such loans. The Savings and Loan Commissioner's regulations have already become effective and, in order to avoid placing banks at a competitive disadvantage, it is necessary for this act to take effect immediately.

CHAPTER 395

An act to amend Section 904.1 of the Code of Civil Procedure, relating to procedure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h), (i) and (j), (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) a judgment on appeal from a municipal court or a justice court or a small claims court.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) 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.

(d) From an order granting a new trial or denying a motion for

judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining such right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an interlocutory judgment of dissolution of marriage, including the provisions thereof determining the separate, community, or quasi-community character of the parties' properties, regardless of whether the court in such judgment has reserved jurisdiction pursuant to Section 4800 of the Civil Code to value or divide all or a portion of the community or quasi-community property.

(k) From an order or decree made appealable by the provisions of the Probate Code.

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

In order to clarify the existing confusion as to whether there is a right to appeal from interlocutory judgments of dissolution in the instances specified by this act, it is necessary that it take effect immediately.

CHAPTER 396

An act to add Section 789.16 to the Civil Code, relating to mobilehome parks.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 789.16 is added to the Civil Code, to read:

789.16. (a) Except as provided in subdivision (b), and notwithstanding any other provision of law to the contrary, the ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes shall have no right of entry to a mobilehome without the prior written consent of the occupant. Such consent may be revoked in writing by the occupant at any time. The

ownership or management shall have a right of entry upon the land upon which a mobilehome is situated for maintenance of utilities and protection of the mobilehome park, subdivision, cooperative, or condominium at any reasonable time, but not in a manner or at a time which would interfere with the occupant's quiet enjoyment.

(b) The ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes may enter a mobilehome without the prior written consent of the occupant in case of an emergency or when the occupant has abandoned the mobilehome.

CHAPTER 397

An act to amend Sections 135, 605, 979, 984, 1027, 1253.12, 1253.3, 2602, 3006, and 3504 of, to add and repeal Sections 978.5 and 1279.5 of, and to repeal Article 5 (commencing with Section 1401) of Chapter 5 of Part 1 of Division 1 of, the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 135 of the Unemployment Insurance Code is amended to read:

135. (a) "Employing unit" means any individual or type of organization which has in its employ one or more individuals performing services for it within this state, and includes but is not limited to, the following individuals and organizations:

(1) Any individual or type of organization or public entity which elects coverage pursuant to any provision of this division.

(2) Any joint venture, partnership, association, trust, estate, joint stock company, insurance company, corporation whether domestic or foreign, community chest, fund, or foundation.

(3) Any public entity. As used in this section, "public entity" means the State of California (including the Trustees of the California State University and Colleges), any other state, any instrumentality of this state (including the Regents of the University of California), any political subdivision of this state or any of its instrumentalities, a county, city, district (including the governing board of any school district or community college district, any county board of education, any county superintendent of schools, or any personnel commission of a school district or community college district which has a merit system pursuant to any provision of the Education Code), entities receiving state money to conduct county fairs and agricultural fairs pursuant to Sections 25905 and 25906 of the

Government Code and which perform no other functions, public authority, public agency, any other political subdivision or public corporation of any state, any instrumentality of more than one of the foregoing, and any instrumentality of any of the foregoing and one or more other states or political subdivisions.

(4) Any instrumentality of the United States required to make payments under this division.

(5) The receiver, trustee in bankruptcy, trustee or successor thereof, and the legal representative of a deceased person.

(b) All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this division.

SEC. 1.3. Section 605 of the Unemployment Insurance Code is amended to read:

605. (a) Except as provided by Section 634.5, "employment" for the purposes of this part and Parts 3 (commencing with Section 3501) and 4 (commencing with Section 4001) of this division includes all service performed by an individual (including blind and otherwise handicapped individuals) for any public entity, if such service is excluded from "employment" under the Federal Unemployment Tax Act solely by reason of paragraph (7) of Section 3306(c) of that act.

(b) As used in this section, "public entity" means the State of California (including the Trustees of the California State University and Colleges, and the California Industries for the Blind), any other state, any instrumentality of this state (including the Regents of the University of California), any political subdivision of this state or any of its instrumentalities, a county, city, district (including the governing board of any school district or community college district, any county board of education, any county superintendent of schools, or any personnel commission of a school district or community college district which has a merit system pursuant to any provision of the Education Code), entities receiving state money to conduct county fairs and agricultural fairs pursuant to Sections 25905 and 25906 of the Government Code and which perform no other function, public authority, public agency, any other political subdivision or public corporation of any state, any instrumentality of more than one of the foregoing, and any instrumentality of any of the foregoing and one or more other states or political subdivisions.

SEC. 1.5. Section 978.5 is added to the Unemployment Insurance Code, to read:

978.5. (a) Any employer who has elected under Section 1279.5 to participate in the shared work unemployment insurance benefit program, who has a negative reserve account balance on any June 30th, and whose reserve account has been charged for benefits paid under Section 1279.5 during the 12-month period ending upon such June 30th shall pay into the Unemployment Fund, in addition to all other contributions required by this division, contributions for the

calendar year next succeeding such June 30th at the rate prescribed by this section based upon the ratio of the employer's net balance of reserve to the employer's average base payroll. If as of any June 30th an employer's net balance of reserve equals or exceeds that percentage of his or her average base payroll which appears on any line in column 1 of the following table but is less than that percentage which appears on the same line in column 2 of that table, his or her rate shall be the figure appearing on that same line in column 3:

	Reserve balance		*Contribution rate*
Line	*Col. 1*	*Col. 2*	*Col. 3*
1	– 100.0%	No limitation	3.0%
2	– 80.0%	– 100.0%	2.5%
3	– 60.0%	– 80.0%	2.0%
4	– 40.0%	– 60.0%	1.5%
5	– 20.0%	– 40.0%	1.0%
6	More than 0.0%	– 20.0%	0.5%

(b) Contributions paid pursuant to this section shall be excluded from "contributions paid on his own behalf" as defined by Section 906, but shall be included as employer contributions under Sections 1110 and 1110.1 and for all other purposes under this division.

(c) This section shall remain in effect only until December 31, 1982, and as of that date is repealed.

SEC. 1.6. Section 979 of the Unemployment Insurance Code is amended to read:

979. On or before January 31st of each calendar year the director shall prepare a statement declaring which of the employer tax schedules contained in Sections 977 and 978 shall be in effect for that calendar year. The statement shall be a public record and shall include the official tabulation of wages in subject employment made by the department according to Sections 977 and 978, a summary of the data upon which that tabulation was based, and the sources from which those data were obtained, and shall further include a summary of the data upon which the computation of the balance in the Unemployment Fund was based, and their source. Prior to the expiration of the calendar year in which the employer tax schedule shall be in effect the director shall make such revisions of the tabulation of wages and the computation of the balance in the Unemployment Fund as may be necessary, and in the event that the employer tax schedule as previously declared in effect is thereby altered, he or she shall promptly file a corrected statement of the employer tax schedule in effect for the calendar year, together with the corrected tabulation of wages and computation of the balance in the Unemployment Fund, in the manner provided by this section.

The director's action under Sections 977, 978 and this section shall not constitute an authorized regulation.

SEC. 2. Section 984 of the Unemployment Insurance Code is amended to read:

984. (a) Each worker shall pay worker contributions, at the rate of 1 percent with respect to the wages the worker is required to report pursuant to Section 927.5 and the wages paid to him or her by each employer for employment after his or her employer has satisfied the conditions set forth in this part with respect to becoming an employer.

(b) Worker contributions required under Sections 708 and 708.5 for each calendar year shall be at a rate determined by the director to reimburse the Disability Fund for unemployment compensation disability benefits paid and estimated to be paid to all employers and self-employed individuals covered by those sections. On or before November 30th of each calendar year, the director shall prepare a statement, which shall be a public record, declaring the rate of contributions for the succeeding calendar year for all employers and self-employed individuals covered under Sections 708 and 708.5 and shall notify such employers and self-employed individuals of the rate. The rate shall be determined by dividing the estimated benefits paid in the prior year by the product of the annual remuneration deemed to have been received under Sections 708 and 708.5 and the estimated number of persons who were covered at any time in the prior year. The resulting rate shall be rounded to the next higher one-hundredth percentage point. The rate may also be reduced or increased by a factor estimated to maintain as nearly as practicable a cumulative zero balance in the funds contributed pursuant to Sections 708 and 708.5. Estimates made pursuant to this section may be made on the basis of statistical sampling, or other method determined by the director. The director's action in determining a rate under this section shall not constitute an authorized regulation.

SEC. 3. Section 1027 of the Unemployment Insurance Code is amended to read:

1027. The director shall maintain a balancing account.

(a) Except as provided by Sections 803, 804, 821, and 1032.7, Article 7 (commencing with Section 841) of Chapter 3 of this part, and Chapter 5.8 (commencing with Section 1480) of this part, the balancing account shall be credited with:

(1) Contributions paid pursuant to Section 976.5 or 978.5.

(2) Positive balances in reserve accounts canceled pursuant to Section 1029.

(3) Other items of income not included in active employer reserve accounts.

(b) Except as provided by Sections 803, 804, 821, and 1032.7, Article 7 (commencing with Section 841) of Chapter 3 of this part, and Chapter 5.8 (commencing with Section 1480) of this part, the balancing account shall be charged with:

(1) The amount of negative reserve balances accrued to the

computation date for each year.

(2) Benefit payments not charged to employer reserve accounts pursuant to Sections 1032, 1032.5, 1034, 1035, 1036, 1335, 1338, and 1380.

(3) Extended duration benefits paid pursuant to Part 3 (commencing with Section 3501) of this division, but only to the extent that such extended duration benefits are not reimbursed or reimbursable by the federal government to the State of California.

(4) Federal-state extended benefits paid pursuant to Part 4 (commencing with Section 4001) of this division, but only to the extent that such federal-state extended benefits are not reimbursed or reimbursable by the federal government to the State of California.

(5) Other items of expense and benefit charges not included in active employer reserve accounts.

SEC. 4. Section 1253.12 of the Unemployment Insurance Code is amended to read:

1253.12. An unemployed individual who is in all respects otherwise eligible for unemployment compensation benefits, shall not be deemed ineligible for any week in which:

(a) For not exceeding two working days, he or she cannot reasonably be expected to work because there has been a death in his or her immediate family in the state in which he or she resides.

(b) For not exceeding four working days, he or she cannot reasonably be expected to work because there has been a death in his or her immediate family outside of the state in which he or she resides.

SEC. 5. Section 1253.3 of the Unemployment Insurance Code is amended to read:

1253.3. (a) Notwithstanding any other provision of this division, unemployment compensation benefits, extended duration benefits, and federal-state extended benefits are payable on the basis of service to which Section 3309(a)(1) of the Internal Revenue Code of 1954 applies, in the same amount, on the same terms, and subject to the same conditions as such benefits payable on the basis of other service subject to this division, except as provided by this section.

(b) Benefits specified by subdivision (a) of this section based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, with respect to service in an instructional, research, or principal administrative capacity for an educational institution shall not be payable to any individual with respect to any week which begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(c) Benefits specified by subdivision (a) of this section based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, with respect to service in any other capacity than specified in subdivision (b) for an educational institution (other than an institution of higher education) shall not be payable to any individual with respect to any week which commences during a period between two successive academic years or terms if such individual performs such service in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such service in the second of such academic years or terms.

(d) Benefits specified by subdivision (a) of this section based on service performed in the employ of a nonprofit organization, or of any public entity as defined by Section 605, with respect to services specified by subdivision (b) or (c) shall not be payable to any individual with respect to any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(e) For purposes of this section, "institution of higher education" means an educational institution which is a college or university or which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate.

(2) Is legally authorized within this state to provide a program of education beyond high school.

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

(4) Is a public or other nonprofit institution.

(f) For purposes of this section, to the extent permitted by federal law, "reasonable assurance" includes, but is not limited to, an offer of employment made by the educational institution, provided, that such offer is not contingent on enrollment, funding, or program changes.

(g) For purposes of this section, if the time for service performed during the period of and pursuant to any contract for any academic year or term by an individual for any employing unit as specified in subdivision (b) or (c) constitutes one-half or more of the time in total service performed for the employing unit by the individual during that same period for remuneration, all the services of the individual for the employing unit for that period shall be deemed subject to the benefit payment restriction provisions of this section.

SEC. 6. Section 1279.5 is added to the Unemployment Insurance

Code, to read:

1279.5. (a) Notwithstanding Section 1252 or 1252.2 or any other provision of this part, for the purposes of this section an individual is "unemployed" in any week if the individual works less than his or her normal hours or number of days in a week for the individual's regular employer, and the director finds that the regular employer has reduced or restricted the individual's hours or days of work, or has rehired an individual previously laid off and reduced that individual's hours or days of work from those previously worked, as the result of a plan by the regular employer to reduce employment and stabilize the work force by a program of sharing the work remaining after a reduction in total hours of work and a corresponding reduction in wages, among not less than 10 percent of the employer's regular permanent work force involved in the affected work unit or units.

(b) Except as otherwise provided in this section, each individual eligible under this chapter who is "unemployed" in any week shall be paid with respect to that week a weekly shared work unemployment compensation benefit amount equal to the percentage of reduction of the individual's wages resulting from reduced hours or days of work, rounded to the nearest 10 percent, multiplied by the individual's weekly benefit amount, except that this provision shall apply only if the percentage of reduction is ten percent (10%) or more.

(c) No individual shall be paid any benefits under this section in excess of 20 weeks of benefits during any benefit year or in combination with such benefits during any subsequent benefit year. No individual who receives any benefits under this section during any benefit year shall receive any benefits pursuant to Section 1252 or 1252.2 as a partially unemployed individual with respect to any week during such benefit year. No benefits under this section shall be payable during any individual's extended duration period or extended benefit period.

(d) Any amount payable under this section shall be reduced by the amount of any and all compensation payable for personal services whether performed as an employee or an independent contractor or as a juror or as a witness, except compensation payable by the regular employer not in excess of compensation payable for reduced hours of work originally assigned an individual by the regular employer under a shared work plan.

(e) The benefit payment under this section, if not a multiple of one dollar ($1), shall be increased to the next higher multiple of one dollar ($1).

(f) Section 1279 shall not apply to any individual eligible for any payment under this section.

(g) Except as otherwise provided by or inconsistent with this section, all provisions of this division and authorized regulations apply to benefits under this section. Authorized regulations may, to the extent permitted by federal law, make such distinctions and

requirements as may be necessary in the procedures and provisions applicable to unemployed individuals to carry out the purposes of this section.

(h) Employees shall not be eligible to receive any benefits under this section unless their employer agrees, in writing, and their bargaining agent pursuant to any applicable collective bargaining agreement agrees, in writing, to voluntarily participate in the shared work unemployment insurance benefit program created by this section.

(i) This section shall remain in effect only until December 31, 1979, and as of that date is repealed. The Legislative Analyst shall issue a report to the Legislature on or before March 30, 1979 on the use and operation of this program, including the number and types of employers electing to utilize this program, the tax rates, if any, of such employers, the number of employees affected, and his or her recommendations concerning the extension of this section beyond December 31, 1979.

SEC. 6.5. Section 2602 of the Unemployment Insurance Code is amended to read:

2602. (a) Except as otherwise provided, the provisions and definitions of Part 1 (commencing with Section 100) of this division apply to this part. In case of any conflict between the provisions of Part 1 and the provisions of this part, the provisions of this part shall prevail with respect to unemployment compensation disability benefits, and the provisions of Part 1 shall prevail with respect to unemployment compensation benefits.

(b) The provisions of Chapter 6 (commencing with Section 1501) of Part 1, of this division do not apply to this part.

(c) Sections 312, 318, 1251, 1253, 1254, 1255, 1262, 1279, 1326 to 1333, inclusive, 1339, 1340, 1375 to 1378, inclusive, and 1380 do not apply to this part.

SEC. 7. Article 5 (commencing with Section 1401) of Chapter 5 of Part 1 of Division 1 of the Unemployment Insurance Code is repealed.

SEC. 8. Section 3006 of the Unemployment Insurance Code is amended to read:

3006. There shall be no further transfer of money from the Unemployment Trust Fund to the Disability Fund.

SEC. 9. Section 3504 of the Unemployment Insurance Code is amended to read:

3504. The director shall during the week immediately preceding each calendar week compute the extension ratio for that calendar week. The computation shall be a public record.

SEC. 10. Any right or cause of action founded upon any provision of law amended by this act as the provision existed prior to such amendment shall not be abolished or impaired by this act.

SEC. 11. The amendment made to Section 1253.3 of the Unemployment Insurance Code by Section 5 of this act does not constitute a change in, but is declaratory of, the existing law.

SEC. 12. The amendments made to Sections 135 and 605 of the Unemployment Insurance Code by Sections 1 and 1.3 of this act do not constitute a change in, but are declaratory of, the existing law. However, no cash refund of employer contributions shall be made as a result of the amendments to these sections 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:

The addition of Article XIII A to the California Constitution as a result of the passage of Proposition 13 on the June 6, 1978, ballot is anticipated to produce serious, temporary disruptions of the labor markets in both the public and private sectors, owing to the abrupt loss of funds for ongoing public services, and resulting layoffs which will affect both employment sectors. Prompt action by the State of California with respect to permitting and encouraging temporary alternatives to layoffs in the public and private sectors, in effect promoting the sharing of available work until new patterns of employment assert themselves, will substantially aid the public peace, health, and safety by reducing full-time unemployment and dependency on welfare that will otherwise occur. In order to prevent such unemployment and welfare dependency, it is necessary for this act to take effect immediately.

CHAPTER 398

An act to amend Section 30760 of, and to add Section 30762.5 to, the Streets and Highways Code, relating to the Antioch Bridge, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 30760 of the Streets and Highways Code is amended to read:

30760. As used in this article:

(a) "Existing bridge" means that bridge connecting the County of Contra Costa near Antioch with the County of Sacramento near Amelia Landing on Sherman Island, known as the Antioch Bridge, together with any existing or new or additional approaches thereto necessary or desirable to connect the present Routes 4, 84, and 160, or any realignment thereof.

(b) "New bridge" or "new Antioch Bridge" means a new high-level fixed-span bridge across the San Joaquin River near Antioch to be located approximately parallel to and downstream from the existing bridge, together with approaches thereto necessary

or desirable to connect with the present Routes 4, 84, and 160, or any realignment thereof, and including necessary toll collection facilities. The new bridge shall include a lane for pedestrians and bicycles.

(c) "Authority" means the California Transportation Commission.

(d) "Department" means the Department of Transportation of the State of California.

SEC. 2. Section 30762.5 is added to the Streets and Highways Code, to read:

30762.5. The new Antioch Bridge shall be constructed with a median barrier.

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 increase the traffic safety of the new Antioch Bridge by the construction of a median barrier prior to the opening of the bridge to traffic, it is necessary that this act take effect immediately.

CHAPTER 399

An act to amend Sections 6005, 6006, and 6007 of the Food and Agricultural Code, relating to agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 11, 1978.]

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

SECTION 1. Section 6005 of the Food and Agricultural Code is amended to read:

6005. Every grower of cotton in the state shall pay to the director a fee of two dollars ($2) for each bale of cotton ginned.

The fee is a maximum fee. The amount of the fee may vary from district to district in accordance with the protection afforded to the cotton crop in the districts. The director may establish districts in the state for the purpose of fixing the fee. Between February 1 and June 30 of each year, the Cotton Pest Control Board shall recommend to the director the amount of such fee, as it determines to be necessary to carry out the provisions of this article in each district. The director may fix such fee at a less amount, when he finds that the cost of administering this article can be defrayed with such below-maximum fee. The amount of such fee shall be effective for the next fiscal year. The fee shall be paid to the director at the time the cotton is ginned. The amount received by the director shall be paid into the Department of Agriculture Fund and shall be used for

the control of pink bollworm or other related cotton pests.

The revenue from the fee shall be used to pay the cost of carrying out this article.

The director shall refund any fees which have not been expended by the termination date of this article.

The director is authorized to receive moneys from other sources for this program, which shall be deposited into the Department of Agriculture Fund, and used to carry out the purposes of this article.

SEC. 2. Section 6006 of the Food and Agricultural Code is amended to read:

6006. The director shall appoint a Cotton Pest Control Board, consisting of 10 members, to assist and advise him on matters which pertain to the control of cotton pests.

The membership shall consist of at least one cottongrower from each of the major cotton-growing counties in the state, and one member who is not a cottongrower and who represents the public.

Any member of the board who misses two meetings without the permission of the board, is deemed to have resigned as a member of such board.

The board may meet in regular session each month. The chairman of the board or director may call any other meeting of the board at any time. Each member shall be allowed per diem and mileage in accordance with the Board of Control rules for attending any meeting of the board.

The board shall annually review the effectiveness of the cotton pest control program.

SEC. 3. Section 6007 of the Food and Agricultural Code is amended to read:

6007. This article shall remain in effect only until July 1, 1985, and as of that date is repealed.

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 1977 unprecedented numbers of pink bollworm threatened cotton crops, and, as a result, increased numbers of sterile moths must be purchased for release in 1978 to combat pink bollworm. Therefore, it is essential that this act take effect immediately.

CHAPTER 400

An act to amend Sections 5501.5, 7153.2, 7153.8, 7155.3 and 7184 of the Financial Code, relating to savings and loan associations.

[Approved by Governor July 11, 1978. Filed with Secretary of State July 12, 1978.]

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

SECTION 1. Section 5501.5 of the Financial Code is amended to read:

5501.5. Notwithstanding any other provision of this code and without limitation upon any rights, powers and privileges which it may otherwise have, a domestic association may do all of the following:

(a) Act as escrow holder in connection with the sale, transfer, encumbering or leasing of real property.

(b) Make collections upon and otherwise service promissory notes and loans, whether for itself or for others.

(c) Disburse funds for itself or for others in connection with loans, escrows or other transactions.

(d) Act as trustee, and receive reasonable compensation for so acting, of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under Section 401 (d) of the Internal Revenue Code of 1954 or any statute amendatory thereof or supplementary thereto, and may act and receive reasonable compensation for so acting, as trustee or custodian of an individual retirement account within the meaning of Section 408 of such code, if the funds of such trust or account are invested only in savings accounts in such association, or in obligations or securities issued by such association, or in savings accounts in any other savings and loan association having its home office in this state. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subsection.

(e) As an incident to its principal activities and for the convenience of its account holders, borrowers and others, provide for the sale of checks, including travelers checks and money orders, on which the drawee is a federal home loan bank, commercial bank or other organization engaged in the business of handling such instruments.

SEC. 2. Section 7153.2 of the Financial Code is amended to read:

7153.2. An association may make amortized loans upon the security of real property in an amount in excess of 80 percent of the appraised value of such real property, if:

(a) There is located thereon only a structure designed for residential use for one family or a structure designed for residential use for one family and structures ancillary to such residential use or if such real property is of the type described in subdivision (a), (b) or (c) of Section 7153.1;

(b) The loan is in an amount not in excess of (1) seventy-five thousand dollars ($75,000), or (2) 90 percent of the appraised value of the real property, or (3) if the loan is made to finance the purchase

of the real property, 90 percent of the purchase price, whichever is less;

(c) If the loan is sought or assumed for the purpose of enabling a purchaser to acquire the security property, the purchaser and the vendor or vendors have jointly executed a certification in writing stating the purchase price of the security property and the items comprising such price;

(d) The association has made or obtained, prior to approval of the loan, a written report on the credit standing of the borrower and the financial ability of such borrower to undertake and pay off the obligation involved in the loan;

(e) The borrower makes a certification in writing that he intends to occupy the property as his home and that no lien or charge upon the property other than the lien of the association or liens or charges which will be discharged from the proceeds of the loan, or, in the case of real property of the type described in subdivisions (a), (b), and (c) of Section 7153.1, liens or charges to secure unpaid assessments for management and common expenses, has been given or executed by him; and

(f) The loan requires repayment in monthly installments and each such payment includes the monthly proration of annual taxes in advance until the unpaid balance of such loan shall have been reduced to 80 percent of the appraised value or the purchase price, if any, whichever is less, of such property.

No association shall have such investments under this section aggregating at any one time more than 30 percent of its total assets. Whenever the unpaid balance of any such loan made under this section shall have been reduced to 80 percent of the appraised value or the purchase price if any, whichever is less, of such property, such loan may be removed from the above-imposed limitation of assets.

A loan under this section may be made to finance the construction of a structure described in the first paragraph hereof, but the amount by which such a loan exceeds 80 percent of the appraised value of the real property shall not be disbursed unless and until construction has been fully completed. If the loan is made to finance construction of such structure for sale the borrower need not certify that he intends to occupy the property as his home, but the amount by which such loan exceeds 80 percent of the appraised value of the real property shall not be disbursed unless and until construction has been fully completed, the property has been sold and title has been conveyed to a purchaser who has executed an agreement with the association assuming and agreeing to pay the loan and there is then compliance with all the provisions of the first paragraph hereof.

SEC. 3. Section 7153.8 of the Financial Code is amended to read:

7153.8. The limitation of 90 percent set forth in subdivision (b) of Section 7153.2 of the Financial Code shall be 95 percent in the case of any loan with respect to which the requirements set forth in subdivisions (a), (c), (d), (e) and (f) of Section 7153.2 are met and with respect to which the following additional requirements are met:

(a) The amount of the loan does not exceed the lesser of:

(1) Sixty thousand dollars ($60,000).

(2) Ninety-five percent of the value of the real estate securing the loan.

(3) Ninety-five percent of purchase price of the security property.

(b) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans made under this subparagraph (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 10 percent of the association's assets unless prior approval to exceed 10 percent is given by the commissioner.

(c) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans under this section and Section 7153.2 and (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 30 percent of the association's assets and

(d) Either:

(1) That portion of the unpaid balance of such loan which is in excess of an amount equal to 90 percent of the value of the real estate is guaranteed or insured by a mortgage insurance company which has been determined to be a "qualified private insurer" by the Federal Home Loan Mortgage Corporation.

(2) The association establishes and maintains a specific reserve with respect to such loan equal to 1 percent of the unpaid principal balance thereof until the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate security, whichever is less, determined at the time the loan was made.

SEC. 4. Section 7155.3 of the Financial Code is amended to read:

7155.3. Subject to the regulations of the commissioner an association may make loans or advances of credit, or invest in interests therein, on the security of residential real property and real property used or to be used for commercial farming enterprises, which loans, advances of credit or investments are not otherwise authorized under the law because of the following reasons: (1) the security interest is not a first lien; (2) the loan-to-value ratio, stated maturity, or loan amount is in excess of the maximum allowable limits; (3) lack of any required borrower certification or required private mortgage insurance; (4) the loan would cause an applicable percentage-of-assets category to be exceeded; or (5) a combination of the foregoing factors. Investments made under the authority of this section are subject to the following:

(a) No association shall have investments under this section aggregating at any one time more than an amount equal to the lesser of (i) 2 percent of its total assets plus one-half percent of total assets

for each percentage point of statutory net worth in excess of 4 percent of assets or (ii) 5 percent of its total assets;

(b) Each investment made under this section shall be fully documented to support the conclusion that it was made on a prudent basis;

(c) A secured investment will be deemed to be unsecured to the extent that it exceeds the appraised value or purchase price of the security therefor, whichever is less, at the time the investment is made.

The following types of investments shall be deemed not to have been made pursuant to this section: (1) investments authorized to be made under other authority; (2) investments which were made under the authority of this section, but were later authorized to be made under other authority; and (3) investments made under other authority that was subsequently revoked.

SEC. 5. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair or improvement.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

SEC. 6. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair or improvement.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

The limitations on loans and advances set forth in this section apply to the net proceeds of each loan or advance.

SEC. 7. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, or the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair, improvement or purchase and installation for energy purposes.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

SEC. 8. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings or the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair, improvement or purchase and installation for energy purposes.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

The limitations on loans and advances set forth in this section apply to the net proceeds of each loan or advance.

SEC. 9. It is the intent of the Legislature that if this bill and Assembly Bill No. 2225 or Assembly Bill No. 2877, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 7184 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. 2877 are both chaptered and become effective January 1, 1979, both bills amend Section 7184 of the Financial Code, but Assembly Bill No. 2225 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2877, the amendments proposed by both bills shall be given effect and incorporated in Section 7184 in the form set forth in Section 6 of this act. Therefore, if this bill and Assembly Bill No. 2877 are both chaptered and become effective January 1, 1979, both bills amend Section 7184, this bill is chaptered after Assembly Bill No. 2877, and Assembly Bill No. 2225 is not chaptered or as chaptered does not amend that section, Section 6 of this act shall be operative and Sections 5, 7 and 8 of this act shall not become operative.

(2) If this bill and Assembly Bill No. 2225 are both chaptered and become effective January 1, 1979, both bills amend Section 7184 of the Financial Code, but Assembly Bill No. 2877 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2225, the amendments proposed by both bills shall be given effect and incorporated in Section 7184 in the form set forth in Section 7 of this act. Therefore, if this bill and Assembly Bill No. 2225 are both chaptered and become effective January 1, 1979, both bills amend Section 7184, this bill is chaptered after Assembly Bill No. 2225, and Assembly Bill No. 2877 is not chaptered or as chaptered does not amend that section, Section 7 shall be operative and Sections 5, 6 and 8 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 2877 and Assembly Bill No. 2225 are all chaptered and become effective January 1, 1979, all three bills amend Section 7184 of the Financial Code, and this bill is chaptered after Assembly Bill No. 2225 and Assembly Bill No. 2877, the amendments proposed by all three bills shall be given effect and incorporated in Section 7184 in the form set forth in Section 8 of this act. Therefore, if this bill and Assembly Bill No. 2225 and Assembly Bill No. 2877 are all chaptered and become effective January 1, 1979, all three bills amend Section 7184 of the Financial Code, and this bill is chaptered after Assembly Bill No. 2225 and Assembly Bill No. 2877, Section 8 of this act shall be operative and Sections 5, 6 and 7 of this act shall not become operative.

CHAPTER 401

An act to amend Section 1042 of the Education Code, relating to county boards of education.

[Approved by Governor July 12, 1978. Filed with Secretary of State July 13, 1978.]

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

SECTION 1. Section 1042 of the Education Code is amended to read:

1042. County boards of education may:

(a) Adopt rules and regulations governing the administration of the office of the county superintendent of schools.

(b) Review the county superintendent of schools annual itemized estimate of anticipated revenue and expenditures before such annual itemized estimate is filed with the auditor as required by Section 29040 of the Government Code and make such revisions, reductions or additions therein that it deems advisable and proper. No such itemized estimate shall be filed by the county superintendent of schools or be approved by the board of supervisors until it has first been so reviewed and approved by the county board of education.

(c) In the name by which the board of education is designated, acquire, lease, lease-purchase, hold and convey real property for the purpose of housing the offices and the services of the county superintendent of schools, except that this subdivision shall only apply to such county boards of education to which all the duties and functions of the county board of supervisors specified in Section 1080 have been transferred with the exception of the recreational duties and recreational functions specified in subdivisions (c) and (e) of Section 1080.

(d) Contract with and employ any persons for the furnishing to the board of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if such persons are specially trained and experienced and competent to perform the special services required. The board may pay from any available funds such compensation to such persons as it deems proper for the services rendered.

CHAPTER 402

An act to amend Sections 42241, 56031, 56302, 56312, 56317, 56330, 56332, 56332.5, 56335, 56336, 56336.2, 56336.3, 56336.5, 56337, 56339, 56341.3, 56354, 56355, 56362.2, 56367, 56601, 56611, 56612, 56613, 56615, 56618, 59002, and 59204 of, to add Sections 56006 and 56806 to, and to repeal Sections 41892, 42241, 56144, 56606, 56609, 56610, and 56806 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 12, 1978. Filed with Secretary of State July 13, 1978.]

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

SECTION 1. Section 41892 of the Education Code is repealed.

SEC. 2. Section 42241 of the Education Code is amended to read:

42241. (a) For costs incurred during the period of July 1, 1977, through December 31, 1977, the revenue limit of a school district is increased or decreased by the amount computed pursuant to this section.

(b) The county superintendent of schools shall ascertain the amount of district contributions which was paid from local taxes pursuant to Section 56031 in the 1972–73 fiscal year.

(c) The county superintendent of schools shall ascertain the amount of district contributions which is to be paid from local taxes pursuant to Section 56031 in the then current fiscal year.

(d) If the amount determined pursuant to subdivision (c) is greater than that determined pursuant to subdivision (b), the revenue limit for the following fiscal year shall be increased by an amount equal to the difference.

(e) If the amount determined pursuant to subdivision (c) is less than that determined pursuant to subdivision (b), the revenue limit for the following fiscal year shall be decreased by an amount equal to the difference.

(f) If the amount determined in both subdivisions (b) and (c) is the same, there is no change in the revenue limit computed pursuant to this section.

This section shall remain in effect only until July 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1979, deletes or extends such date.

SEC. 3. Section 56006 is added to the Education Code, to read:

56006. Any school district or county superintendent of schools may request the State Board of Education to grant a waiver of any provision of this code or regulations adopted pursuant to this code if such a waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program, or to the district's or county's compliance with Public Law 94-142 and Section 504 of Public law 93-112, and subsequent amendments, and

federal regulations regarding the provision of a free and appropriate education for handicapped children.

The State Board of Education may grant, in whole or in part, any such request when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or the compliance by the district and county with federal mandates for a free and appropriate education for handicapped children.

SEC. 4. Section 56031 of the Education Code is amended to read:

56031. As used in this article:

(a) "Private school" means a private nonsectarian school, institution, or agency which meets standards prescribed by the State Board of Education. However, "private school" does not include a regularly established nonprofit, tax-exempt licensed children's institution unless it requests such designations and meets the prescribed standards.

(b) "Parent," as used in this article, includes any person having legal custody of the child. "Parent," in addition, includes any adult pupil for whom no guardian has been appointed and the person having custody of a minor if neither the parent or legal guardian can be notified of the educational actions under consideration. "Parent" also includes a parent surrogate.

(c) "Local school district" means the district of residence of the pupil.

(d) "Day" means a calendar day unless otherwise specified.

(e) "Appropriate educational placement" means the school placement that can implement the individualized education program of the pupil.

(f) "The individualized education program" means the pupil's educational plan developed in accordance with standards established by the State Board of Education.

(g) "Special education services and facilities" means those services and facilities specified in the pupil's individualized education program. Such services shall include room and board and transportation services if such services are specified in the individualized education program.

(h) An "individual with exceptional needs" means a handicapped pupil or child who is eligible for one or more of the programs authorized by the following sections:

(1) Educationally handicapped as authorized by Section 56600.

(2) Autistic as authorized by Section 56601.

(3) Educable mentally retarded as authorized by Sections 56500 and 56501.

(4) Severely mentally retarded as authorized by Sections 56500 and 56515.

(5) Physically handicapped as authorized by Section 56701.

(i) "County superintendent" means the county superintendent of schools.

(j) The "contract" means the legal document which is binding

upon the school district and the private school. The contract shall be in a standard form made available through the Department of Education.

(k) "Certification" means the procedure whereby the private school is evaluated to determine its ability to provide special education services consistent with the needs of individuals with exceptional needs under a procedure established by the State Board of Education.

SEC. 4.5. Section 56144 of the Education Code is repealed.

SEC. 5. Section 56302 of the Education Code is amended to read:

56302. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the State Board of Education.

(b) "Department" means the Department of Education.

(c) "Individuals with exceptional needs" means all pupils whose special education needs cannot be met by the regular classroom teacher with modification of the regular school program, who require the benefit of special education and services, and who are one of the following:

(1) Younger than three years of age who have been identified by the educational assessment service as defined by subdivision (b) of Section 56336.2 as requiring intensive special education and services as defined by the board.

(2) Between the ages of three years and four years and nine months, inclusive, who have been identified by the educational assessment service as defined by subdivision (b) of Section 56336.2 as requiring intensive special education and services as defined by the board.

(3) Between the ages of four years and nine months and 18 years, inclusive.

(4) Between the ages of 19 and 21, inclusive, who were enrolled in or eligible for a program under this chapter or other special education program prior to their 19th birthday and who have not yet completed their prescribed education program. Any such pupil who becomes 22 years of age while participating in a program under this chapter may continue his or her participation in the program for the remainder of the then current school year.

Although non-English-speaking pupils may be appropriately identified as individuals with exceptional needs requiring services under this chapter, this definition does not include persons whose educational needs are due primarily to unfamiliarity with the English language or to cultural differences.

(d) "Local comprehensive plan" means a plan which meets the requirements of Article 3 (commencing with Section 56330) of this chapter and which is submitted by a responsible local agency.

(e) "Parent" as used in this chapter includes any person having legal custody of a child. "Parent" in addition, includes any adult pupil for whom no guardian has been appointed and the person having custody of a minor if neither the parent or legal guardian can be

notified of the educational actions under consideration. "Parent" also includes a parent surrogate.

(f) "Responsible local agency" means the school district or office of the county superintendent of schools designated in the local comprehensive plan as the agency whose duties shall include, but are not to be limited to, receiving and distributing funds pursuant to the local comprehensive plan, providing for administrative support and coordinating the administration of the plan.

(g) "Special education" means programs or services specially designed to meet the education requirements of individuals with exceptional needs. Programs for the communicatively handicapped serve those pupils with disabilities in one or more of the communication skills such as language, speech, and hearing. Programs for the physically handicapped serve those pupils with physical disabilities such as vision, including disabilities within the function of vision resulting in visual perceptual or visual motor dysfunction, and mobility impairments and orthopedic or other health impairments. Programs for the learning handicapped serve pupils with significant disabilities in learning or behavior such as learning disabilities, including disabilities resulting from visual perceptual disorders and visual motor disorders, behavior disorders, and educational retardation. Programs for the severely handicapped serve pupils with profound disabilities and who require intensive instruction and training such as the developmentally disabled, trainable mentally retarded, autistic, and seriously emotionally disturbed. It is the intent of the Legislature in this definition to provide general classifications of special education programs. The Legislature also recognizes that a pupil may appropriately require services from more than one classification of program and that the examples given for each classification do not imply that such pupils can be grouped in a class or program without regard to the individual educational needs of the pupils served.

(h) "Superintendent" means the Superintendent of Public Instruction.

(i) "Special education services region" means all school districts organized within a comprehensive plan in accordance with Section 56315.

SEC. 5.1. Section 56312 of the Education Code is amended to read:

56312. The superintendent shall administer the provisions of this chapter and shall:

(a) Grant approval of the organization of the local comprehensive plans within each county.

(b) Establish guidelines for the development of local comprehensive plans, including a standard format for local comprehensive plans, and provide assistance in the development of local comprehensive plans. The purposes of such guidelines and assistance shall be to help local agencies benefit from the experience of other local agencies implement programs under this chapter,

including, but not limited to, reducing paperwork, increasing parental involvement, and providing effective staff development activities. To the extent possible, all forms, reports, and evaluations shall be designed to satisfy simultaneously state and federal requirements.

(c) Review and recommend to the board for approval, local comprehensive plans developed and submitted in accordance with this chapter.

(d) Promote innovation and improvement in the field of special education at the school, district, county, and state levels.

(e) Monitor the implementation of local comprehensive plans by periodically conducting onsite program and fiscal reviews.

(f) Encourage the maximum practicable involvement of parents of children enrolled in special education programs.

(g) Make recommendations in the areas of staff development, curriculum, testing and multicultural assessment, and the development of materials for special education programs.

(h) Prepare for board approval as necessary, any state plan required by federal law in order that this state may qualify for any federal funds available for the education of individuals with exceptional needs.

(i) Maintain the state special schools in accordance with Part 32 (commencing with Section 59000) of this division and Part 43 (commencing with Section 70000) of Division 6 of Title 3 so that the services of such schools are coordinated with the services of the special education services region.

(j) Develop in accordance with Sections 33401 and 56351 an annual program evaluation plan and report of special education programs authorized under this chapter for submission to the board.

(k) Apportion funds in accordance with Article 5 (commencing with Section 56360) of this chapter and approved local comprehensive plans.

(*l*) Assist districts and counties in the improvement and evaluation of their programs.

(m) Provide review to any parent, as specified in Section 56341.4.

SEC. 5.2. Section 56317 of the Education Code is amended to read:

56317. Any county superintendent of schools with the approval of the county board of education or governing board of a school district shall have authority over the programs they directly maintain, consistent with the responsibilities assigned to it in a local comprehensive plan, and the policies set forth by the superintendents who comprise the special education services region as specified in subdivision (p) of Section 56330. Such county superintendent of schools or governing board of a school district may provide for the education of individual pupils in special education programs maintained by other districts or counties, and may include within their special education programs pupils who reside in other districts or counties. Section 46600 shall apply to interdistrict

attendance agreements for programs conducted pursuant to this chapter.

SEC. 6. Section 56330 of the Education Code is amended to read:

56330. Any local comprehensive plan submitted under this chapter shall:

(a) Provide for seeking out all individuals with exceptional needs ages 0 through 21 years residing in the special education services region, including preschool and other children not enrolled in school programs.

(b) Provide for the identification and assessment of an individual's exceptional needs, and the planning of an instructional program to best meet the assessed needs. Identification procedures shall include systematic methods of utilizing referrals of pupils from teachers, parents, agencies, appropriate professional persons, and from other members of the public. Assessment procedures shall include provisions for educational assessment, psychoeducational assessment, and health assessment, as appropriate. Such procedures shall include provisions for the assessment of the individual's development in language, cognitive, affective, sensory, and sensory motor functioning.

(c) Provide for differential grouping of individuals according to their identified needs.

(d) Describe how each of the components set forth in Section 56332 will be made available to meet the needs of all individuals with exceptional needs ages three through 21 who are or may be identified.

(e) Describe how psychological and health services will be provided including, but not limited to, identification of handicapping conditions, assessment of pupil needs and progress, pupil counseling, staff development and consultation to parents, teachers, and other school staff regarding individuals with exceptional needs.

(f) Provide opportunities for physical education.

(g) Describe provisions for a comprehensive program for individualized career and vocational development, with emphasis on vocational training at the secondary level.

(h) Set forth program objectives in terms of pupil performance.

(i) Describe the personnel responsible and the procedure to be followed in assuring that each pupil's individualized education program is being implemented. Such procedures shall include a process for a teacher to obtain a special review of the appropriateness of the placement of an individual with exceptional needs in his or her class. Such procedures shall also include, but not be limited to, a description of when such special reviews may be requested, what personnel will provide such special reviews, and a timetable for completion of a special review.

(j) Describe the plan to provide assistance at the school site level to insure that special programs which promote interaction with the general school population are implemented in a manner which is appropriate to both individuals with exceptional needs and the

general school population. Such plan shall include procedures for assisting nonspecial education pupils to understand and accept individuals with exceptional needs who are transferred into their class.

(k) Include a state program evaluation component and procedures as set forth in Article 4 (commencing with Section 56350) of this chapter, and a local program evaluation component which shall provide for the annual evaluation of the program. Regular and special education teachers, administrators, other school staff, and parents shall participate in the local program evaluation process.

(*l*) Specify the number and responsibilities of program specialists required as described in Section 56335. The number of program specialists provided in the local comprehensive plan shall equal at least one per every 560 individuals with exceptional needs served under the comprehensive plan.

(m) Provide for curriculum development.

(n) Provide for ongoing staff development for regular and special education teachers, administrators, and other certificated, classified, and volunteer staff, in accordance with Section 56332.5.

(o) Provide for appropriate qualified staff to fulfill the responsibilities of the plan consistent with the credentialing requirements of this code, including positive efforts to employ qualified handicapped individuals.

(p) Designate a responsible local agency as the agent of the parties to coordinate the administration of the plan and specify, for multidistrict plans, how each superintendent of each participating district shall be involved in the policymaking process.

(q) For multidistrict plans, specify how any district administrators of special education shall function in the coordination of the administration of the local comprehensive plan.

(r) Establish a community advisory committee to the responsible local agency. The individual members of the community advisory committee shall be appointed by and responsible to the school district and county governing board or boards participating in the local comprehensive plan, in accordance with a locally determined selection procedure which must be described in the local comprehensive plan. The community advisory committee shall be composed of parents of individuals with exceptional needs enrolled in public or private, nonsectarian schools, other parents of pupils enrolled in school, individuals with exceptional needs enrolled in special education programs, regular classroom teachers, special education teachers and other school personnel, representatives of other public and private agencies, and persons concerned with the needs of individuals with exceptional needs. At least the majority of such committee shall be composed of parents of pupils enrolled in schools located within the geographic area of the responsible local agency, and at least a majority of the parents shall be parents of individuals with exceptional needs. The community advisory committee shall have such authority and fulfill such responsibilities

as are defined for it in the local comprehensive plan. Such responsibilities shall include, but need not be limited to: advising the administration of the responsible local agency, and the policy body in subdivision (p) regarding the development of the local comprehensive plan and the review of programs under such plan; making recommendations on annual priorities to be addressed under the plan; assisting in parent education and in recruiting parents and other volunteers who may contribute to the implementation of the plan; encouraging public involvement in the development and review of the local comprehensive plan; and acting in support of individuals with exceptional needs.

(s) Describe the procedures for notifying parents of the steps in the assessment procedures pursuant to Section 56337.

(t) Provide for review of decisions as provided in Sections 56340 and 56341.

(u) Describe how and to what degree the district or county intends to make use of the services offered by the state special schools and how pupils eligible for such services will be identified and referred to such schools. While enrolled in a state special school, a pupil shall be the administrative and program responsibility of that special school, including the individual protections prescribed in Section 56605 and the development of the individualized education program prescribed by subdivision (a) of Section 56336.5.

(v) Provide for ongoing program review by the responsible local agency of programs and procedures conducted under the local comprehensive plan.

(w) Include, as part of the local comprehensive plan and budget, maximum use of all existing local, state, and federal resources that are available to individuals with exceptional needs.

SEC. 7. Section 56332 of the Education Code is amended to read:

56332. In addition to the general requirements of Section 56330, each local comprehensive plan submitted for approval under this chapter shall also include the following program components:

(a) Instructional components:

(1) Special classes and centers which enroll pupils with similar and more intensive educational needs. Such classes and centers shall enroll such pupils when the nature or severity of the disability is such that a less restrictive environment cannot be achieved satisfactorily and shall facilitate their interaction with other pupils in the regular school program. Special classes and centers shall meet standards as set forth by the board, including standards for appropriate class size. Such standards shall be adopted by July 1, 1978.

(2) A resource specialist program, as described in Section 56333.

(3) Designated instruction and services not normally provided in a regular or special class or by the resource specialist program. Designated instruction and services shall meet standards as set forth by the board. These services may include, but are not limited to: language and speech development and remediation; audiological services; mobility instruction; instruction in the home and hospital;

adaptive physical education; physical and occupational therapy not provided pursuant to Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code; vision services and therapy; specialized driver training instruction; counseling and guidance; psychological counseling; parent education; health-nursing services.

(4) Nonpublic, nonsectarian school services, including services by public and private agencies, provided under contract with the responsible local agency when such services can more appropriately meet the needs of the pupil. Pupils enrolled in nonpublic schools under this subdivision shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 and Section 42238. The responsible local agency shall be eligible to receive allowances under subdivisions (c) through (h) of Section 56360 for services that are provided to individuals with exceptional needs pursuant to the contract. The responsible local agency or school district shall pay to the nonpublic, nonsectarian school the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to such contract.

(b) Supportive components:

(1) Identification, assessment, and instructional planning as described in Sections 56335 to 56337, inclusive.

(2) Management and support services including program evaluation and staff development programs as defined by the board.

(3) Special transportation services. This includes transportation in special vehicles, transportation for pupils not attending school of residence, transportation to work stations and work-training programs, and providing room and board in lieu of transportation.

(4) Capital outlay to provide equipment and adequate, safe facilities for special education programs, upon the enactment of legislation effecting the intent of the Legislature which is expressed in Section 56361.

SEC. 7.1. Section 56332.5 of the Education Code is amended to read:

56332.5. Staff development programs provided as part of a local comprehensive plan shall be coordinated with other staff development programs in the special education services region, including school level staff development programs authorized by state and federal law. Staff development programs provided under this chapter shall:

(a) Provide opportunities for all school personnel, paraprofessionals and volunteers to participate in ongoing development activities pursuant to a systematic identification of pupil and personnel needs.

(b) Be designed and implemented by classroom teachers and other participating school personnel, including the school principal. Teachers shall comprise the majority of any group designated to design local staff development programs for instructional personnel

to be established pursuant to this article.

(c) Allow for diversity in development activities, including but not limited to, small groups, self-directed learning, and systematic observation during visits to other classrooms or schools.

(d) Be conducted during time which is set aside for such purpose on a continuing basis throughout the school year, including, but not limited to, time when participating school personnel are released from their regular duties.

(e) Be evaluated and modified on a continuing basis by participating school personnel with the aid of outside personnel as necessary.

(f) Include the school principal and other administrative personnel as active participants in one or more staff development activities implemented pursuant to this article.

SEC. 7.3. Section 56335 of the Education Code is amended to read:

56335. (a) A program specialist is a specialist who holds a valid special education credential, clinical services credential, health services credential, or a school psychologist authorization and has advanced training and related experience in the education of individuals with exceptional needs and a specialized in-depth knowledge in at least one of the following areas: communicatively handicapped, physically handicapped, learning handicapped, severely handicapped pupils, preschool handicapped, or career-vocational development.

(b) The program specialist shall observe, consult with and assist resource specialists, designated instruction and services instructors, and special class teachers and shall plan programs, coordinate curricular resources and assess program effectiveness in, the programs for individuals with exceptional needs. The program specialist shall also participate in each school's staff development, research, program development and innovation of special methods and approaches.

(c) A program specialist shall provide coordination, consultation and program development primarily in the one specialized area in subdivision (a) of his or her expertise and shall have responsibilities to assure that pupils have full educational opportunity regardless of district of residence in the special education services region.

SEC. 7.4. Section 56336 of the Education Code is amended to read:

56336. In addition to the requirements set forth in Sections 56330 and 56332, each local comprehensive plan shall identify the personnel responsible for the operational management of identification, assessment, and instructional planning. The plan shall also include at least the following provisions for identification, assessment, and instructional planning:

(a) Procedures for consultation, information review and analysis, observation, screening and such other procedures that lead to a formal referral for special education and services.

(b) Procedures for reviewing each formal referral for special education and services and developing an assessment plan.

(c) Procedures for parental participation and informed consent for assessment.

(d) Procedures and personnel for functional assessment of the pupil according to the nature and extent of the disability and under standards established by the board.

(e) Procedures and personnel responsible for determining the relationships between the assessment findings and the pupil's needs for special education and services.

(f) Procedures for informing parents of the availability under this chapter of free appropriate special education services, both public and private.

(g) Procedures for developing an individualized education program, including parental participation and informed consent.

(h) Procedures for reviewing the individualized education programs for pupils transferring or returning to the Special Education Services Region.

SEC. 7.5. Section 56336.2 of the Education Code is amended to read:

56336.2. Each local comprehensive plan shall provide for at least two levels of teams for review and decisions on eligibility, individualized education program and placement. These two levels shall be a school site level, called the school appraisal team, and a regional level, called the education assessment service team.

(a) School appraisal team. The minimum membership of the school appraisal team for purposes of review and decisions on eligibility, individualized education program and placement for any pupil shall be: (1) the school principal or his or her administrative or supervisory designee; (2) the special education teacher or teachers or specialist or specialists most appropriate to the needs of the pupil and; (3) the parent, at the option of the parent, or a representative selected by the parent, or both, or, if neither the parent or a representative agree to attend, a pupil services worker of the district or special education services region who is not supervised primarily by the school principal, such member to serve as a child advocate.

In addition to the required minimum membership, the following shall participate as indicated: (1) a regular teacher of the pupil whenever the pupil may be transferred into a regular class from a special class or center, nonpublic school, or special school, and services by the regular teacher may be included as part of the pupil's individualized education program; (2) the special education specialist, school psychologist, school nurse, school social worker, counselor, or other pupil services worker who has conducted an assessment of the pupil, whenever the results or recommendations based on such an assessment are significant to the development of the pupil's individualized education program and placement; (3) the pupil, whenever the pupil is capable of benefiting from the

discussion, and; (4) any other person whose competence is needed due to the nature and extent of the pupil's disability.

The school appraisal team shall determine the content of the individualized education program and make placement recommendations for the resource specialist program and designated instruction and services provided in the school. The school appraisal team may, under regulations adopted by the board, also determine the content of the individualized education program and make placement recommendations for pupils from that school who require instruction at home or in a hospital for a short-term physical disability.

(b) Educational assessment service. The educational assessment service shall consist of professional specialists representing health services, psychology, social work, speech, language, hearing, and special education, who shall conduct assessments as appropriate and participate in the development of the individualized education program and make recommendations for placement of pupils referred to the education assessment service.

The minimum membership of an educational assessment service team for purposes of review and decisions on eligibility, individualized education program, and placement for any pupil shall be: (1) a program specialist or special education administrator appropriate to the needs of the pupil; (2) the special education teacher or teachers or specialist or specialists most appropriate to the needs of the pupil; (3) professional member or members of the educational assessment service who has personally assessed the pupil, whenever the results or recommendations based on such an assessment are significant to the development of the pupil's individualized education program and placement, and; (4) the parent, at the option of the parent, or a representative selected by the parent, or both, or, if neither the parent or a representative agree to attend, a pupil services worker of the district or special education services region, such member to serve as a child advocate.

In addition to the required minimum membership of the team, the following shall participate as indicated: (1) the regular teacher of the pupil whenever the pupil may be transferred into a regular class from a special class or center, nonpublic school, or special school, and services by the regular teacher may be included as part of the pupil's individual education program; (2) the teacher who referred the pupil whenever such teacher has special knowledge of the pupil which is necessary to the development of an individualized education program for the pupil; (3) the pupil whenever the pupil is capable of benefiting from the discussion; (4) a representative of the nonpublic school whenever the pupil is receiving nonpublic school services, and; (5) any other person whose competence is needed due to the nature and extent of the pupil's disability.

For each pupil whose individualized education program is being determined by an educational assessment service team, a psychological and health assessment of that pupil shall have been

conducted.

The educational assessment service team shall determine the content of the individualized education program and make placement recommendations for pupils who attend special classes or centers and for any pupil who will attend a school or program other than the pupil's normal school of attendance, except for pupils at home or in a hospital for a short-term physical disability, and for any pupil who requires a more intensive study.

SEC. 7.6. Section 56336.3 of the Education Code is amended to read:

56336.3. (a) The local comprehensive plan shall include procedures to assure that continuous assessment of each pupil's progress is maintained and that periodic review of such progress is made. The plan shall provide for no less than an annual comprehensive review of the progress and revision of the individualized education program for each pupil by the school appraisal team or educational assessment service. The plan shall include procedures for compliance with subdivision (i) of Section 56301.

(b) Any pupil who has not clearly demonstrated progress shall be referred for a more intensive assessment specified in subdivision (d) of Section 56336 and revisions or modifications shall be made in the pupil's individualized education plan. Pupils placed in a resource specialist program by a school appraisal team for more than one year shall receive at least health and psychological screening at sometime during the second year to determine if a further health assessment or psychological assessment, or both, are necessary.

(c) The special education services region shall annually notify parents of their right to request a review by the educational assessment service whenever the parent believes the pupil is not making appropriate progress.

SEC. 7.7. Section 56336.5 of the Education Code is amended to read:

56336.5. (a) The individualized education program shall be a written statement determined in a meeting of a school appraisal team or educational assessment service team which shall include (1) the present levels of the pupil's educational functioning; (2) the annual objectives; (3) the specific special educational programs and services required by the pupil and the extent the pupil will be able to participate in regular educational programs; (4) the projected date for initiation and anticipated duration of such programs and services; and (5) appropriate objective criteria upon which to determine whether the instructional objectives are being achieved.

The individualized education program shall include provisions for the transition into the regular class program if the pupil is to be transferred from a special day class or center or nonpublic school into a regular class in a public school.

(b) In addition to the annual objectives included in the pupil's individualized educational program, the special education teachers

or specialists of the pupil shall develop and periodically review the activities for each pupil.

(c) A secondary grade level pupil's individualized education program shall also include any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and meet or exceed proficiency standards for graduation, in accordance with Section 51225.

(d) It is the intent of the Legislature in requiring individualized education programs that the educational agency is responsible for providing the services delineated in the individualized education. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program.

SEC. 8. Section 56337 of the Education Code is amended to read:

56337. (a) Whenever an assessment is to be conducted by a school appraisal team or an educational assessment service, the consent of the parent shall be obtained and the parent of the pupil shall be given written notice of the intended assessment and be given at least 10 schooldays in which to arrive at a decision before the assessment begins. This written notice shall be in ordinary and concise language and in the primary language of the pupil's home and shall fully explain the procedure and objective of the assessment and the facts which make an assessment necessary or desirable. The written notice shall state that no educational placement will result from the assessment without the consent of the pupil's parent.

The assessment of any pupil referred to a school appraisal team or an educational assessment service shall be completed within 35 schooldays from the date of receipt of written parental consent for such assessment, except that when both assessments are required the total time shall not exceed 50 schooldays. Those persons assessing the pupil shall maintain a complete and specific written record of diagnostic procedures employed, the conclusions reached, the suggested course of education or treatment best suited to the pupil's needs, its anticipated duration, and the specific objectives to be attained. Subdivision (i) of Section 56301 shall apply to the assessment of all pupils. Such assessment shall remain confidential and be used only for the administration of the special education programs, including, but not limited to, assuring that each special education program is meeting the objectives for the children assigned to it.

(b) Admission of a pupil to a special education program under this chapter shall be made only on the basis of an individual assessment according to standards established by the board and upon an individual recommendation of either a school appraisal team or an educational assessment service. Pupils admitted to special education programs prior to the implementation of this chapter on the basis of procedures and criteria in effect at the time of such admission shall be admitted to programs under this chapter on the same basis as pupils recommended by a school appraisal team or an educational

assessment service.

(c) The parent of the pupil shall be notified in writing in ordinary and concise language and in the primary language of the pupil's home, of the findings of the assessment, the recommended educational decision, and the reasons therefor. The notice shall state that:

(1) A conference with the parent and his or her representative will be scheduled upon request.

(2) If the parent disagrees with the recommended educational decision, he or she has the right to procure, at public expense, an independent educational assessment of the child from qualified specialists, as defined by rules and regulations of the board, which assessment will become a part of the pupil's record. However, if a fair hearing panel formed pursuant to Section 56341.3 determines that the recommended educational assessment and decision obtained by the local educational agency is appropriate, the parent still has the right to an independent educational assessment, but not at public expense.

(3) The parent has the right to have the recommended educational decision reviewed.

(d) The psychological assessment of pupils under procedures required by subdivision (i) of Section 56301 shall be conducted by a credentialed school psychologist who is adequately trained and prepared to assess cultural and ethnic factors.

(e) Whenever a pupil transfers into a school district from a school district not operating programs under the same local comprehensive plan in which his last enrollment was in a special education program, the administrator of a local program under this chapter may place the pupil in a comparable program for a period not to exceed 30 days. Such an interim placement may be made without the complete documentation specified in subdivision (a). Before the expiration of the 30-day period such interim placement shall be reviewed by the school appraisal team or the educational assessment service and a final recommendation shall be made by the team or service in accordance with the requirements of this chapter. The team or service may utilize information, records, and reports from the admission proceedings of the school district or county program from which the pupil transferred.

SEC. 9. Section 56339 of the Education Code is amended to read:

56339. Whenever a pupil is being assessed by a school appraisal team or an educational assessment service, the parents shall be notified in advance of their rights pursuant to Section 56341 that they have the right to present information to the team or service in person or through a representative, and to participate in the meeting devoted to eligibility, recommendations, and program planning.

SEC. 10. Section 56341.3 of the Education Code is amended to read:

56341.3. The fair hearing panel shall be composed of three persons knowledgeable of the needs of the individual with

exceptional needs to serve as an impartial body in its deliberations so as to protect the rights of the parties involved. The fair hearing panel shall be formed within five days after the review by the responsible local agency director or his or her designee if there is no agreement on the concern or upon concerns at issue, or a request by the concerned parent, or the school district, for a hearing before the fair hearing panel.

(a) Each member shall be impartial, unbiased, and not an employee or agent of the school district, county superintendent of schools, or responsible local agency responsible for the hearing and shall not be an employee or agent of a private nonsectarian school being considered for the pupil's placement. Members of the fair hearing panel shall be selected as follows: one selected by the responsible local agency, one selected by the parent, and the third member selected by mutual agreement of the two members so selected. If the two members already chosen are unable to select the third person within the specified five-day period the responsible local agency shall notify the county superintendent who shall immediately select the third member. If the county superintendent is a party to the hearing, and there is a disagreement of the selection of the third member, the county superintendent shall request the third member to be selected by another school district. Each member of the hearing panel shall have expertise relating to the handicap of the pupil and the appropriate education of such pupil. The chairman of the fair hearing panel shall be selected by the members of the fair hearing panel.

(b) The responsible local agency may reimburse each member of the fair hearing panel a reasonable per diem and transportation costs for participation in the fair hearing panel, as normally authorized by the responsible local agency for its employees. Any other incidental costs related to the fair hearing procedure shall be borne by the responsible local agency which is a party to the hearing.

(c) If the fair hearing panel requests an independent educational assessment as part of the hearing, the cost of the assessment shall be at public expense.

SEC. 10.5. Section 56354 of the Education Code is amended to read:

56354. The superintendent shall provide for onsite program and fiscal reviews of the implementation of plans approved under this chapter. In performing such reviews and audits, the superintendent may utilize the services of persons outside of the department chosen for their knowledge of special education programs. Each special education services region shall receive at least one review during the period of approval of its local comprehensive plan for special education.

SEC. 10.6. Section 56355 of the Education Code is amended to read:

56355. The Department of Education shall contract for an independent evaluation of the programs established pursuant to this

chapter to be conducted during the 1977–78, 1978–79, 1979–80, 1980–81, and 1981–82 fiscal years which shall contain, but need not be limited to, annual and longitudinal information from a sampling of participating and nonparticipating districts and schools regarding:

(a) Number and characteristics of pupils served by type of exceptional need classification and instructional program.

(b) Placement of pupils in least restrictive environment.

(c) Classroom characteristics, including staff-pupil ratios and class composition.

(d) Degree to which objectives identified in individualized educational programs, including pupil cognitive skill development, are achieved, provided appropriate assessment measures related to such objectives are available.

(e) Pupil attitudes toward self, school and others and pupil interpersonal relationships.

(f) Parent, pupil, teacher and administrator satisfaction with services and processes provided, and parental involvement in programs and services.

(g) Improvement of professional skills among teachers, administrators and other school personnel.

(h) Program costs, including expenditures for direct services, support services and indirect support at the responsible local agency, district and school levels, and sources of funding at the responsible local agency and district levels.

Such information shall: (1) allow comparisons between participating and nonparticipating districts and schools with regard to subdivisions (a) through (h) above; (2) provide information with regard to subdivisions (b) through (f) and (h) in relation to exceptional need classifications and instructional programs identified in subdivision (a), and (3) for the purpose of improving administrative processes and procedures, include comparisons among the special education services regions as measured by subdivisions (a) and (h) above.

The independent evaluator shall have expertise in evaluation. Selection of the independent evaluator, and the design and scope of the evaluation, shall be subject to approval by the Legislative Analyst and the Department of Finance.

The evaluator, by January 1, 1979, and annually thereafter through 1982, shall submit a report to the Legislature and the Governor.

SEC. 11. Section 56362.2 of the Education Code is amended to read:

56362.2. (a) A sum of four hundred thousand dollars ($400,000) is annually appropriated from the General Fund to the Department of Education for the purpose of contracting or making grants for conducting research in the education of individuals with exceptional needs and gifted pupils. It is the intent of the Legislature that these funds be used to provide grants and contracts to individuals, organizations, agencies or institutions of higher education, other than the Department of Education, possessing personnel, facilities

and the competencies necessary for successful completion of such studies. Each fiscal year the amount set forth in this subdivision shall be adjusted for inflation. The adjustment factor shall be jointly determined by the Department of Education and the Department of Finance.

(b) The Department of Education shall submit to the State Board of Education, by January 15 of each year, an annual program plan for research in the education of individuals with exceptional needs and gifted pupils. The plan shall contain a description of the procedures for the development, review, selection, monitoring and dissemination of such studies. The State Board of Education shall incorporate the following criteria in reviewing the annual plan:

(1) The plan accounts for coordination of all state and federal resources available to the Department of Education for research and program development in special education;

(2) The proposed priorities represent significant statewide problems in the education of individuals with exceptional needs and gifted pupils;

(3) Studies may be authorized for up to a three-year period subject to annual review and approval by the State Board of Education; and

(4) Studies funded through this section shall be coordinated with, but separate from, those activities defined within Section 56351.

(c) The Superintendent of Public Instruction may employ such personnel as may be required for the effective administration and dissemination of the research program activities. The superintendent shall use funds allocated in subdivision (a) for this purpose, provided such funds do not exceed 10 percent of the total amount apportioned.

SEC. 12. Section 56367 of the Education Code is amended to read:

56367. It is the intent of the Legislature that the role of the nonpublic, nonsectarian schools shall be maintained and continued as an alternative special education service available to special education services region and parents.

(a) The contract for nonpublic school services, pursuant to paragraph (4) of subdivision (a) of Section 56332, shall be developed in accordance with the following provisions:

(1) The contract shall specify the administrative and financial agreements between the nonpublic school and the responsible local agency to provide the services included in the pupil's individualized educational program. The contract may allow for partial or full-time attendance at the nonpublic school.

(2) The contract shall be negotiated for the length of time for which nonpublic school services are specified in the pupil's individualized educational program.

Changes in educational services or placement provided under contract may only be made on the basis of revisions to the pupil's individualized educational program.

At any time during the term of the contract the parent, nonpublic

school, or responsible local agency may request a review of the pupil's individualized educational program by the educational assessment service. Changes in the administrative or financial agreements of the contract which do not alter the educational services or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic school and the responsible local agency.

(3) The contract may be terminated for cause. Such cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(b) If the pupil is enrolled in the nonpublic school with the approval of the responsible local agency prior to agreement to a contract, the responsible local agency shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 45 schooldays during which time the contract shall be consummated. If after 45 schooldays the contract has not been finalized as prescribed in paragraph (1) of subdivision (a) of this section, either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local comprehensive plan involved in the private school contract, or the Superintendent of Public Instruction, if the county superintendent is participating in the local comprehensive plan involved in the contract, to negotiate the contract. Within 30 calendar days of receipt of this appeal, the county superintendent or the Superintendent of Public Instruction, or his or her designee, shall develop a contract which shall be binding upon both parties.

(c) No contract for nonpublic school services shall be authorized under this chapter unless the private school has been certified as meeting those standards relating to the required special education services and facilities for individuals with exceptional needs. The certification shall result in the private school receiving approval to educate pupils under this chapter for a period no longer than five years from the date of such approval. The procedures, methods, and areas of certification shall be established by rules and regulations issued by the State Board of Education. The private school shall be charged a reasonable sum for this certification. In addition to those standards adopted by the State Board of Education, the private school shall meet all applicable standards relating to fire, health, sanitation, and building safety.

SEC. 12.3. Section 56601 of the Education Code is amended to read:

56601. (a) The education of educationally handicapped pupils who are diagnosed as being autistic shall be provided all eligible pupils between 6 and 21 years of age, and may be provided eligible pupils between the ages of 3 and 6 years, in the manner set forth in

this chapter.

(b) The governing board of any elementary or unified school district which has an average daily attendance of 8,000 or more in the elementary schools of the district, or any high school district which has an average daily attendance of 8,000 or more shall provide for the education, in special education classes or programs, of autistic pupils residing in the district who are not in attendance upon other special education classes or programs.

(c) The county superintendent of schools shall provide special education classes or programs for autistic pupils who reside in the county and in elementary or unified school districts which have an average daily attendance of less than 8,001 in the elementary schools of the district, or who reside in the county and a unified or high school district which has an average daily attendance of less than 8,001. The classes and programs shall be established at centrally located places, and the county superintendent of schools shall provide transportation to the pupils attending them. A county superintendent of schools, required to provide for the education in special schools or classes of autistic pupils residing in the district who come within the provisions of this section, may with the approval of the Superintendent of Public Instruction enter into an agreement with an elementary, unified, or high school district for the latter to provide for the education of such autistic pupils.

(d) The State Board of Education shall adopt rules and regulations which shall prescribe standards for special education programs for autistic pupils.

SEC. 12.4. Section 56606 of the Education Code is repealed.

SEC. 12.5. Section 56609 of the Education Code is repealed.

SEC. 12.6. Section 56610 of the Education Code is repealed.

SEC. 12.7. Section 56611 of the Education Code is amended to read:

56611. The eligibility and planning team shall annually (1) review the appropriateness of the placement of pupils in special educational programs under the provisions of this chapter and (2) submit recommendations as to the return of such pupils to the regular school program, continuance in the program for the educationally handicapped, transfer to other special educational programs, or referral to other agencies.

SEC. 12.8. Section 56612 of the Education Code is amended to read:

56612. Whenever any pupil is being evaluated for placement in a program for the educationally handicapped by an eligibility and planning team or a review and recommendation procedure is being conducted by an eligibility and planning team pursuant to Section 56611, the parent or guardian of the pupil shall have the right to be present at all meetings of the eligibility and planning team concerning only that pupil, the right to a 48-hour prior written notice of such meetings, and the right to have a physician, optometrist, psychologist, social worker, or teacher, whether certificated or not,

represent the pupil and present additional material, if any, to assist the eligibility and planning team in its determination with respect to the pupil.

The representative so selected shall have no decisionmaking power with respect to any determination to be made by the eligibility and planning team. The representative so selected may be an employee of the school district.

SEC. 12.9. Section 56613 of the Education Code is amended to read:

56613. No pupil shall be required to participate in a program for educationally handicapped pupils unless the eligibility and planning team or a member of the eligibility and planning team appointed by such team has personally consulted with the parent or guardian of the pupil regarding the learning disorders of the pupil and the objectives of the program, and the parent or guardian has subsequent to such counseling and prior to participation in a special educational program, filed written consent to such participation with the governing board of the school district or with the office of the county superintendent of schools.

SEC. 13. Section 56615 of the Education Code is amended to read:

56615. The State Board of Education shall adopt rules and regulations which shall prescribe standards for special educational programs for educationally handicapped pupils which shall include, but need not be limited to, individual evaluation of pupils and curriculum content for each type of program authorized pursuant to this chapter, and provisions for periodic examination, reevaluation, or transfer of educationally handicapped pupils participating in special educational programs maintained for each type of program authorized under the provisions of this chapter.

The Commission for Teacher Preparation and Licensing shall adopt rules and regulations which prescribe standards for teacher qualifications for each type of program authorized pursuant to this chapter.

No person shall be employed as a teacher of educationally handicapped pupils who does not hold a valid credential for the education of educationally handicapped children. However, a person holding some other valid credential authorizing substitute teaching may serve for not more than 20 schooldays in any school year as a substitute teacher of pupils in a special day class, a learning disability group, home or hospital, or a class for autistic pupils, pursuant to Sections 56601 and 56602.

Upon application by the school district or county superintendent of schools, the Superintendent of Public Instruction may approve an extension of the 20-day period for a given person but not beyond the end of the school year in which the application is submitted.

SEC. 13.5. Section 56618 of the Education Code is amended to read:

56618. The Superintendent of Public Instruction shall prescribe the procedures for qualifying for allowances for special day classes,

and for authorized instruction in other than special day classes of educationally handicapped pupils.

SEC. 14. Section 56806 of the Education Code is repealed.

SEC. 15. Section 56806 is added to the Education Code, to read:

56806. (a) Both a parent and a pupil are guaranteed and may initiate procedural due process protections in any decision regarding, and resulting from, the pupil's identification as an individual with exceptional needs; the pupil's assessment and the implementation of the individualized education program; or the denial, placement, transfer, or termination of the pupils in a special education or related services program. Such protections shall include, but are not limited to:

(1) Written notice to the parent of his or her rights, in language understandable to the general public and in the primary language or other mode of communication of the parent;

(2) The right of the parent to initiate an assessment of his or her child within a specified period of time;

(3) The requirement that written parental consent be obtained before any assessment of the pupil is conducted;

(4) The right of the parent to participate in the development of the individualized education program and to be informed of the availability under state law of free appropriate special education programs, both public and private;

(5) The requirement that written parental consent must be obtained before the pupil is placed in any special education program; and

(6) Procedural due process by a fair and impartial administrative hearing before a fair hearing panel.

(b) Regulations providing such due process protections shall be adopted by the State Board of Education.

This section shall become operative on July 1, 1978.

SEC. 16. Section 59002 of the Education Code is amended to read:

59002. The school is under the administration of the State Department of Education.

The Superintendent of Public Instruction, in connection with the California Schools for the Deaf shall:

(a) Provide educational assessments and individual educational recommendations for individuals referred for such service by responsible local agencies under Section 56336.4.

(b) Maintain a comprehensive elementary educational program, including related services, for deaf individuals.

(c) Serve as a regional secondary educational program providing a comprehensive secondary education including a full-range academic curriculum, appropriate prevocational and vocational preparation opportunities, and nonacademic and extracurricular activities.

SEC. 17. Section 59204 of the Education Code is amended to read:

59204. The Superintendent of Public Instruction, in connection with the diagnostic schools for neurologically handicapped children,

shall also:

(a) Make comprehensive diagnostic assessments of individuals referred for such service by responsible local agencies under Section 56336.4.

(b) Provide instructional planning services for individuals assessed under subdivision (a).

(c) Provide counseling services for parents, guardians, and families of neurologically handicapped and seriously emotionally disturbed and autistic children.

(d) Maintain a model assessment service and demonstration classrooms to develop appropriate individual educational programs for pupils and to assist local school districts in providing appropriate programs and services for neurologically handicapped, seriously emotionally disturbed and autistic children.

SEC. 18. Pupils enrolled in nonpublic schools pursuant to Article 3 (commencing with Section 56030) of Chapter 1 of Part 30 of the Education Code between January 1, 1978, and June 30, 1978, shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 of, and Section 42238 of, the Education Code.

SEC. 19. This act shall become operative on July 1, 1978.

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 to permit this act to be operative on July 1, 1978, and so be operative at the same time as Chapter 1247 of the Statutes of 1977, and so facilitate the orderly administration of the system for providing educational programs for handicapped children, it is necessary that this act take effect immediately.

CHAPTER 403

An act to amend Sections 7.1 and 8.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), relating to the North Delta Water Agency, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 7.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973) is amended to read:

Sec. 7.1. No contract of the nature and character authorized by Section 4.1 of this act may be entered into by the agency unless first approved by a majority of the votes cast at an election held within

the agency; provided that the agency may, without such voter approval, enter into interim agreements for a term not in excess of one year, as determined by the board to be in the best interest of the agency, in pursuit of the purposes set forth in Section 4.1, so long as such agreements do not create any obligation beyond that which can be met within the income received by the agency under the maximum assessment set forth in Section 5.1.

SEC. 2. Section 8.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973) is amended to read:

Sec. 8.1. In the event that the agency fails to enter into and execute on or before December 31, 1983, a contract with the United States and the State of California of the character and nature described in Section 4.1 of this act, the agency is dissolved and its existence is automatically terminated, and all of its corporate powers shall cease, except for the purpose of winding up the affairs of the agency.

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 clarify the authority of the North Delta Water Agency to enter into interim agreements necessary for the protection of water quality within the agency at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 404

An act to repeal Chapter 5 (commencing with Section 72040) of Part 8 of Division 20 of, and to add Part 8.5 (commencing with Section 72080) to Division 20 of, the Water Code, relating to municipal water districts.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Chapter 5 (commencing with Section 72040) of Part 8 of Division 20 of the Water Code is repealed.

SEC. 2. Part 8.5 (commencing with Section 72080) is added to Division 20 of the Water Code, to read:

PART 8.5. EXCLUSION OF TERRITORY FROM IMPROVEMENT DISTRICTS

72080. Proceedings to exclude territory from an improvement district, formed pursuant to this division, may be initiated by the board upon its own motion, or shall be initiated by the board upon

receipt of a petition for exclusion signed by not less than 10 percent of the voters of the area proposed to be excluded, which states reasons such exclusion will be beneficial to the district or the improvement district or the territory to be excluded.

72081. Upon adoption of a motion to initiate exclusion proceedings or upon receipt of a petition for exclusion, the board shall adopt a resolution of intention to exclude which shall state:

(a) The method by which the exclusion proceedings were initiated; by motion of the board or by petition of voters.

(b) That taxes for carrying out the purpose of an improvement district formed pursuant to Part 8 (commencing with Section 72000) will not be levied upon taxable property in the excluded territory following such exclusion.

(c) That taxes for the payment of principal and interest on any outstanding bonds of an improvement district will not be levied upon taxable property in the excluded territory following such exclusion, or, at the option of the board, that taxes for the payment of principal and interest on any outstanding bonds of an improvement district will continue to be levied upon taxable property in the excluded territory following such exclusion.

(d) That following such exclusion, the taxable property in the territory remaining in the improvement district shall continue to be levied upon and taxed to provide funds for the purposes of the improvement district.

72082. The resolution of intention to exclude shall also state that a map showing the exterior boundaries of the proposed territory to be excluded, with relation to the territory remaining in the improvement district, is on file with the secretary and is available for inspection by any person or persons interested. The map shall govern for all details as to the extent of the proposed exclusion.

72083. The resolution of intention shall also state:

(a) The time and place for a hearing by the board on the questions of the proposed exclusion and the effect of such exclusion upon the district, the improvement district and the territory to be excluded.

(b) That at such time and place any person interested, including all persons owning property in the district or in the improvement district, will be heard.

72084. Notice of the hearing shall be given by publishing a copy of the resolution of intention to exclude, pursuant to Section 6066 of the Government Code, prior to the time fixed for the hearing in a newspaper circulated in the municipal water district, if there is a newspaper circulated in the district. Such notice shall also be given by posting a copy of the resolution of intention to exclude in three public places within the affected improvement district for at least two weeks before the time fixed for the hearing.

72085. At the time and place so fixed in the resolution of intention to exclude, or at any time or place to which the hearing is adjourned, the board shall proceed with the hearing.

At the hearing any person interested, including any person owning property in the district, or in the improvement district may appear and present any matters material to the questions set forth in the resolution of intention to exclude.

72086. At the conclusion of the hearing, the board shall by resolution determine whether it is necessary or desirable to exclude the territory. If so, the resolution shall also state:

(a) The reasons why such exclusion is necessary or desirable.

(b) That the exterior boundaries of the improvement district following such exclusion are set forth on a map on file with the secretary, which map shall govern all details as to the extent of the then existing improvement district.

72087. The determinations made in the resolution of exclusion shall be final and conclusive.

72088. After the exclusion of territory from the improvement district pursuant to this division, all taxes levied for the carrying out of the improvement district's purpose shall be levied exclusively upon the taxable property in the improvement district as then constituted, except that taxes shall continue to be levied upon the taxable property in the territory excluded for the payment of principal and interest on any outstanding bonds of the improvement district, if the board so determines in the resolution of exclusion.

72089. A copy of the resolution of exclusion shall be published pursuant to Section 6066 of the Government Code in a newspaper printed and published in the district, if there is a newspaper printed and published in the district. A copy of the resolution shall also be posted in three public places within the improvement district for at least two weeks.

The resolution of exclusion shall not be effective until the 31st day after completion of the publication and posting.

This section shall not apply if the board has received the written consent of the owners of all the territory to be excluded therefrom. The written consent shall include the terms and conditions of exclusion, if any.

72089.5. Any action or proceeding in which the validity of the exclusion of territory from the improvement district or of any of the proceedings in relation thereto is contested, questioned, or denied shall be commenced within three months from the effective date of the resolution of exclusion; otherwise, the exclusion and all proceedings in relation thereto shall be held to be valid and in every respect legal and incontestable.

CHAPTER 405

An act to amend Section 12944.5 of the Water Code, relating to water bonds.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 12944.5 of the Water Code is amended to read:

12944.5. (a) Notwithstanding any other provision of law to the contrary, any local public agency other than a city or county which has executed a contract with the state for a water supply pursuant to Section 12937 shall satisfy any requirement for the approval by the voters of the agency to secure authorization for the issuance of general obligation bonds of the agency or of the agency for any improvement district thereof to fund the acquisition and construction of works and facilities to enable such local public agency or improvement district to utilize such water supply, if a majority of the voters voting on the proposition to incur the bonded indebtedness vote in favor of such proposition. The provisions of law governing the issuance of general obligation bonds by the local public agency, including the provisions of the principal act of the local public agency, shall govern all matters relating to the issuance of such general obligation bonds, including the authorization, issuance, sale or retirement thereof, except only that a majority of the votes cast on the proposition to incur the bonded indebtedness need be in favor of such proposition in order to authorize the issuance of such bonds. The provisions of this chapter shall be applicable only to general obligation bonds approved at an election held on one of the dates specified in Section 2500 of the Elections Code or at an election held pursuant to Section 23511.1 of the Elections Code.

(b) The provisions of this chapter shall also be applicable to (1) any local public agency other than a city or a county which has executed a contract for a water supply with a public agency which has in turn executed a contract with the state for a water supply pursuant to Section 12937, (2) any local public agency other than a city or county which is a member agency of, or is located within a member agency of, a metropolitan water district which has executed a contract with the state for a water supply pursuant to Section 12937, and (3) any local public agency other than a city or county which is a member agency of, or is located within a member agency of, a county water authority which is a member agency of a metropolitan water district which has executed a contract with the state for a water supply pursuant to Section 12937.

CHAPTER 406

An act to amend Section 2460.5 of the Streets and Highways Code, relating to grade separation projects, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 2460.5 of the Streets and Highways Code is amended to read:

2460.5. From funds remaining after allocations for projects higher on the priority list, the commission shall offer to allocate the remaining funds for the next eligible project on the priority list, even though the amount of the remaining funds is less than the amount the local agency is entitled to for that project.

The commission, in the next fiscal year, shall allocate to the local agency an additional amount equal to the difference between the amount the local agency was eligible to receive and the amount of the reduced allocation.

The total of the amount of allocations for a single project, including, but not limited to, any allocation pursuant to this section, shall not exceed the amount prescribed by subdivision (g) of Section 2454 without specific legislative authorization.

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 the construction of urgently needed grade separation projects not be held up because the local agencies will receive only a portion of its allocation for a particular project because the project was the last one for which funds were allocated during a fiscal year, it is necessary that this act take effect immediately.

CHAPTER 407

An act to add Section 25503.14 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 25503.14 is added to the Business and Professions Code, to read:

25503.14. Notwithstanding any provision of this division, any retail off-sale general licensee who holds at least 30 such licenses in this state and who also operates at least 50 wholesale grocery warehouses not licensed under this division may hold a beer and wine wholesale license in a state with a population not exceeding 700,000, provided that such licensed wholesale operation does not sell or transfer any alcoholic beverages to licensees of this state.

CHAPTER 408

An act to add Section 28996 to the Public Utilities Code, relating to transit districts.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 28996 is added to the Public Utilities Code, to read:

28996. Notwithstanding Section 28990, the board may direct the purchase of any supply, equipment, or material without observance of any provision requiring contracts, bids, or notice upon a finding by two-thirds of all members of the board that there is only a single source of procurement therefor and that the purchase is for the sole purpose of duplicating or replacing supply, equipment, or material, as the case may be, in use.

CHAPTER 409

An act to amend Sections 99233.5, 99244, 99247, 99268.8, 99269, 99288, 99303, 99400, 99400.5, and 99405 of the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 99233.5 of the Public Utilities Code is amended 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 to carry out its powers, duties, and functions.

(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.

(c) An agency, board, or commission shall receive the same percent of funds for the 1978–79 and 1979–80 fiscal years under Section 99233.2 and this section that it received under Section 99233.2 and this section in the 1977–78 fiscal year.

SEC. 2. Section 99244 of the Public Utilities Code is amended to read:

99244. Each transportation planning agency shall annually identify, analyze, and recommend potential productivity improvements which could lower the operating costs of those operators who operate at least 50 percent of their vehicle service miles, as defined in subdivision (h) of Section 99247, within the area under its jurisdiction. However, where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall have the responsibility of the transportation planning agency with respect to potential productivity improvements. The recommendations for improvements and productivity shall include, but not be limited to, those recommendations related to productivity made in the performance audit conducted pursuant to Section 99246.

A committee for the purpose of providing advice on productivity improvements shall be formed by the responsible entity. The membership of this committee shall consist of representatives from the management of the operators, organizations of employees of the operators, and users of the transportation services of the operators located within the area under the jurisdiction of the responsible entity.

Prior to determining the allocation to an operator for the next fiscal year, the responsible entity shall review and evaluate the efforts made by the operator to implement such recommended improvements.

If the responsible entity determines that the operator has not made a reasonable effort to implement the recommended improvements, the responsible entity shall not approve the allocation to the operator for the support of its public transportation system for the next fiscal year which exceeds the allocation to the operator for such purposes for the current fiscal year.

SEC. 3. Section 99247 of the Public Utilities Code is amended to read:

99247. For purposes of Section 99246:

(a) "Operating cost" means all costs in the operating expense object classes exclusive of the costs in the depreciation and amortization expense object class of the uniform system of accounts and records adopted by the State Controller pursuant to Section 99243.

(b) "Operating cost per passenger" means the operating cost divided by the total passengers.

(c) "Operating cost per vehicle service hour" means the operating cost divided by the vehicle service hours.

(d) "Passengers per vehicle service hour" means the total passengers divided by the vehicle service hours.

(e) "Passengers per vehicle service mile" means the total passengers divided by the vehicle service miles.

(f) "Total passengers" means the number of boarding passengers, whether revenue producing or not, carried by the public transportation system.

(g) "Vehicle service hours" means the total number of hours that each motor vehicle is in revenue service, including layover time.

(h) "Vehicle service miles" means the total number of miles that each motor vehicle is in revenue service.

(i) "Vehicle service hours per employee" means the vehicle service hours divided by the number of employees employed in connection with the public transportation system, based on the assumption that one employee is paid for 2,080 hours of employment in one year. The count of employees shall also include those individuals employed by the operator which provide services to the agency of the operator responsible for the operation of the public transportation system even though not employed in that agency.

SEC. 5. Section 99268.8 of the Public Utilities Code is amended to read:

99268.8. With respect to an operator in a county with a population of less than 500,000, as determined by the 1970 federal decennial census, or a county with more than 4,500 miles of maintained county roads, the requirements of Sections 99268, 99268.5, and 99269 may be waived for a period not to exceed two years by the California Transportation Commission if the commission 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.

The board may grant additional waivers, but not to exceed two years each.

SEC. 6. 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.

This section shall not be operative from July 1, 1978, to June 30, 1980.

SEC. 7. Section 99288 of the Public Utilities Code is amended to read:

99288. (a) Any city, county, or transit district may enter into a contract with any operator, except with an included municipal operator unless specifically approved by the governing body of the transit district in whose area the included municipal operator is located, for such operator to provide public transportation service in such city, county, or transit district. In such a case, the operator providing such service may include the claim of the city, county, or transit district, as the case may be, with its claim. The claim may include an amount for reimbursement of the actual costs incurred by the city, county, or transit district for the administration, review, and monitoring of the contract. The amount so claimed shall not exceed 5 percent of the total amount of the contract for public transportation service in the city, county, or transit district.

(b) With the prior express authorization of the secretary, a transit district may include in its claim a proportional amount for regularly scheduled services outside its boundaries even though the contract specified in subdivision (a) has not been executed.

SEC. 8. Section 99303 of the Public Utilities Code is amended to read:

99303. Not less than 75 percent of the unallocated apportionment, as of June 30, 1978, and each June 30th thereafter, for the cities, and that portion of the County of San Diego, under the jurisdiction of the San Diego Metropolitan Transit Development Board shall be available to the board for exclusive public mass transit guideway purposes as specified in Article 4 (commencing with Section 120260) of Chapter 4 of Division 11.

SEC. 9. Section 99400 of the Public Utilities Code, as amended by Section 2 of Chapter 764 of the Statutes of 1974, 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.

This section shall become operative on July 1, 1980.

SEC. 10. Section 99400.5 of the Public Utilities Code is amended to read:

99400.5. Notwithstanding the provisions of Section 99232, a county in which there is no countywide transit district may file a claim under this article with the transportation planning agency to finance the construction and maintenance of multimodal transportation terminals. The terminals may be located anywhere in the county.

SEC. 11. Section 99405 of the Public Utilities Code is amended to read:

99405. (a) Except as otherwise provided in this section, 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.

(c) The allocation to a city or county for services under contract pursuant to subdivision (c) of Section 99400 may exceed the 50-percent limitation by an amount equal to the fare revenues received by the entity providing the services and not transferred to the city or county.

(d) The 50-percent limitation shall not apply to funds allocated under this article to a city or county with a population of less than 5,000.

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 to ensure the continuation of essential public transportation services, it is necessary that this act take effect immediately.

CHAPTER 410

An act to amend Section 29535 of the Government Code, relating to transportation.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 29535 of the Government Code is amended to read:

29535. Within each county which is not within the jurisdiction of a statutorily created regional transportation planning agency or a council of governments, a local transportation commission shall be established and composed of three members appointed by the board of supervisors, three members appointed by the city selection committee of the county or by the city council in any county in which there is only one incorporated city, and, where applicable, three members appointed by a transit district and one member representing, collectively, the other transit operators in the county.

However, in a county in which there are no incorporated cities, five members may be appointed to the commission by the board of supervisors.

The appointing authority, for each regular member it appoints, may appoint an alternate member to serve in place of the regular member when the regular member is absent or disqualified from participating in a meeting of the commission.

CHAPTER 411

An act to amend Section 1245.260 of the Code of Civil Procedure, relating to eminent domain.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 1245.260 of the Code of Civil Procedure is amended to read:

1245.260. (a) If a public entity has adopted a resolution of necessity but has not commenced an eminent domain proceeding to acquire the property within six months after the date of adoption of the resolution, or has commenced such proceeding but has not within six months after the commencement of such proceeding attempted diligently to serve the complaint and the summons relating to such proceeding, the property owner may, by an action in inverse condemnation, do either or both of the following:

(1) Require the public entity to take the property and pay compensation therefor.

(2) Recover damages from the public entity for any interference with the possession and use of the property resulting from adoption of the resolution.

Service by mail pursuant to Section 415.30 shall constitute a diligent attempt at service within the meaning of 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 date the public entity adopted the resolution of necessity.

(c) A public entity may commence an eminent domain proceeding or rescind a resolution of necessity as a matter of right at any time before the property owner commences an action under this section. If the public entity commences an eminent domain proceeding or rescinds the resolution of necessity before the property owner commences an action under this section, the property owner may not thereafter bring an action under this section.

(d) After a property owner has commenced an action under this section, the public entity may rescind the resolution of necessity and abandon the taking of the property only under the same circumstances and subject to the same conditions and consequences as abandonment of an eminent domain proceeding.

(e) Commencement of an action under this section does not affect any authority a public entity may have to commence an eminent domain proceeding, take possession of the property pursuant to Article 3 (commencing with Section 1255.410) of Chapter 6, or abandon the eminent domain proceeding.

(f) In lieu of bringing an action under subdivision (a) or if the limitations period provided in subdivision (b) has run, the property owner may obtain a writ of mandate to compel the public entity, within such time as the court deems appropriate, to rescind the resolution of necessity or to commence an eminent domain proceeding to acquire the property.

CHAPTER 412

An act to add Section 1627.7 to the Business and Professions Code, relating to dentistry.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 1627.7 is added to the Business and Professions Code, to read:

1627.7. (a) A dentist shall not be liable for damages for injury or death caused in an emergency situation occurring in the dentist's office or in a hospital on account of a failure to inform a patient of the possible consequences of a dental procedure where the failure to inform is caused by any of the following:

(1) The patient was unconscious.

(2) The dental procedure was undertaken without the consent of

the patient because the dentist reasonably believed that a dental procedure should be undertaken immediately and that there was insufficient time to fully inform the patient.

(3) A dental procedure was performed on a person legally incapable of giving consent, and the dentist reasonably believed that a dental procedure should be undertaken immediately and that there was insufficient time to obtain the informed consent of a person authorized to give such consent for the patient.

(b) This section is applicable only to actions for damages for injuries or death arising because of a dentist's failure to inform, and not to actions for such damages arising because of a dentist's negligence in rendering or failing to render treatment.

(c) As used in this section:

(1) "Dentist" means a person licensed as a dentist pursuant to this chapter.

(2) "Emergency situation occurring in a hospital" means a situation occurring in a hospital, whether or not it occurs in an emergency room, requiring immediate services for alleviation of severe pain or immediate diagnosis and treatment of unforeseeable dental conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

(3) "Hospital" means a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(4) "Emergency situation occurring in the dentist's office" means a situation occurring in an office, other than a hospital, used by the dentist for the examination or treatment of patients, requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable dental conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

CHAPTER 413

An act to amend Section 7184 of, and to add Sections 1238 and 7153.11 to, the Financial Code, relating to loans.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 1238 is added to the Financial Code, to read:

1238. (a) A commercial bank may make amortized loans upon the security of residential real property to finance the purchase and installation of material or equipment designed to promote energy conservation or the efficient use of energy in the residential real property securing the loan, if,

(1) The residential real property securing the loan consists of not more than four dwelling units;

(2) The loan is made in connection with a concurrent loan authorized under Section 1227; and

(3) The loan is in an amount not to exceed 10 percent of the loan made under the authority of Section 1227.

(b) A commercial bank may make additional advances, or additional loans, to an existing borrower in order to finance the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy in the residential real property securing the loan, if,

(1) The residential real property securing the loan consists of not more than four dwelling units; and

(2) The aggregate of the additional loan or advance and the unpaid balance of the existing loan will not exceed that percent of the appraised value of the residential real property securing the loan permitted by Section 1227 immediately after the purchase and installation of such material and equipment.

SEC. 2. Section 7153.11 is added to the Financial Code, to read:

7153.11. (a) An association may make amortized loans upon the security of residential real property to finance the purchase and installation of material or equipment designed to promote energy conservation or the efficient use of energy in the residential real property securing the loan, if,

(1) The residential real property securing the loan consists of not more than four dwelling units;

(2) The loan is made in connection with a concurrent loan authorized under Section 7153; and

(3) The loan is in an amount not to exceed 10 percent of the loan made under the authority of Section 7153.

(b) An association may make additional advances, or additional loans, to an existing borrower in order to finance the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy in the residential real property securing the loan, if,

(1) The residential real property securing the loan consists of not more that four dwelling units; and

(2) The aggregate of the additional loan or advance and the unpaid balance of the existing loan will not exceed 80 percent of the appraised value of the residential real property securing the loan immediately after the purchase and installation of such material and equipment.

SEC. 3. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, or the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy, on residential real

property. Such loans or advances:

(a) Shall not exceed ten thousand dollars ($10,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair, improvement or purchase and installation for energy purposes.

(b) Shall not exceed ten thousand dollars ($10,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

SEC. 4. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, or the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair, improvement or purchase and installation for energy purposes.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

The limitations on loans and advances set forth in this section apply to the net proceeds of each loan or advance.

SEC. 5. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, or the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair, improvement or purchase and installation for energy purposes.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

SEC. 6. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings or the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair, improvement, or purchase and installation for energy purposes.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

The limitations on loans and advances set forth in this section apply to the net proceeds of each loan or advance.

SEC. 7. It is the intent of the Legislature that if this bill and Assembly Bill No. 2877 or Assembly Bill No. 3637, or both, are chaptered and amend Section 7184 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:

(a) If this bill and Assembly Bill No. 2877 are both chaptered and amend Section 7184 of the Financial Code, but Assembly Bill No. 3637 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2877, the amendments

proposed by both bills shall be given effect and incorporated in Section 7184 in the form set forth in Section 4 of this act. Therefore, if Assembly Bill No. 2877 is chaptered before this bill and both bills amend Section 7184, and Assembly Bill No. 3637 is not chaptered or as chaptered does not amend that section, Section 4 of this act shall be operative and Sections 3, 5, and 6 of this act shall not become operative.

(b) If this bill and Assembly Bill No. 3637 are both chaptered and amend Section 7184 of the Financial Code, but Assembly Bill No. 2877 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 3637, the amendments proposed by both bills shall be given effect and incorporated in Section 7184 in the form set forth in Section 5 of this act. Therefore, if Assembly Bill No. 3637 is chaptered before this bill and both bills amend Section 7184, and Assembly Bill No. 2877 is not chaptered or as chaptered does not amend that section, Section 5 shall be operative and Sections 3, 4, and 6 of this act shall not become operative.

(c) If this bill and Assembly Bill No. 2877 and Assembly Bill No. 3637 are all chaptered, and all three bills amend Section 7184 of the Financial Code, and this bill is chaptered after Assembly Bill No. 2877 and Assembly Bill No. 3637, the amendments proposed by all three bills shall be given effect and incorporated in Section 7184 in the form set forth in Section 6 of this act. Therefore, if Assembly Bill No. 2877 and Assembly Bill No. 3637 are both chaptered before this bill and all three bills amend Section 7184 of the Financial Code, Section 6 of this act shall be operative and Sections 3, 4, and 5 of this act shall not become operative.

CHAPTER 414

An act to add Chapter 11 (commencing with Section 4550) to Division 5 of Title 1 of the Government Code, relating to public works and purchases.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Chapter 11 (commencing with Section 4550) is added to Division 5 of Title 1 of the Government Code, to read:

CHAPTER 11. ANTITRUST CLAIMS

4550. As used in this chapter:

(a) "Public works contract" means a contract awarded through competitive bids by the state or any of its political subdivisions or

public agencies, on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code, for the erection, construction, alteration, repair, or improvement of any structure, building, road, or other improvement of any kind.

(b) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the state or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

(c) "Public purchasing body" means the state or the subdivision or agency making a public purchase.

(d) "Awarding body" means the state or the subdivision or agency awarding a public works contract.

4551. In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

The preceding provisions of this section shall be included in full in the specifications for the public works contract or in the general provisions incorporated therein and shall be included in full in the public works contract or in the general provisions incorporated therein.

4552. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.

The preceding provisions of this section shall be included in full in any specifications for the public purchase and shall be included in full in the bid agreement or general provisions incorporated into the bid agreement.

4553. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and

may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery.

4554. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action.

CHAPTER 415

An act to amend Sections 24828 and 25871 of the Public Utilities Code, relating to transit, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 24828 of the Public Utilities Code is amended to read:

24828. Except as otherwise provided in this part, the provisions of the Elections Code prescribed for independent nominations shall substantially govern as to the manner of appointment of verification deputies, the form of nomination papers and the securing of signatures, the filing of the candidate's affidavit, and all other things necessary to get the name of the candidate upon the ballot; provided, however, that not more than 95 days prior to the election, upon request, the secretary of the district shall issue nomination papers and all other forms required for nomination to the office of director. Verification deputies may obtain signatures to the nomination paper of any candidate at any time not more than 95 days nor less than 74 days prior to the election, and all nomination papers shall be filed with the secretary of the district not more than 90 nor less than 74 days before the date of the election and shall be examined by him. Each candidate, at least 74 days prior to the election, shall file a sufficient candidate's affidavit. The secretary of the district shall certify the names of all candidates to be placed upon the ballot to the county clerk or county clerks within the territory affected at least 67 days prior to the date of election.

SEC. 2. Section 25871 of the Public Utilities Code is amended to read:

25871. A district may invest any surplus money in its treasury, including money in any sinking fund, in any of the following:

(a) Its own bonds.

(b) Treasury notes, certificates of indebtedness, bills, bonds of the United States, or any other evidence of indebtedness secured by the full faith and credit of the United States.

(c) Obligations issued pursuant to the Federal Home Loan Bank Act or the National Housing Act.

(d) Treasury notes or bonds of this state, or of any public corporation, municipal corporation, public district, or political subdivision within this state which are legal as security for the deposit of public funds.

(e) In any investment or deposit in which a city, county, or local public agency may place its funds pursuant to law.

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

Under existing law the dates for various procedures which must take place prior to elections for directors of the Alameda-Contra Costa Transit District are different than corresponding dates specified by law for elections generally. As a result, the Registrars of Voters of both Alameda and Contra Costa Counties are not able to process the preparation of ballots for such district elections in the same manner as for other elections generally. This has caused great difficulty in the proper conduct of local elections. As an election is scheduled within the Alameda-Contra Costa Transit District for November 1978, it is necessary that this act become effective immediately.

CHAPTER 416

An act to add Section 100.23 to the Streets and Highways Code, relating to highways.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 100.23 is added to the Streets and Highways Code, to read:

100.23. (a) The city council or the board of supervisors may, by ordinance or resolution, authorize the recordation of a notice that a portion of a city street or county highway, as the case may be, under its jurisdiction has been abandoned or vacated pursuant to an agreement entered into pursuant to Section 100.2.

(b) The notice shall include the date of the agreement, the name or other designation of the street or highway, a precise description of the portion abandoned or vacated, and state that that portion of

the street or highway, from and after commencement of the construction of the state freeway, no longer constitute a public street or highway.

(c) The notice shall be recorded in the office of the county recorder of the county in which the street or highway is located. The notice or its recordation shall not affect any private property right which may exist in the area described in the notice.

CHAPTER 417

An act to amend Section 5 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), relating to the Santa Clara Valley Water District.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 5 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951) is amended to read:

Sec. 5. The district is hereby declared to be a body corporate and politic and as such shall have, in addition to the other powers vested in it by this act, the following powers:

1. To have perpetual succession.

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

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

4. To acquire by grant, purchase, lease, gift, devise, contract, construction, or otherwise, and to hold, use, enjoy, sell, let, and dispose of real and personal property of every kind, including lands, structures, buildings, rights-of-way, easements, and privileges, and to construct, maintain, alter and operate any and all works or improvements, within or without the district, necessary or proper to carry out any of the objects or purposes of this act and convenient to the full exercise of its powers, and to complete, extend, add to, alter, remove, repair or otherwise improve any works, or improvements, or property acquired by it as authorized by this act.

5. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district or of any zone or zones affected; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside of the district, water for any purpose useful to the district; and to do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including but not limited to, the acquisition, storage and distribution of water

for irrigation, domestic, fire protection, municipal, commercial, industrial, and all other beneficial uses; to distribute, sell, or otherwise dispose of, outside the district, any waters not needed for beneficial uses within the district; to commence, maintain, intervene in, defend or compromise, in the name of the district in behalf of the landowners therein, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions and proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of water used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used or useful in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights which do not affect the interests of the district.

6. To control the flood and storm waters of said district and the flood and storm waters of streams that have their sources outside of said district, but which streams and the floodwaters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes of said district by spreading, storing, retaining and causing to percolate into the soil within or without said district, or to save or conserve in any manner all or any of such waters and protect from damage from such flood or storm waters the watercourses, watersheds, public highways, life and property in said district, and the watercourses outside of the district of streams flowing into the district.

7. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and to hold in the name of the state, the capital stock of

any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to cooperate with, act in conjunction with, enter into and to do any acts necessary for the proper performance of any agreement with the State of California, or any of its engineers, officers, boards, commissions, departments, or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments, or agencies or with any state, city and county, city, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the ownership, joint acquisition, leasing, disposition, use, management, construction, installation, extension, maintenance, repair, or operation of any rights, works, or other property of a kind which might lawfully be acquired or owned by the district or for the lawful performance of any power or purpose of said district provided for in this act including, but not limited to, the granting of the right to the use of any water or the right to store such water in any reservoir of the district or to carrying such water through any tunnel, canal, ditch or conduit of the district or for the delivery, sale, or exchange of any water right, water supply or water pumped, stored, appropriated or otherwise acquired or secured for the use of said district, or for controlling drainage waters, or flood or storm waters of streams in or running into said district, or for the protection of life or property therein, or for the purpose of conserving any waters for the beneficial use within said district, or in any other works, uses, or purposes provided for in this act; and to adopt and carry out any definite plan or system for accomplishing, facilitating and/or financing all work which may lawfully be accomplished by the district and to enforce said plan or system by resolution or ordinance.

8. To carry on technical and other necessary investigations, make measurements, collect data, make analyses, studies, and inspections pertaining to water supply, water rights, control of flood and storm waters, and use of water both within and without said district relating to watercourses or streams flowing in or into said district. For such purposes, the district shall have the right of access through its authorized representatives to all properties within the district and elsewhere relating to watercourses and streams flowing in or into said district. The district, through its authorized representatives, may enter upon such lands and make examinations, surveys, and maps thereof.

9. To prescribe, revise and collect fees and charges for facilities furnished or to be furnished to any new building, improvement or structure by the use of any flood control or storm drainage system

constructed or to be constructed in a zone of the district, and whenever a drainage or flood control problem is referred to the district by the County of Santa Clara, or any incorporated city therein, to require the installation of drainage or flood control improvements necessary and/or convenient for needs of the zone, including but not limited to, residential, subdivision, commercial and industrial drainage and flood control needs, said county and cities being hereby authorized to refer all drainage and flood control problems, arising under the Subdivision Map Act or otherwise, to the district for solution. Revenues derived under this section shall be used for the acquisition, construction, reconstruction, maintenance and operation of the flood control or storm drainage facilities of the said zone, to reduce the principal or interest of any bonded indebtedness thereof, or to replace funds expended on behalf of said zone derived from the fund created under authority of Section 13, subdivision 1.

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

11. To cause taxes or assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act, in the manner hereinafter provided.

12. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in said district or any of the officers thereof, by this act.

13. To have the power and right to disseminate information concerning the rights, properties, activities, plans and proposals of the district; provided, however, that expenditures during any fiscal year for such purposes shall not exceed one-half cent ($0.005) for each one hundred dollars ($100) of assessed valuation of such district.

14. To pay to any city, public agency, district, or educational institution recognized under Division 21 (commencing with Section 29001) of the Education Code, a portion of the cost of water imported by such city, public agency, district, or educational institution into, for use within, and of benefit to the Santa Clara Valley Water District.

15. To establish designated floodways in accordance with the provisions of the Cobey-Alquist Flood Plain Management Act (Chapter 4 (commencing with Section 8400), Part 2, Division 5 of the Water Code).

16. To acquire, construct, maintain, operate and install landscaping or recreational facilities in connection with any dam, reservoir, or other works owned or controlled by the district.

17. To acquire, construct, maintain, operate and install, lease, and control facilities for the generation, transmission, distribution, sale, exchange, and lease of electric power.

CHAPTER 418

An act to amend Sections 71611 and 71670 of the Water Code, relating to municipal water districts.

[Approved by Governor July 14, 1978. Filed with Secretary of State July 14, 1978.]

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

SECTION 1. Section 71611 of the Water Code is amended to read:

71611. A district may sell water under its control, without preference, to cities, other public corporations and agencies, and persons, within the district for use within the district. As used in this part, the term "water" includes potable water and nonpotable water.

SEC. 2. Section 71670 of the Water Code is amended to read:

71670. A district may acquire, construct, and operate facilities for the collection, treatment, and disposal of sewage, waste, and storm water of the district and its inhabitants.

For purposes of this article, "waste" is as defined in subdivision (d) of Section 13050, and also includes any and all aquatic vegetation, except riparian vegetation, which threatens or adversely affects the quality of the waters within the district. "Quality of the waters" is as defined in subdivision (g) of Section 13050. "Disposal of sewage" includes the sale or resale of treated effluent for any purpose.

The district may prescribe, revise, and collect rates or other charges for the services and facilities furnished pursuant to this article.

The amendment to this section enacted at the 1977–78 Regular Session of the Legislature is declaratory of and does not constitute a change in existing law.

CHAPTER 419

An act to amend Sections 28750 and 28750.6 of the Public Utilities Code, relating to the San Francisco Bay Area Rapid Transit District.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 28750 of the Public Utilities Code is amended to read:

28750. Following each federal decennial census and using the census as a basis, the board shall, by resolution, adjust the boundaries of the election districts so that the districts shall be as nearly equal

in population as practicable, considering the factors specified in Section 28745.6.

SEC. 2. Section 28750.6 of the Public Utilities Code is amended to read:

28750.6. If, at any time between each federal decennial census, the district annexes territory, pursuant to Chapter 9 (commencing with Section 29500), the board, within 90 days after completion of the annexation proceedings, shall, by resolution, adjust the boundaries of the election districts so that the district shall be as nearly equal in population as practicable, considering the factors specified in Section 28745.6.

CHAPTER 420

An act to amend Section 25631 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 25631 of the Business and Professions Code is amended to read:

25631. Any on- or off-sale licensee, or agent or employee of such licensee, who sells, gives, or delivers to any persons any alcoholic beverage or any person who knowingly purchases any alcoholic beverage between the hours of 2 o'clock a.m. and 6 o'clock a.m. of the same day, is guilty of a misdemeanor.

For the purposes of this section, on the day that a time change occurs from Pacific Standard Time to Pacific Daylight Time, or back again to Pacific Standard Time, "2 o'clock a.m." means two hours after 12 o'clock p.m. of the day preceding the day such change occurs.

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 421

An act to amend Sections 21200, 24015, 27800, 39000, and 42001 of, and to add Sections 231, 23135, and 42001.9 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 231 is added to the Vehicle Code, to read:

231. A bicycle is a device upon which any person may ride, propelled exclusively by human power through a belt, chain or gears, and having two or more wheels.

SEC. 2. Section 21200 of the Vehicle Code is amended to read:

21200. Every person riding a bicycle upon a roadway or any paved shoulder has all the rights and is subject to all the duties applicable to the driver of a vehicle by this division and Division 10 (commencing with Section 20000), except those provisions which by their very nature can have no application.

SEC. 3. Section 23135 is added to the Vehicle Code, to read:

23135. It is unlawful for any person to operate upon a highway any vehicle which was originally manufactured as a motorized bicycle, as defined in Section 406, and which has been modified in such a manner that it no longer conforms to the definition of a motorized bicycle.

SEC. 4. Section 24015 of the Vehicle Code is amended to read:

24015. (a) Motorized bicycles shall comply with those federal motor vehicle safety standards established under the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C., Sec. 1381, et seq.) which are applicable to a motor-driven cycle, as that term is defined in such federal standards. Such standards include, but are not limited to, provisions requiring a headlamp, taillamp, stoplamp, side and rear reflex reflectors, and adequate brakes.

(b) In addition to equipment required in subdivision (a), all motorized bicycles operated upon a highway shall be equipped with a mirror as required in subdivision (a) of Section 26709, a horn as required in Section 27000, and an adequate muffler as required in subdivision (a) of Section 27150.

(c) Except as provided in subdivisions (a) and (b), none of the provisions of this chapter relating to motorcycles and motor-driven cycles, as defined in this code, shall apply to a motorized bicycle.

SEC. 5. Section 27800 of the Vehicle Code is amended to read:

27800. It is unlawful for a driver of a motorcycle or a motorized bicycle to carry any other person thereon, except on a seat securely fastened to the machine at the rear of the driver and provided with footrests, or in a sidecar attached to a motorcycle and designed for the purpose of carrying a passenger. Every passenger on a

motorcycle or a motorized bicycle shall keep his feet on the footrests while such vehicle is in motion.

SEC. 6. Section 39000 of the Vehicle Code is amended to read:

39000. "Bicycle", for the purposes of this division, means any device upon which a person may ride, which is propelled by human power through a system of belts, chains, or gears having either two or three wheels (one of which is at least 20 inches in diameter) or having a frame size of at least 14 inches, or having four or more wheels.

SEC. 7. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Sections 42001.5 and 42001.9, every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished upon a first conviction by a fine not exceeding fifty dollars ($50) and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars ($100) and for a third or any subsequent conviction within a period of one year by a fine of not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Sections 2800, 2801, and 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, and Sections 2800.1 and 2815, shall be punished upon a first conviction by a fine not exceeding fifty dollars ($50) or by imprisonment in the county jail for not exceeding five days and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars ($100) or by imprisonment in the county jail for not exceeding 10 days, or by both such fine and imprisonment and for a third or any subsequent conviction within a period of one year 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.

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

(d) Subdivision (a) shall have no application to any violation punishable pursuant to Section 42001.7, any violation by a pedestrian, or Article 2 (commencing with Section 42030) of Chapter 1 of this division relating to weight violations.

SEC. 8. Section 42001.9 is added to the Vehicle Code, to read:

42001.9. Every person convicted of an infraction for a violation of Section 23135 shall be punished by a fine of fifty dollars ($50).

SEC. 9. 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 may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 422

An act to amend Section 11812 of, and to add Section 11819 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 11812 of the Vehicle Code is amended to read:

11812. (a) Every vehicle salesman shall, at time of employment, deliver to his employing dealer his salesman's license to be posted in a place conspicuous to the public on the premises where he is actually engaged in the selling of vehicles for the employing dealer.

(b) The license shall be displayed continuously during such employment. In the event a vehicle salesman's employment is terminated, the license shall be returned to the salesman.

(c) Every dealer shall notify the department immediately by mail of the employment or termination of a vehicle salesman.

(d) Every vehicle salesman shall report in writing to the department every change of residence address within five days of such change.

SEC. 2. Section 11819 of the Vehicle Code is added to the Vehicle Code, to read:

11819. It is unlawful for any person:

(a) To lend a salesman's license to any other person or knowingly permit the use thereof by another.

(b) To display or represent any salesman's license not issued to the person as being his or her license.

(c) To fail or refuse to surrender to the department, upon its lawful demand, any salesman's license which has been suspended, revoked or canceled.

(d) To permit any unlawful use of a salesman's license issued to him or her.

(e) To photograph, photostat, duplicate, or in any way reproduce any salesman's license or facsimile thereof in such a manner that it could be mistaken for a valid license, or to display or have in possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by the provisions of this code.

SEC. 3. 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 423

An act to amend Section 1952 of the Code of Civil Procedure, relating to exhibits and depositions.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 1952 of the Code of Civil Procedure is amended to read:

1952. The court, on its own motion, may order destroyed or otherwise disposed of any exhibit or deposition introduced in the trial of a civil action or proceeding or filed in such action or proceeding which, if appeal has not been taken from the decision of the court in the said action or proceeding, remains in the custody of the court or clerk six months after time for appeal has expired, or, if appeal has been taken, remains in the custody of the court or clerk six months after final determination thereof or the dismissal of such action or proceeding, or which remains in the custody of the court or clerk for a period of six months after:

1. A motion for a new trial has been granted and a memorandum to set the case for trial has not been filed or a motion to set for trial has not been made within such six months;

2. The filing of the remittitur where the action or proceeding, after appeal, has been remanded to the trial court for a new trial and the same has not been brought to trial within such six months;

3. The dismissal of such action or proceeding; or

4. The introduction or filing thereof where the foregoing provisions of this section make no provision for the destruction or other disposition of such exhibit or deposition and where in the discretion of the court the same should be destroyed or otherwise disposed of.

The order shall be entered in the register of actions of each case in which any such order is made.

No exhibit or deposition shall be ordered destroyed or otherwise disposed of pursuant to the provisions of this section where a party to the action or proceeding files a written notice with the court requesting the preservation of any exhibit or deposition for a stated time, but not to exceed three years. Such exhibit or deposition may be destroyed after such time unless another such notice is filed.

No exhibit or deposition shall be ordered, destroyed or otherwise disposed of pursuant to the provisions of this section until 30 days after notice of such proposed action has been mailed to all attorneys of record and to all parties not having an attorney of record. Such notice is complete upon mailing of written notice by the clerk, or by the court if there is no clerk, to the attorney, or to the party if he has no attorney, at his last address shown in the file.

CHAPTER 424

An act to amend Section 27471 of the Government Code, relating to embalming fees.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 27471 of the Government Code is amended to read:

27471. (a) Whenever the coroner takes custody of a dead body pursuant to law, he shall make a reasonable attempt to locate the family within 24 hours. At the end of 24 hours, he may embalm the body or authorize the embalming by a mortician. If the embalming has been requested by the family or by a person authorized to take charge of the body prior to such embalming, and such family or person has agreed to accept the expense, the coroner may charge and collect up to one hundred dollars ($100). Any family, however, which has not been located within 24 hours of his custody of the body, shall not be charged more than thirty dollars ($30).

This subdivision shall only apply to counties that own and maintain a central morgue with a paid, full-time staff that performs embalming.

(b) Except as provided in subdivision (a), whenever the coroner takes custody of a dead body pursuant to law, he may embalm the body, and charge and collect up to one hundred dollars ($100) from the person entitled to its custody, except when the body is that of a child not more than 14 years of age or a person for whose burial there is available less than one hundred fifty dollars ($150), in which cases the expense of embalming is a county charge. In any county where the coroner is paid a salary, the fee shall be paid into the county treasury, except that the board of supervisors may order that the fee be paid to the coroner if he is a funeral director in the county.

(c) The board of supervisors shall by ordinance establish the fee to be charged pursuant to this section.

CHAPTER 425

An act to amend Section 12640.02 of the Insurance Code, relating to mortgage guaranty insurance.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 12640.02 of the Insurance Code is amended to read:

12640.02. The definitions set forth in this article shall govern the construction of the terms used in this chapter but shall not affect any other provisions of this code.

(a) "Mortgage guaranty insurance" means:

(1) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on such real estate is a residential building or buildings designed for occupancy by not more than four families.

(2) Insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on such real estate is a building or buildings designed for occupancy by five or more families or designed to be occupied for industrial or commercial purposes.

(3) Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use or occupancy of real estate, provided the improvement on such real estate is a building or buildings designed to be occupied for industrial or commercial purposes.

(b) "Authorized real estate security" for the purposes of this chapter means an amortized note, bond or other evidence of indebtedness, not exceeding 95 percent of the fair market value of the real estate, secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate; provided:

(1) The real estate loan secured in such manner is one which a bank, savings and loan association, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make, or would be authorized to make, disregarding any requirement applicable to such an institution that the amount of the loan not exceed a certain percentage of the value of the real estate.

(2) The improvement on such real estate is a building or buildings designed for occupancy as specified by paragraphs (1) and (2) of subdivision (a) of this section.

(3) The lien on such real estate may be subject and subordinate to the following:

(i) The lien of any public bond, assessment, or tax, when no installment, call or payment of or under such bond, assessment or tax is delinquent.

(ii) Outstanding mineral, oil or timber rights, rights-of-way,

easements or rights-of-way or support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon such real property under which rents or profits are reserved to the owner thereof.

"Authorized real estate security" also means a stock or membership certificate issued to a tenant-stockholder or resident-member by a completed fee simple cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code and Section 216 of the United States Internal Revenue Code.

(c) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles.

(d) "Policyholders surplus" means the aggregate of capital, surplus and contingency reserve.

CHAPTER 426

An act to amend Section 66445 of the Government Code, relating to subdivisions.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. 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; provided, however, where a subdivider does not have a record title ownership interest in the property to be divided, the local agency may require that the subdivider provide the local agency with satisfactory evidence that the persons with record title ownership have consented to the proposed division. For purposes of this paragraph, "record title ownership" shall mean fee title of record unless a leasehold interest is to be divided, in which case "record title ownership" shall mean ownership of record of such leasehold interest; "record title ownership" does not include ownership of mineral rights or other subsurface interests which have been severed from ownership of the surface.

(g) It shall also satisfy any additional map requirements of local ordinances consistent with this division.

CHAPTER 427

An act to amend Section 22653 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 22653 of the Vehicle Code is amended to read:

22653. (a) Any peace officer, other than an employee directing traffic or enforcing parking laws and regulations, specified in Section 22651 may remove a vehicle from private property when the vehicle is found on private property and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(b) Any member of the California Highway Patrol; any regularly

employed and salaried deputy of sheriff's office of a county; any regularly employed and salaried officer of a police department of a city; any regularly employed and salaried officer of the California State Police; any regularly employed and salaried officer of the University of California Police Department; or any regularly employed and salaried officer of a California state university and college police department, may, after a reasonable period of time, remove a vehicle from private property if the vehicle has been involved in, and left at the scene of, a traffic accident and no owner is available to grant permission to remove the vehicle. This subdivision does not authorize the removal of a vehicle where the owner has been contacted and has refused to grant permission to remove the vehicle.

(c) Nothing in this section is intended to expand the territorial jurisdiction of peace officers beyond the provisions of Sections 830.1 and 830.2 of the Penal Code.

CHAPTER 428

An act to amend, repeal, and add Section 53736 of the Government Code, and to add and repeal Section 5904 of the Harbors and Navigation Code, relating to local agency funds.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 53736 of the Government Code is amended to read:

53736. Except as provided in Section 25369 of this code and in Section 5904 of the Harbors and Navigation Code, the fund shall remain inviolate for the making of any capital outlays and money shall not be disbursed from the fund except for such a purpose unless the legislative body submits a proposition to the electors of the local agency, to obtain their consent to use the money in the fund for some other specific purpose. The proposition may be submitted at any election. A two-thirds vote of all of the voters voting at the election is necessary to authorize the expenditure of the money in the fund for such other purpose.

This section shall remain in effect only until January 1, 1982, and as of that date is repealed.

SEC. 2. Section 53736 is added to the Government Code, to read:

53736. Except as provided in Section 25369, the fund shall remain inviolate for the making of any capital outlays and money shall not be disbursed from the fund except for such a purpose unless the legislative body submits a proposition to the electors of the local agency, to obtain their consent to use the money in the fund for some

other specific purpose. The proposition may be submitted at any election. A two-thirds vote of all of the voters voting at the election is necessary to authorize the expenditure of the money in the fund for such other purpose.

This section shall become operative on January 1, 1982.

SEC. 3. Section 5904 is added to the Harbors and Navigation Code, to read:

5904. By a four-fifths vote of the board of supervisors adopting an ordinance therefor, a harbor improvement district formed pursuant to this part may, not sooner than 30 days following adoption of such ordinance, use any money accumulated in a capital outlay fund pursuant to Article 4 (commencing with Section 53730) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code for other than capital outlay purposes of the district. The action of the board of supervisors in adopting an ordinance pursuant to this section is subject to referendum by petition of the voters of the district in the manner provided for by Article 2 (commencing with Section 5200) of Chapter 4 of Division 5 of the Elections Code.

This section shall remain in effect only until January 1, 1982, and as of that date is repealed.

SEC. 4. It is the intent of the Legislature that the amendments to Section 53736 of the Government Code which are made by Section 1 of this act shall remain in effect only until January 1, 1982, and on that date Section 2 of this act shall become operative to restore Section 53736 to the form in which it read immediately prior to the effective date of this act.

CHAPTER 429

An act to amend Sections 550, 551, 553, 554, 556, 558, 600, 922, 1202, 1246, 1260.1, 1269, 1286, 1300, 1322, 2541.3, 2541.6, 2725.1, 2728.5, 3148, 3502.1, 4037.1, 4047.7, 4227, and 23007 of the Business and Professions Code; to amend Sections 224s, 227b, 232, 232.1, 232.9, 233.6, 267, 268, 4300, 4302, 4304, 4305, 4306, 7005, 7006, and 7017 of the Civil Code; to amend Sections 8242, 8248, 8254, 54483, 66903.2, 66903.4, 69273, 69274, 69275, and 69276 of the Education Code; to amend Sections 12980, 12981, and 12982 of the Food and Agricultural Code; to amend Sections 855, 11501, 11501.5, 53114.1, 66713, 66740, 66750, 66780.5 (as amended by Chapter 564 of the Statutes of 1977), and 66796.21 of, and to amend and renumber Section 66780.5 (as added by Chapter 689 of the Statutes of 1977) of, the Government Code; to amend Sections 103, 208, 213, 320.5, 323.5, 324.2, 382, 384, 385, 386, 389, 405, 416.12, 416.16, 429.71, 429.72, 429.73, 429.76, 429.78, 429.79, 429.80, 429.81, 429.91, 429.92, 429.93, 429.94, 429.95, 429.96, 431, 432.2, 432.9, 433, 434, 435.2, 435.7, 436.2, 436.3, 436.4, 436.45, 436.5, 436.6, 436.7, 436.8, 436.9, 436.10, 436.11, 436.12, 436.13, 436.14, 436.15, 436.16, 436.17, 436.18, 436.19, 436.20, 436.21, 436.22, 436.23, 436.24, 436.25, 436.26, 436.27,

436.28, 437.01, 437.6, 437.7, 437.8, 437.9, 437.13, 437.14, 438.1, 438.5, 438.8, 446.3, 1157, 1185, 1260, 1343, 1442, 1494, 1502, 1532, 1572, 1701, 2863, 2950, 2950.1, 3380, 3751, 11752.1, 11753, 11780, 11881, 11885, 11886, 11887, 11888, 11889, 11890, 11891, 11892, 11893, 11894, 11895, 11896, 15021, 27000, 27002, 32127.2, 32201, 34705, and 39606 of, to amend the heading of Part 2 (commencing with Section 11775) of Division 10.5 of, to amend the heading of Article 1 (commencing with Section 11775) of Chapter 1 of Part 2 of Division 10.5 of, to amend the heading of Part 3 (commencing with Section 11860) of Division 10.5 of, to add Sections 446.35 and 11759 to, to add Article 5 (commencing with Section 11850) to Chapter 1 of Part 2 of Division 10.5 of, and to repeal Sections 11991, 38224, 38261, 38261.2, and 38500 of, the Health and Safety Code; to amend Sections 142.3, 144.5, 147, and 147.1 of the Labor Code; to amend Sections 830.3, 830.4, 1370.1, and 2684 of the Penal Code; to amend Sections 17226, 19286.5, and 24372 of the Revenue and Taxation Code; to amend Sections 305.6, 410, 1332, 2627.5, 3129, and 3265 of, and to repeal Sections 301.1, 301.2, 301.3, and 301.4 of, the Unemployment Insurance Code; to amend Sections 2512, 12522, 13352.5, and 23102.1 of the Vehicle Code; to amend Sections 303, 362, 362.5, 727, 1756, 4005.4, 4006, 4021, 4119, 4120, 4126, 4127, 4136, 4409, 4446.5, 4449, 4456, 4460, 4472, 4488, 4681, 4825, 5008, 5008.1, 5170, 5174, 5325, 5326.9, 5329, 5352.5, 5402.1, 5604, 5651, 5652, 5702, 5750, 5755.5, 5764, 5764.5, 5765, 6000, 6500.1, 7200, 7206, 7292, 7293, 7301, 7305, 7354.5, 7362, 8200, 10553, 10554, 10600.1, 10604, 10726, 10743, 10850, 10950, 11006.9, 11478.5, 14016, 14017, 14053, 14065, 14100.1, 14101, 14104.5, 14110.5, 14120, 14124.5, 14170, 14171, 14172, 14173, 14174, 14175, 14176, 14251, 14312, 14477, 14551, 14570, 14577, 14585, 16552, 16557, 18276, 18279, 18281, 18376, and 18377 of, to amend the heading of Part 4 (commencing with Section 16100) of Division 9 of, to amend and renumber Sections 4106, 4106.1, 4315, 4316, 10053.8, 10053.85, 10053.9, and 14064 (as added by Chapter 1252 of the Statutes of 1977) of, to amend and renumber the heading of Chapter 8.5 (commencing with Section 14520) of Part 3 of Division 9 of, to add Sections 4100.5, 4473, 4498, 4499, 4656, and 4681.2 to, to repeal Sections 4498, 4510, 4511, and 10554.3 of, and to repeal Article 5 (commencing with Section 19975.01) of Chapter 1 of Division 11 of, the Welfare and Institutions Code; to amend Section 2 of Chapter 297 and Section 29 of Chapter 977 of the Statutes of 1976; and to amend Section 5 of Chapter 890 and Section 6 of Chapter 1066 of the Statutes of 1977, relating to health and welfare, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 550 of the Business and Professions Code is amended to read:

550. As used in this article, "ophthalmia neonatorum," independent of the nature of the infection, means any condition of the eye, or eyes, of any infant in which there is any inflammation, swelling or redness in either one or both of the eyes of any infant, either apart from or together with any unnatural discharge from the eye, or eyes, of any infant, at any time within two weeks after its birth.

As used in this article, "department" refers to the State Department of Health Services.

SEC. 2. Section 551 of the Business and Professions Code is amended to read:

551. It is the duty of any physician, surgeon, obstetrician, midwife, nurse, maternity home or hospital of any nature, parent, relative, and any person or persons attendant upon, or assisting in any way whatsoever, either the mother or child, or both, at childbirth, to treat both eyes of the infant within two hours after birth with a prophylactic efficient treatment, and in all cases where the child develops within two weeks after its birth ophthalmia neonatorum, and such person knows it to exist, to report the case within 24 hours after knowledge, in such form as the department directs, to the local health officer of the county or city within which the mother of any such infant resides.

SEC. 3. Section 553 of the Business and Professions Code is amended to read:

553. All maternity homes, hospitals, and similar institutions wherein childbirths occur shall keep a record of all cases of ophthalmia neonatorum occurring or discovered therein. These records shall be in the form and contain the matters which the department prescribes.

SEC. 4. Section 554 of the Business and Professions Code is amended to read:

554. The local health officer shall:

(a) Investigate each case filed with him in pursuance of this article, and all other cases coming to his attention.

(b) Report all cases of ophthalmia neonatorum coming to his knowledge, and the result of all investigations that he makes to the department, in such form as the department directs.

(c) Conform to such rules and regulations as the department promulgates for the purpose of carrying out the provisions of this article.

SEC. 5. Section 556 of the Business and Professions Code is amended to read:

556. The failure of any person mentioned in Section 551 to report, or the failure of any maternity home, hospital, or similar institution, to use the treatment prescribed in Section 551 and to record any and all cases of ophthalmia neonatorum, as directed in Section 553, or the failure or refusal of any person or institution, mentioned in this article, to obey any rule or regulation adopted by the department under this article constitutes a misdemeanor, and upon conviction

thereof shall be fined, for the first offense not to exceed fifty dollars ($50); for a second offense not to exceed one hundred dollars ($100); and for a third offense, and thereafter not to exceed two hundred dollars ($200) for each violation.

SEC. 6. Section 558 of the Business and Professions Code is amended to read:

558. One-half of all fines collected hereunder shall go to the county wherein the prosecution was had, and the remaining one-half thereof shall go into the state treasury and constitute a special fund to be expended by the department for the purposes of carrying out the provisions of this article.

SEC. 7. Section 600 of the Business and Professions Code is amended to read:

600. Except as provided in Article 3 (commencing with Section 3230) of Chapter 4 of Division 4 of the Health and Safety Code and Sections 4008.5 and 25763, it is unlawful for any person, firm, corporation or association, except boards of health or agencies approved by the State Department of Health Services, to post or otherwise exhibit or distribute in any manner whatsoever in any place, any advertising or other printed matter concerning venereal diseases, lost manhood, lost vitality, impotency, seminal emissions, self-abuse, varicocele, or excessive sexual indulgence, and calling attention to any medicine, device, compound, treatment or preparation that may be used therefor.

Any person violating the provisions of this section shall upon conviction therefor be punished by a fine of not more than five hundred dollars ($500) or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment.

SEC. 8. Section 922 of the Business and Professions Code is amended to read:

922. Such information as is provided pursuant to Section 921 shall be reported in the aggregate for the entire state, and shall be identified in such geographical units as are useful for health planning purposes, as established in conjunction with the State Department of Health Services.

SEC. 8.5. Section 1202 of the Business and Professions Code is amended to read:

1202. As used in this chapter, "department" means the State Department of Health Services.

SEC. 9. Section 1246 of the Business and Professions Code is amended to read:

1246. Except as provided in Section 13354 of the Vehicle Code, an unlicensed person employed by a licensed clinical laboratory may perform venipuncture or skin puncture for the purpose of withdrawing blood for test purposes upon specific authorization from a licensed physician and surgeon provided that he meets all the following requirements:

(a) He works under the supervision of a person licensed under this chapter or of a licensed physician or surgeon or of a licensed

registered nurse. A person licensed under this chapter, a licensed physician or surgeon, or a registered nurse shall be physically available to be summoned to the scene of the venipuncture within five minutes during the performance of such procedures.

(b) He has been trained by a licensed physician and surgeon or by a clinical laboratory bioanalyst in the proper procedure to be employed when withdrawing blood in accordance with training requirements established by the State Department of Health Services and has a statement signed by the instructing physician and surgeon or by the instructing clinical laboratory bioanalyst that such training has been successfully completed.

SEC. 9.5. Section 1260.1 of the Business and Professions Code is amended to read:

1260.1. The department shall issue a histocompatibility laboratory director's license to each person who meets the qualifications specified in Section 1209.1.

SEC. 9.6. Section 1269 of the Business and Professions Code is amended to read:

1269. The department shall establish by regulation the limited laboratory activities in which unlicensed laboratory personnel including, but not limited to, laboratory aides, histocompatibility technicians, cardiopulmonary technicians, and isotope technicians, working in clinical laboratories may engage and shall establish the extent of supervision required and the minimum qualifications to be met by such persons. Persons engaged in such activities shall do so only under the supervision of a licensed technologist, or person duly authorized to direct a laboratory, who is functioning as a technologist. Before such persons are permitted to perform tests, they shall satisfactorily demonstrate their ability to do so in accordance with procedures prescribed by the department.

SEC. 10. Section 1286 of the Business and Professions Code is amended to read:

1286. It is unlawful for any person to operate a school or conduct any course for the purpose of training or preparing persons to perform duties, as defined under this chapter and regulations of the department, without having first secured the approval of the department as herein provided.

SEC. 10.5. Section 1300 of the Business and Professions Code is amended to read:

1300. The amount of application and license fee under this chapter shall be as follows:

(a) The application fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, or clinical microbiologist's license is twenty-five dollars ($25).

(b) The annual renewal fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, or clinical microbiologist's license shall be fixed by the board at an amount not to exceed twenty-five dollars ($25).

(c) The application fee for a clinical laboratory technologist's or

limited technologist's license is fifteen dollars ($15).

(d) The annual renewal fee for a clinical laboratory technologist's or limited technologist's license shall be fixed by the department at an amount not to exceed ten dollars ($10).

(e) The application fee for a clinical laboratory license is one hundred dollars ($100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county or city and county, or an official thereof, no fee shall be required.

(f) The annual renewal fee for a clinical laboratory license shall be fixed by the department at an amount not to exceed one hundred dollars ($100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county, or city and county, or official thereof, no fee shall be required.

(g) The application fee for a trainee's license is five dollars ($5).

(h) The annual renewal fee for a trainee's license is three dollars ($3).

(i) The application fee for a duplicate license is two dollars ($2).

(j) The delinquency fee is ten dollars ($10).

SEC. 11. Section 1392 of the Business and Professions Code is amended to read:

1322. 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.

SEC. 12. Section 2541.3 of the Business and Professions Code is amended to read:

2541.3. The State Department of Health Services, the State Board of Optometry and the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance shall prepare and adopt quality standards and promulgate regulations relating to prescription ophthalmic devices, including, but not limited to, lenses, frames, and contact lenses. Regulations adopted subsequent to those in effect on July 1, 1976, shall become operative July 1, 1978. In promulgating such rules and regulations, the department and the boards shall adopt the current standards of the American National Standards Institute regarding ophthalmic materials. Nothing in this section shall prohibit the department and the boards from jointly adopting subsequent standards which are equivalent or more stringent than the current standards of the American National Standards Institute regarding ophthalmic materials.

No individual or group which deals with prescription ophthalmic devices, including, but not limited to, distributors, dispensers, manufacturers, laboratories, optometrists or ophthalmologists shall sell, dispense, or furnish any prescription ophthalmic device which does not meet the minimum standards set by the State Department of Health Services, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance.

Any violation of the regulations promulgated by the State

Department of Health Services, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance pursuant to this section shall be a misdemeanor.

Any optometrist, ophthalmologist, or dispensing optician who violates the regulations promulgated by the State Department of Health Services, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance pursuant to this section shall be subject to disciplinary action by his licensing board.

The State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance may send any prescription ophthalmic device to the Department of Health Services for testing as to whether or not such device meets established standards adopted pursuant to this section, which testing shall take precedence over any other prescription ophthalmic device testing being conducted by the department. The department may conduct such testing in its own facilities or may contract with any other facility to conduct such testing.

SEC. 13. Section 2541.6 of the Business and Professions Code is amended to read:

2541.6. Effective January 1, 1977, no prescription ophthalmic device which does not meet the standards promulgated by the State Department of Health Services, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance under Section 2541.3 shall be purchased with state funds.

SEC. 14. Section 2725.1 of the Business and Professions Code is amended to read:

2725.1. The scope of practice of a registered nurse shall include the prescribing, dispensing, and administration of drugs or devices when the nurse is engaged in an experimental health manpower project authorized under Article 18 (commencing with Section 429.70) Chapter 2 of Part 1 of Division 1 of the Health and Safety Code and is acting within the scope of such project as defined by the Office of Statewide Health Planning and Development. No registered nurse shall prescribe drugs except under the general supervision of a licensed physician and surgeon.

This section shall remain in effect until January 1, 1983, and on such date is repealed.

SEC. 15. Section 2728.5 of the Business and Professions Code is amended to read:

2728.5. Except for those provisions of law relating to directors of nursing services, nothing in this chapter or any other provision of law shall prevent the utilization of a licensed psychiatric technician in performing services used in the care, treatment, and rehabilitation of mentally ill, emotionally disturbed, or developmentally disabled persons within the scope of practice for which he is licensed in

facilities under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services or licensed by the State Department of Health Services, that he is licensed to perform as a psychiatric technician, including any nursing services under Section 2728, in facilities under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services or subject to visitation by the State Department of Health Services.

SEC. 16. Section 3148 of the Business and Professions Code is amended to read:

3148. From each fee for the renewal of a certificate of registration for the renewal periods ending on January 31, 1962, and on January 31, 1963, respectively, there shall be paid the sum of eight dollars ($8), and from each fee for the renewal of a certificate of registration for each biennial renewal period ending on or before January 31, 1973, there shall be paid the sum of sixteen dollars ($16) and thereafter from each fee for the annual renewal of a certificate of registration there shall be paid the sum of eight dollars ($8) by the Director of Consumer Affairs to the University of California.

This sum shall be used at and by the University of California solely for the advancement of optometrical research and the maintenance and support of the department at the university in which the science of optometry is taught.

The balance of each renewal fee shall be paid into the Optometry Fund.

SEC. 17. Section 3502.1 of the Business and Professions Code is amended to read:

3502.1. A physician's assistant is authorized to prescribe, dispense, and administer drugs or devices when the physician's assistant is engaged in an experimental health manpower project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code and is acting within the scope of such project as defined by the Office of Statewide Health Planning and Development. No physician's assistant shall prescribe drugs except under the general supervision of a licensed physician and surgeon.

This section shall remain in effect until January 1, 1983, and on such date is repealed.

SEC. 18. Section 4037.1 of the Business and Professions Code is amended to read:

4037.1. The scope of practice of a registered pharmacist shall include the prescribing, dispensing, and administration of drugs or devices when the pharmacist is engaged in an experimental health manpower project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code and is acting within the scope of such project as defined by the Office of Statewide Health Planning and Development. No pharmacist shall prescribe drugs except under the general supervision of a licensed physician and surgeon. This section shall

remain in effect until January 1, 1983, and on such date is repealed.

SEC. 19. Section 4047.7 of the Business and Professions Code is amended to read:

4047.7. (a) The State Director of Health Services shall establish by regulation a formulary of generic drug types and drug products which the State Director of Health Services determines demonstrate clinically significant biological or therapeutic inequivalence and which, if substituted under Section 4047.6, would pose a threat to the health and safety of patients receiving prescription medication.

(b) The drug formulary established pursuant to this section shall include generic drug types and manufactured brand drug products, including, where applicable, drug products differentiated by dosage form or strength. In compiling the generic drug types and drug products for inclusion on the formulary, the State Director of Health Services may rely on drug product research, testing, information, and formularies compiled by other states, the United States Department of Health, Education and Welfare, and any other source which the State Director of Health Services deems reliable.

(c) Regulations establishing the drug formulary shall be promulgated within 120 days of the effective date of this section. The formulary shall be added to or deleted from as the State Director of Health Services deems appropriate. Regulations shall be adopted in accordance with Article 1 (commencing with Section 11371) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. Any person who requests that the State Director of Health Services make any inclusion, addition or deletion, of a generic drug type or drug product to the formulary shall have the burden of proof to show cause why such inclusion, addition, or deletion, should be made by the State Director of Health Services.

(d) Upon adoption of the formulary, and upon each addition, deletion or modification to the formulary, the State Director of Health Services shall mail a copy to each pharmacist licensed by the State Board of Pharmacy and with each physician and surgeon licensed to practice in the state with the State Board of Medical Quality Assurance and each person licensed by the Board of Osteopathic Examiners. No pharmacist shall dispense a generically equivalent drug product pursuant to Section 4047.6 if the drug product and its generic drug type is included in the formulary.

SEC. 19.5. Section 4227 of the Business and Professions Code is amended to read:

4227. (a) No person shall furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under

Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

(b) The provisions of this section do not apply to the furnishing of any dangerous drug by a manufacturer or wholesaler or pharmacy to each other or to a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code or to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the drug and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to Section 4050.7, may distribute dangerous drugs and devices directly to hemodialysis patients pursuant to regulations promulgated by the board. The board shall promulgate such regulations as are necessary to insure the safe distribution of such drugs and devices to hemodialysis patients without interruption of supply including, but not limited to, the following: vendor licensing, records and labeling, patient receipts, patient training, report records, specific product and quantity limitations, verification order forms, reports and supplies, adequate establishment facilities, and reports to the board. A person who violates a regulation promulgated pursuant to this subdivision shall be liable upon order of the board to surrender his personal license. These penalties shall be in addition to penalties which may be imposed pursuant to Sections 4389 and 4350.5. If the board finds any hemodialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of such drugs or devices distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices pursuant to subdivision (c) shall have completed a full course of home training given by a renal dialysis center accredited by the State Department of Health Services. The physician and surgeon prescribing the hemodialysis products shall submit proof satisfactory to the manufacturer or wholesaler that the patient has completed such program.

SEC. 20. Section 23007 of the Business and Professions Code is amended to read:

23007. "Wine" means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made and other rectified

wine products and by whatever name and which does not contain more than 15 percent added flavoring, coloring, and blending material and which contains not more than 24 percent of alcohol by volume, and includes vermouth and sake, known as Japanese rice wine.

Nothing contained in this section affects or limits the power, authority, or duty of the State Department of Health Services in the enforcement of the laws directed toward preventing the manufacture, production, sale, or transportation of adulterated, misbranded, or mislabeled alcoholic beverages, and the definition of "wine" contained in this section is limited strictly to the purposes of this division and does not extend to, or repeal by implication, any law preventing the production, manufacture, sale, or transportation of adulterated, misbranded, or mislabeled alcoholic beverages.

SEC. 21. Section 224s of the Civil Code is amended to read:

224s. No agency shall place a child for adoption unless the agency has submitted a written medical report on the child's medical background, if available, and, so far as ascertainable, the medical background of the child's natural parents, conforming to requirements which shall be specified by the State Department of Social Services, to the prospective adopting parents and such prospective adopting parents have acknowledged in writing the receipt of such report.

The requirements of this section shall not apply to intercountry adoptions.

SEC. 22. Section 227b of the Civil Code is amended to read:

227b. If any child heretofore or hereafter adopted under the foregoing provisions of this code shows evidence of a developmental disability or mental illness as a result of conditions prior to the adoption to such an extent that the child cannot be relinquished to an adoption agency on the grounds that the child is considered unadoptable, and of which conditions the adopting parents or parent had no knowledge or notice prior to the entry of the decree of adoption, a petition setting forth such facts may be filed by the adopting parents or parent with the court which granted the petition for adoption. If such facts are proved to the satisfaction of the court, it may make an order setting aside the decree of adoption.

The petition must be filed within whichever is the later of the following time limits: (a) within five years after the entering of the decree of adoption, or (b) within one year after the effective date hereof, if such a condition were manifest in the child within five years after the entering of the decree of adoption.

In every action brought under this section it shall be the duty of the clerk of the superior court of the county wherein the action is brought to immediately notify the State Department of Social Services of such action. Within 60 days after such notice the State Department of Social Services shall file a full report with the court and shall appear before the court for the purpose of representing the adopted child.

SEC. 23. Section 232 of the Civil Code is amended to read:

232. (a) An action may be brought for the purpose of having any person under the age of 18 years declared free from the custody and control of either or both of his parents when such person comes within any of the following descriptions:

(1) Who has been left without provision for his identification by his parent or parents or by others or has been left by both of his parents or his sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for his support, or without communication from such parent or parents, with the intent on the part of such parent or parents to abandon such person. Such failure to provide identification, failure to provide, or failure to communicate shall be presumptive evidence of the intent to abandon. Such person shall be deemed and called a person abandoned by the parent or parents abandoning him. If in the opinion of the court the evidence indicates that such parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by such parent or parents. In those cases in which the child has been left without provision for his identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

The fact that a child is in a foster care home, licensed under Chapter 3 (commencing with Section 1500), Division 2 of the Health and Safety Code, shall not prevent a licensed adoption agency which is planning adoption placement for the child, from instituting, under this subdivision, an action to declare such child free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel and if there is no county counsel, the district attorney shall institute such action.

(2) Who has been cruelly treated or neglected by either or both of his parents, if such person has been a dependent child of the juvenile court, and such parent or parents deprived of his custody for the period of one year prior to the filing of a petition praying that he be declared free from the custody and control of such cruel or neglectful parent or parents.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when such controlled substances are used as part of a medically prescribed plan, or are morally depraved, if such person has been a dependent child of the juvenile court, and the parent or parents deprived of his custody because of such disability, or moral depravity, for the period of one year continuously immediately prior to the filing of the petition praying that he be declared free from the custody and

control of such parent or parents. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which such parent or parents were convicted are of such nature as to prove the unfitness of such parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents are hospitalized or resident, the Director of Mental Health or the Director of Developmental Services, or his equivalent, if any, and the superintendent of the hospital of which, if any, such parent or parents are inmates or patients certify that such parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are, and will remain incapable of supporting or controlling the child in a proper manner because of mental deficiency or mental illness, if there is testimony to this effect from two physicians and surgeons each of which must have been certified by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code. If, however, the parent or parents reside in another state or in a foreign country, the testimony herein may be supplied by two physicians and surgeons who are residents of such state or foreign country, if such physicians and surgeons have been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine and if the court determines that the certification requirements of such organization or society are comparable to those of the American Board of Psychiatry and Neurology.

The parent or parents shall be cited to be present at the hearing, and if he or they have no attorney, the court shall appoint an attorney or attorneys to represent the parent or parents and fix the compensation to be paid by the county for such services, if he determines the parent or parents are not financially able to employ counsel.

(7) Who has been cared for in one or more foster homes under the supervision of the juvenile court, the county welfare department or other public or private licensed child-placing agency for two or more consecutive years, providing that the court finds by clear and convincing evidence that return of the child to his parent or parents would be detrimental to the child and that the parent or parents have failed during such period, and are likely to fail in the future, to do the following:

(i) Provide a home for said child;

(ii) Provide care and control for the child;

(iii) Maintain an adequate parental relationship with the child;

and

(iv) Maintain continuous contact with the child, unless unable to do so.

Physical custody of the child by the parent or parents for insubstantial periods of time during the required two-year period will not serve to interrupt the running of such period.

(b) A licensed adoption agency may institute under this section, an action to declare a child, as described in this section, free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel, or if there is no county counsel, the district attorney shall in a proper case institute such action.

SEC. 24. Section 232.1 of the Civil Code is amended to read:

232.1. (a) An action may be brought in a demonstration county for the purpose of having any person under the age of 18 years declared free from the custody and control of either or both of his parents when such person comes within any of the following descriptions:

(1) Who has been left without provision for his identification by his parent or parents or by others or has been left by both of his parents or his sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for his support, or without communication from such parent or parents, with the intent on the part of such parent or parents to abandon such person. Such failure to provide identification, failure to provide, or failure to communicate shall be presumptive evidence of the intent to abandon. Such person shall be deemed and called a person abandoned by the parent or parents abandoning him. If in the opinion of the court the evidence indicates that such parent or parents have made only token efforts to support or communicate with the child, the court may declare the child abandoned by such parent or parents. In those cases in which the child has been left without provision for his identification and the whereabouts of the parents are unknown, a petition may be filed after the 120th day following the discovery of the child and citation by publication may be commenced. The petition may not be heard until after the 180th day following the discovery of the child.

The fact that a child is in a foster care home subject to the requirements of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, shall not prevent a licensed adoption agency which is planning adoption placement for the child, from instituting, under this subdivision, an action to declare such child free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel and if there is no county counsel, the district attorney shall institute such action.

(2) Who has been cruelly treated or neglected by either or both of his parents, if such person has been a dependent child of the

juvenile court, and such parent or parents deprived of his custody for the period of one year prior to the filing of a petition praying that he be declared free from the custody and control of such cruel or neglectful parent or parents.

An action may be brought under this subdivision only if the child was declared a dependent child of the juvenile court prior to July 1, 1977.

(3) Whose parent or parents suffer a disability because of the habitual use of alcohol, or any of the controlled substances specified in Schedules I to V, inclusive, of Division 10 (commencing with Section 11000) of the Health and Safety Code, except when such controlled substances are used as part of a medically prescribed plan, or are morally depraved, if such person has been a dependent child of the juvenile court, and the parent or parents deprived of his custody because of such disability, or moral depravity, for the period of one year continuously immediately prior to the filing of the petition praying that he be declared free from the custody and control of such parent or parents. As used in this subdivision, "disability" means any physical or mental incapacity which renders the parent or parents unable to adequately care for and control the child.

(4) Whose parent or parents are convicted of a felony, if the facts of the crime of which such parent or parents were convicted are of such nature as to prove the unfitness of such parent or parents to have the future custody and control of the child.

(5) Whose parent or parents have been declared by a court of competent jurisdiction wherever situated to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents are hospitalized or resident, the Director of Mental Health or the Director of Developmental Services, or his equivalent, if any, and the superintendent of the hospital of which, if any, such parent or parents are inmates or patients certify that such parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are, and will remain incapable of supporting or controlling the child in a proper manner because of mental deficiency or mental illness, if there is testimony to this effect from two physicians and surgeons, each of whom must have been certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code. If, however, the parent or parents reside in another state or in a foreign country, the testimony herein may be supplied by two physicians and surgeons who are residents of such state or foreign country, if such physicians and surgeons have been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine and if the court determines that the certification requirements of such organization or society are comparable to those of the American Board of Psychiatry and Neurology.

The parent or parents shall be cited to be present at the hearing, and if he or they have no attorney, the court shall appoint an attorney or attorneys to represent the parent or parents and fix the compensation to be paid by the county for such services, if the court determines the parent or parents are not financially able to employ counsel.

(7) Who has been cared for in one or more foster homes under the supervision of the juvenile court, the county welfare department, or other public or private licensed child-placing agency for two or more consecutive years, providing that the court finds by clear and convincing evidence that the return of the child to his parent or parents would be detrimental to the child and that the parent or parents have failed during such period, and are likely to fail in the future, to:

(i) Provide a home for the child;

(ii) Provide care and control for the child;

(iii) Maintain an adequate parental relationship with the child; and

(iv) Maintain continuous contact with the child, unless unable to do so.

Physical custody of the child by the parent or parents for insubstantial periods of time during the required two-year period shall not serve to interrupt the running of such period.

(8) Who has been found to be a dependent child of the juvenile court, has been removed from the physical custody of his parent or parents pursuant to Section 361.5 or voluntarily placed pursuant to Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9 of the Welfare and Institutions Code, and where an action to terminate parental rights was initiated due to a court order pursuant to Section 366.5 of the Welfare and Institutions Code.

At the termination proceeding, the person bringing the action shall show that on a continuous basis reasonable services have been provided to the parents, or were offered and refused by them, which were designed to aid the parents to overcome the problems which originally led to the deprivation of physical custody, the effectiveness, if any, of such services, and that despite the use of such services, the problems which originally led to the deprivation of physical custody are still present. Social workers or probation officers who provided such services shall appear, if available, at the termination proceedings.

At the termination proceeding, the court may consider the wishes of the child. When the child is 14 years of age or older, the consent of the child shall be obtained in order that there be a termination of parental rights.

If the court sustains the petition and there is an order pursuant to this subdivision, the court shall specify the factual grounds established to support its findings and enter such in the permanent records of the court.

An action may be brought under this subdivision if the child was

declared a dependent child of the juvenile court on or after July 1, 1977, or was voluntarily placed by his parents pursuant to Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9 of the Welfare and Institutions Code on or after such date.

This subdivision shall not apply to a parent or parents who have been convicted of a felony and thereby are unable to receive reasonable services designed to aid them to overcome the problems which originally led to the deprivation of physical custody.

(b) A licensed adoption agency of a demonstration county may institute under this section, an action to declare a child, as described in this section, free from the custody and control of his parents. When the requesting agency is a licensed county adoption agency, the county counsel, or if there is no county counsel, the district attorney shall in a proper case institute such action.

(c) As used in this section, a "demonstration county" is a county selected pursuant to Section 2 of Chapter 977 of the Statutes of 1976.

(d) This section shall remain in effect only until June 30, 1981 and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1981, deletes or extends such date.

SEC. 25. Section 232.9 of the Civil Code is amended to read:

232.9. The State Department of Social Services, a county welfare department, a county adoption department, or a county probation department which is planning adoptive placement of a child with a licensed adoption agency, or the State Department of Social Services acting as an adoption agency in counties which are not served by a county adoption agency, may initiate an action under Section 232 to declare a child free from the custody and control of his parents. The fact that a child is in a foster care home subject to the requirements of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code shall not prevent the institution of such an action by any such agency or by a licensed adoption agency pursuant to Section 232.

The county counsel or, if there is no county counsel, the district attorney of the county specified in Section 233 shall, in a proper case, institute the action upon the request of any of the state or county agencies mentioned herein. In a demonstration county selected pursuant to Section 2 of Chapter 977 of the Statutes of 1976, such action shall be instituted pursuant to Section 232.1 within 30 days of such request.

If, at the time of the filing of a verified petition by any department or agency specified in this section, the child is in the custody of the petitioner, such petitioner may continue to have custody of the child pending the hearing on the petition unless the court, in its discretion, makes such other orders regarding custody pending the hearing which it finds will best serve and protect the interest and welfare of the child.

SEC. 26. Section 233.6 of the Civil Code is amended to read:

233.6. Notwithstanding any other provision of law, the superior court and the probation officer may furnish information, pertaining

to a petition under this chapter, to the State Department of Social Services, to any county welfare department, to any public welfare agency, or to any private welfare agency licensed by the State Department of Social Services, whenever it is believed that the welfare of the child will be promoted thereby.

SEC. 27. Section 267 of the Civil Code is amended to read:

267. The "appropriate public authorities" as used in Article 3 of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the State Department of Social Services and such department shall receive and act with reference to notices required by such Article 3.

SEC. 28. Section 268 of the Civil Code is amended to read:

268. As used in paragraph (a) of Article 5 of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in receiving state" with reference to this state shall mean the State Department of Social Services.

SEC. 29. Section 4300 of the Civil Code is amended to read:

4300. (a) Before any person, who is or may hereafter be authorized by law to issue marriage licenses, shall issue any such license, each applicant therefor shall file with him a certificate from a duly licensed physician which certificate shall state that the applicant has been given such examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than 30 days prior to the date of issuance of such license, and that, in the opinion of such physician, the person either is not infected with syphilis, or if so infected, is not in a stage of that disease which is or may become communicable to the marital partner.

(b) Such certificate shall also state whether the female applicant has laboratory evidence of immunological response to rubella (German measles). Such certificate shall not contain such evidence of response to rubella where the female applicant (1) is over 50 years of age, or (2) has had a surgical sterilization or (3) presents laboratory evidence of a prior test declaring her immunity to rubella.

This subdivision shall not become operative in a county until January 1, 1974, if the State Department of Health Services determines on or before the effective date of this act that there are not sufficient laboratory facilities in the county to perform the test required by this subdivision. In making this determination, the State Department of Health Services shall consider the number of people in the county, and the availability of facilities and qualified personnel.

(c) Any person who by law is validly able to obtain a marriage license in the State of California is validly able to give consent to any examinations and tests required by this article. In submitting the blood specimen to the laboratory the physician shall designate that this is a premarital test.

SEC. 30. Section 4302 of the Civil Code is amended to read:

4302. The State Director of Health Services shall have the final

authority for determining all other employee needs after consideration of program requests from the various hospitals.

SEC. 31. Section 4304 of the Civil Code is amended to read:

4304. For the purpose of this article a standard serological test shall be a test for syphilis approved by the State Department of Health Services and an approved laboratory shall be the laboratory of the State Department of Health Services or a laboratory approved by the State Department of Health Services or any other laboratory the director of which is licensed by the State Department of Health Services according to law. In case of question concerning accuracy of tests prescribed in this article, it shall be mandatory upon the State Department of Health Services to accept specimens for checking purposes from any district in the state.

SEC. 32. Section 4305 of the Civil Code is amended to read:

4305. The laboratory shall submit such laboratory reports or records to the State Department of Health Services as are required by regulation. The health officer may destroy any copies of reports retained by him pursuant to this section for a period of two years.

SEC. 33. Section 4306 of the Civil Code is amended to read:

4306. The judge of the superior court in the county in which the license is to be issued is hereby authorized and empowered, on joint application by both parties to a marriage, to waive the requirements as to medical examinations, laboratory tests, and certificates and to order the licensing authority to issue the license applied for, if all other requirements of the marriage laws have been complied with, and if the judge is satisfied by affidavit or other proof that an emergency or other sufficient cause for such action exists and that the public health and welfare will not be injuriously affected thereby.

In any case where such examinations and tests have been made and certificate or certificates have been refused because one or both of the applicants have been found to be infected with syphilis, the judge shall nevertheless be authorized and empowered, on application of both parties to such marriage to order the licensing authority to issue the license, if all other requirements of the marriage laws have been complied with and if the judge is satisfied by affidavit or other proof that an emergency or other sufficient cause for such order exists and that the public health and welfare will not be injuriously affected thereby. In every such case, however, the clerk of the court shall transmit to the State Department of Health Services a transcript of the record and the order thereon for such followup by the department as is required by law or deemed necessary by the department for the protection of the public health. The order of the court shall be filed by the licensing authority in lieu of the certificate form.

The superior court when it is deemed necessary may, to the extent authorized by law or rules of court, order all proceedings instituted under the provisions of this article to be confidential and private. There shall be no fee for these court proceedings.

SEC. 34. Section 7005 of the Civil Code is amended to read:

7005. (a) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the State Department of Social Services, where it shall be kept confidential and in a sealed file. However, the physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(b) The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

SEC. 35. Section 7006 of the Civil Code is amended to read:

7006. (a) A child, the child's natural mother, or a man presumed to be his father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004.

(2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Social Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(d) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

(e) An action under this section may be brought before the birth

of the child.

(f) The district attorney may also bring an action under this section in any case in which he believes that the interests of justice will be served thereby.

SEC. 36. Section 7017 of the Civil Code is amended to read:

7017. (a) (1) If a mother relinquishes or consents to or proposes to relinquish for adoption a child who has (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding and have the rights provided under Chapter 2 (commencing with Section 221), Title 2, Part 3, Division 1 of the Civil Code, unless the father's relationship to the child has been previously terminated or determined by a court not to exist or the father has voluntarily relinquished or consented to the adoption of such child.

(2) If a father relinquishes or consents to, or proposes to relinquish a child for adoption, the mother shall be given notice of the adoption proceeding and have the rights provided under Chapter 2 (commencing with Section 221), Title 2, Part 3, Division 1 of the Civil Code, unless the mother's relationship to the child has been previously terminated by a court or the mother has voluntarily relinquished or consented to the adoption of such child.

(b) If a mother relinquishes or consents to, or proposes to relinquish or consent to, the adoption of a child who does not have (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, or if a child otherwise becomes the subject of an adoption proceeding and the alleged father, if any, has not, in writing, denied paternity, waived his right to notice, voluntarily relinquished or consented to the adoption, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the superior court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court.

(c) In an effort to identify the natural father, the court shall cause inquiry to be made by the State Department of Social Services, a licensed county adoption agency, or the licensed adoption agency to which the child is to be relinquished of the mother and any other appropriate person. The inquiry shall include the following: whether the mother was married at the time of conception of the child or at any time thereafter; whether the mother was cohabiting with a man at the time of conception or birth of the child; whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy; or whether any man has formally or informally acknowledged or declared his possible paternity of the child. The department or the licensed adoption agency shall report the findings to the court.

(d) If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each shall be given notice of the proceeding in accordance with subdivision (f). If any of them fails to appear or, if appearing, fails to claim custodial rights, his parental rights with reference to the child shall be terminated. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine parentage and custodial rights in whatever order the court deems proper. If the court finds that the man representing himself to be the natural father is a presumed father under subdivision (a) of Section 7004, then the court shall issue an order providing that the father's consent shall be required for an adoption of the child. In all other cases, the court shall issue an order providing that only the mother's consent shall be required for the adoption of the child.

(e) If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child.

(f) Notice of the proceeding shall be given to every person identified as the natural father or a possible natural father in accordance with the provisions of the Code of Civil Procedure for the service of process in a civil action in this state, provided that publication or posting of the notice of the proceeding shall not be required. Proof of giving the notice shall be filed with the court before the petition is heard. However, if a person identified as the natural father or possible natural father cannot be located or his whereabouts are unknown or cannot be ascertained, the court may issue an order dispensing with notice to such person.

(g) Any order requiring or dispensing with a father's consent for the adoption of a child may be appealed from in the same manner as an order of the juvenile court declaring a person to be a ward of the juvenile court.

SEC. 37. Section 8242 of the Education Code is amended to read:

8242. The Department of Education shall assist the State Departments of Employment Development and Social Services 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. 38. Section 8248 of the Education Code is amended to read:

8248. 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 State Department of Health Services 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.

SEC. 39. Section 8254 of the Education Code is amended to read:

8254. The Governor shall appoint an advisory committee composed of one representative from the Employment Development Department, one representative from the State Board of Education, one representative from the State Social Services Advisory Board, one representative of the Director of Education, one representative of the Director of Social Services, one representative of the State Director of Health Services, one representative of private education, one representative of child welfare, one representative of private health care, one representative of a proprietary child care agency, one representative of a community action agency qualified under Title II of the Economic Opportunity Act of 1969, and five parents of children participating in child care programs of whom at least three shall be parents of children participating in programs authorized by this chapter, appointed from names selected by a democratic process to assure representation of the parents of children being served, four persons representing professional or civic groups or public or nonprofit private agencies, organizations or groups concerned with child development, one representative from the State Advisory Health Council, and one representative from the Department of Rehabilitation. The representative from the State Advisory Health Council and the Department of Rehabilitation shall serve as ex officio members.

The advisory committee shall assist the Department of Education in developing a state plan for child development programs pursuant to this chapter.

The advisory committee shall continually evaluate the effectiveness of such programs and shall report thereon at each regular session of the Legislature.

A "proprietary child care agency" is an organization or facility providing child care, which is operated for profit.

SEC. 40. Section 54483 of the Education Code is amended to read:

54483. The Director of Compensatory Education, acting pursuant to rules and regulations adopted by the State Board of Education, upon the advice of the Directors of the Departments of Finance, Social Services, Employment Development, and Industrial

Relations, shall designate the most concentrated areas of poverty and social tension in the state, taking into consideration such factors, among others, as the high incidence of poverty and low family and per capita incomes, unemployment, juvenile delinquency, persons receiving assistance under the program of aid to families with dependent children, and especially the low level of academic achievement by pupils in the public schools.

The Director of Compensatory Education shall allocate the funds available for programs under Section 54480 proportionately by public school population among the areas designated by him. He shall then approve projects proposed to be undertaken by school districts within such areas at particular schools with the highest concentration of low-income children and with the lowest records of academic achievement. Funds not fully utilized in one designated area may be reallocated to the other designated areas. Upon the request of a school district, the Director of Compensatory Education may authorize funds to be used outside the designated areas to serve children from the designated areas.

SEC. 41. Section 66903.2 of the Education Code is amended to read:

66903.2. The commission shall issue a Health Sciences Education Plan which shall take into account the Health Manpower Plan issued by the Office of Statewide Health Planning and Development pursuant to Section 429.96 of the Health and Safety Code.

SEC. 42. Section 66903.4 of the Education Code is amended to read:

66903.4. The Health Sciences Education Plan shall consist of at least the following elements:

(a) A finding, taking into account the findings of the Health Manpower Plan issued by the Office of Statewide Health Planning and Development, as to whether health sciences education enrollment levels are adequate to meet the needs in California for health personnel, by category and specialty within each category.

(b) A finding as to the extent to which the sites of health sciences training programs make maximum available use of existing clinical and classroom resources throughout the state.

(c) Recommendations concerning the establishment of new programs or the elimination of existing programs in health sciences according to findings in subdivisions (a) and (b).

SEC. 43. Section 69273 of the Education Code is amended to read:

69273. There is hereby created a Health Manpower Policy Commission. The commission shall be composed of nine members who shall serve at the pleasure of their appointing authorities:

(a) Seven members appointed by the Governor, as follows: one representative of the University of California medical schools, from a nominee or nominees submitted by the University of California; one representative of the private medical schools accredited in California from individuals nominated by each of such schools; one representative of practicing family physicians; one representative of

undergraduate medical students in a family practice program or residence in family practice training; one representative of trainees in a primary care physician's assistant program or a practicing physician's assistant; one representative of trainees in a primary care nurse practitioners program or a practicing nurse practitioner; and one representative of the Office of Statewide Health Planning and Development, from nominees submitted by the office director.

(b) Two consumer representatives of the public who are not elected or appointed public officials, one appointed by the Speaker of the Assembly and one appointed by the Chairman of the Senate Rules Committee.

(c) The Chief of the Health Professions Development Program in the Office of Statewide Health Planning and Development, or his designee, shall serve as executive secretary for the commission.

SEC. 44. Section 69274 of the Education Code is amended to read:

69274. The duties of the commission shall be:

(a) To determine specific areas of the state where unmet priority needs for primary care family physicians exist.

(b) To establish standards for family practice training programs and family practice residency programs and programs which train primary care physician's assistants and programs which train primary care nurse practitioners, including appropriate provisions to encourage family physicians and primary care physician's assistants and primary care nurse practitioners who receive training in accordance with this article to provide needed services in areas of unmet need within the state. Standards for family practice residency programs shall provide that all such residency programs contracted for pursuant to this article shall (i) meet the American Medical Association's "Essentials" for Residency Training in Family Practice and (ii) be approved by the Residency Review Committee for Family Practice of the American Medical Association. Every program shall include a component of training designed for medically underserved multicultural communities, lower socioeconomic neighborhoods, or rural communities, and shall be organized to prepare family physicians or primary care physician's assistants or primary care nurse practitioners for service in such neighborhoods and communities. Medical schools receiving funds under this article shall have programs or departments that recognize family practice as a major independent specialty. Existence of a written agreement of affiliation or association between a hospital and an accredited medical school shall be regarded by the commission as a favorable factor in considering recommendations to the director for allocation of funds appropriated to the state medical contract program established under this article.

(c) To review and make recommendations to the Director of the Office of Statewide Health Planning and Development, concerning the funding of family practice programs or departments, family practice residencies and programs for the training of primary care physician's assistants and primary care nurse practitioners which are

submitted to the Health Professions Development Program, for participation in the contract program established by this article. Where the commission determines that a program proposal which has been approved for funding or which is the recipient of funds under this article does not meet the standards established by the commission, it shall submit to the Director of the Office of Statewide Health Planning and Development and the Legislature a report detailing its objections. The commission may request the Office of Statewide Health Planning and Development to make advance allocations for program development costs from amounts appropriated for the purposes of this article.

(d) To establish contract criteria and single per-student and per-resident capitation formulas which shall determine the amounts to be transferred to institutions receiving contracts for the training of family practice students and residents and primary care physician's assistants and primary care nurse practitioners pursuant to this article, except as otherwise provided in subdivision (e). Institutions applying for or in receipt of contracts pursuant to this article may appeal to the director for waiver of these single capitation formulas. The director may grant such waiver in exceptional cases upon a clear showing by the institution that a waiver is essential to the institution's ability to provide a program of a quality comparable to those provided by institutions which have not received waivers, taking into account the public interest in program cost-effectiveness. Recipients of funds appropriated by this article shall, as a minimum, maintain the level of expenditure for family practice or primary care physician's assistant or family care nurse practitioner training provided by such recipients during the 1973–74 fiscal year. Funds appropriated by this article shall be used to develop new programs or to expand existing programs and shall not replace funds supporting current family practice training programs. Institutions applying for or in receipt of contracts pursuant to this article may appeal to the director for waiver of this maintenance of effort provision. The director may grant such waiver if he determines that there is reasonable and proper cause to grant such waiver.

(e) To review and make recommendations to the Director of the Office of Statewide Health Planning and Development concerning the funding of special programs which may be funded on other than a capitation rate basis. Such special programs may include the development and funding of the training of primary health care teams of family practice residents or family physicians and primary care physician's assistants or primary care nurse practitioners; undergraduate medical education programs in family practice; and programs which link training programs and medically underserved communities in California which appear likely to result in the location and retention of training program graduates in such communities. Such special programs may include also the development phase of new family practice residency, primary care

physician's assistant or primary care nurse practitioner programs.

The commission shall establish standards and contract criteria for special programs recommended under this paragraph.

(f) To review and evaluate these programs regarding proper compliance with the provisions of this article and to submit annual progress reports to the Legislature on or before September 30 of each year. One standard for evaluation shall be the number of recipients who, after completing the program, actually go on to serve in areas of unmet priority for primary care family physicians in California.

SEC. 45. Section 69275 of the Education Code is amended to read:

69275. Pursuant to the provisions of this article, the Director of the Office of Statewide Health Planning and Development shall:

(a) Determine whether family practice, primary care physician's assistant training programs proposals, and primary care nurse practitioner training program proposals submitted to the Health Manpower Policy Commission for participation in the state medical contract program established by this article meet the standards established by the commission.

(b) Select and contract on behalf of the state with accredited medical schools, programs which train primary care physician's assistants, programs which train primary care nurse practitioners, hospitals, and other health care delivery systems for the purpose of training undergraduate medical students and residents in the specialty of family practice. Contracts shall be awarded to those institutions which best demonstrate the ability to provide quality education and training and to retain students and residents in specific areas of California where there is a recognized unmet priority need for primary care family physicians. Contracts shall be based upon the recommendations of the commission and in conformity with the contract criteria and program standards established by said commission.

(c) Be empowered to terminate, upon 30 days' written notice, the contract of any institution whose program does not meet the standards established by the commission or which otherwise does not maintain proper compliance with the provisions of this article, except as otherwise provided in contracts entered into by the director pursuant to this article.

SEC. 46. Section 69276 of the Education Code is amended to read:

69276. The Director of the Office of Statewide Health Planning and Development shall adopt, amend, or repeal such regulations as are necessary to enforce the provisions of this article, which shall include criteria which training programs must meet in order to qualify for waivers of single capitation formulas or maintenance of effort requirements authorized by Section 69274. Regulations for the administration of this article shall be adopted, amended, or repealed as provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 47. Section 12980 of the Food and Agricultural Code is amended to read:

12980. The Legislature hereby finds and declares that it is necessary and desirable to provide for the safe use of pesticides and for safe working conditions for farmworkers, pest control applicators, and other persons handling, storing, or applying pesticides, or working in and about pesticide-treated areas.

The Legislature further finds and declares that the development of regulations relating to pesticides and worker safety should be the joint and mutual responsibility of the Department of Food and Agriculture and the State Department of Health Services.

The Legislature further finds and declares that in carrying out the provisions of this article, the University of California, the Department of Industrial Relations, and any other similar institution or agency should be consulted.

SEC. 48. Section 12981 of the Food and Agricultural Code is amended to read:

12981. The director shall adopt regulations to carry out the provisions of this article effective as soon as practicable, however, no later than the first calendar day of the 1974 Regular Session of the Legislature. Such regulations shall include, but are not limited to, all of the following subjects:

(a) Time limits for worker entry into areas treated with pesticides as determined by the director to be hazardous to worker safety.

(b) Handling of pesticides.

(c) Handwashing facilities.

(d) Farm storage and commercial warehousing of pesticides.

(e) Protective devices, including, but not limited to, respirators and eyeglasses.

(f) Posting, in English and Spanish, of fields, areas, adjacent areas or fields, or storage areas.

The State Department of Health Services shall participate in the development of any regulations adopted pursuant to this article. Such regulations that relate to health effects shall be based upon the recommendations of the State Department of Health Services. The original written recommendations of the State Department of Health Services, any subsequent revisions of those recommendations, and the supporting evidence and data upon which the recommendations were based shall be made available upon request to any person.

SEC. 49. Section 12982 of the Food and Agricultural Code is amended to read:

12982. The director and the commissioner of each county under the direction and supervision of the director, shall enforce the provisions of this article and the regulations adopted pursuant to it. The local health officer may assist the director and the commissioner in the enforcement of the provisions of this article and any regulations adopted pursuant to it. The local health officer shall investigate any condition where a health hazard from pesticide use exists, and shall take necessary action, in cooperation with the commissioner, to abate any such condition. The local health officer

may call upon the State Department of Health Services for assistance pursuant to the provisions of Section 2951 of the Health and Safety Code.

SEC. 49.5. Section 855 of the Government Code is amended to read:

855. (a) A public entity that operates or maintains any medical facility that is subject to regulation by the State Department of Health Services, Social Services, Developmental Services, or Mental Health is liable for injury proximately caused by the failure of the public entity to provide adequate or sufficient equipment, personnel or facilities required by any statute or any regulation of the State Department of Health Services, Social Services, Developmental Services, or Mental Health prescribing minimum standards for equipment, personnel or facilities, unless the public entity establishes that it exercised reasonable diligence to comply with the applicable statute or regulation.

(b) A public entity that operates or maintains any medical facility that is not subject to regulation by the State Department of Health Services, Social Services, Developmental Services, or Mental Health is liable for injury proximately caused by the failure of the public entity to provide adequate or sufficient equipment, personnel or facilities substantially equivalent to those required by any statute or any regulation of the State Department of Health Services, Social Services, Developmental Services, or Mental Health prescribing minimum standards for equipment, personnel or facilities applicable to a public medical facility of the same character and class, unless the public entity establishes that it exercised reasonable diligence to conform with such minimum standards.

(c) Nothing in this section confers authority upon, or augments the authority of, the State Department of Health Services, Social Services, Developmental Services, or Mental Health to adopt, administer or enforce any regulation. Any regulation establishing minimum standards for equipment, personnel or facilities in any medical facility operated or maintained by a public entity, to be effective, must be within the scope of authority conferred by law.

SEC. 50. Section 11501 of the Government Code is amended to read:

11501. (a) This chapter applies to any agency as determined by the statutes relating to that agency.

(b) The enumerated agencies referred to in Section 11500 are:

Accountancy, State Board of
Aging, State Department of
Air Resources Board, State
Alcohol and Drug Abuse, State Department of
Alcoholic Beverage Control, Department of
Architectural Examiners, California State Board of
Attorney General
Automotive Repair, Bureau of
Barber Examiners, State Board of

Behavioral Science Examiners, Board of
Cancer Advisory Council
Cemetery Board
Chiropractic Examiners, Board of
Collection and Investigative Services, Bureau of
Community Colleges, Board of Governors of the California
Conservation, Department of
Consumer Affairs, Director of
Contractors, Registrar of
Corporations, Commissioner of
Cosmetology, State Board of
Dental Examiners of California, Board of
Developmental Services, State Department of
Education, State Board of
Employment Agencies, Bureau of
Engineers, State Board of Registration for Professional
Fabric Care, State Board of
Fair Employment Practice Commission, State
Fair Political Practices Commission
Fire Marshal, State
Fire Services, State Board of
Fish and Game Commission
Food and Agriculture, Director of
Forestry, Department of
Funeral Directors and Embalmers, State Board of
Geologists and Geophysicists, State Board of Registration for
Guide Dogs for the Blind, State Board of
Health Services, State Department of
Home Furnishings, Bureau of
Horse Racing Board, California
Insurance Commissioner
Labor Commissioner
Landscape Architects, State Board of
Medical Quality Assurance, Board of, Medical Quality Review Committees and Examining Committees
Mental Health, State Department of
Motor Vehicles, Department of
Navigation and Ocean Development, Department of
Nursing, Board of Registered
Nursing Home Administrators, Board of Examiners of
Optometry, State Board of
Osteopathic Examiners of the State of California, Board of
Pharmacy, California State Board of
Public Employees' Retirement System, Board of Administration of the
Real Estate, Department of
Repair Services, Bureau of
Resources Agency, Secretary of the
San Francisco, San Pablo and Suisun, Board of Pilot Commissioners

for the Bays of
Savings and Loan Commissioner
School Districts
Shorthand Reporters Board, Certified
Social Services, State Department of
Statewide Health Planning and Development, Office of
Structural Pest Control Board
Tax Preparer Program, Administrator
Teacher Preparation and Licensing, Commission for
Teachers' Retirement System, State
Transportation, Department of, acting pursuant to the State Aeronautics Act
Veterinary Medicine, Board of Examiners in
Vocational Nurse and Psychiatric Technician Examiners of the State of California, Board of
Water Resources, Department of

SEC. 50.5. Section 11501.5 of the Government Code is amended to read:

11501.5. (a) The following state agencies shall provide language assistance at adjudicatory hearings pursuant to subdivision (d) of Section 11513:

Agricultural Labor Relations Board
State Department of Alcohol and Drug Abuse
Athletic Commission
California Unemployment Insurance Appeals Board
Community Release Board
Board of Cosmetology
State Department of Developmental Services
Public Employment Relations Board
Franchise Tax Board
State Department of Health Services
Department of Housing and Community Development
Department of Industrial Relations
State Department of Mental Health
Department of Motor Vehicles
Notary Public Section, Office of the Secretary of State
Public Utilities Commission
Office of Statewide Health Planning and Development
State Department of Social Services
Workman's Compensation Appeals Board
Department of the Youth Authority
Bureau of Employment Agencies
Board of Barber Examiners
Department of Insurance
State Personnel Board

(b) Nothing in this section shall be construed to prevent any agency other than those listed in subdivision (a) from electing to adopt any of the procedures set forth in subdivision (d), (e), (f), (g), (h), or (i) of Section 11513, except that the State Personnel Board

shall determine the general language proficiency of prospective interpreters as described in subdivisions (d) and (e) of Section 11513 unless otherwise provided for as described in subdivision (f) of Section 11513.

SEC. 51. Section 53114.1 of the Government Code is amended to read:

53114.1. To accomplish the responsibilities specified in this article, the Communications Division is directed to consult at regular intervals with the State Fire Marshal, the State Department of Health Services, the Governor's Office of Traffic Safety, the Office of Emergency Services, the California Council on Criminal Justice, the public utilities in this state providing telephone service, the Associated Public Safety Communications Officers, the Bureau of Emergency Medical Service, the California Highway Patrol, and the State Division of Forestry. Such agencies shall provide all necessary assistance and consultation to the Communications Division to enable it to perform its duties specified in this article.

SEC. 52. Section 66713 of the Government Code is amended to read:

66713. "Department" means the State Department of Health Services.

SEC. 53. 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 Services or his deputy who shall be a nonvoting ex officio member.

(i) The State Director of Food and 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. 54. Section 66750 of the Government Code is amended to read:

66750. (a) There is in the board the State Solid Waste Management and Resource Recovery Advisory Council. The council shall consist of the following 25 members appointed by the Governor and confirmed by the Senate:

(1) Two representatives of private solid waste handlers.

(2) Two representatives of public solid waste handlers.

(3) Two representatives of private solid waste disposal facility operators.

(4) Two representatives of public solid waste disposal facility operators.

(5) Six representatives of major private solid waste producing industries, including the glass, can, paper, and chemical industries.

(6) One local public health officer.

(7) Three representatives of the agriculture and timber industries.

(8) Two representatives of well-established citizen action solid waste resource recovery programs.

(9) One county supervisor.

(10) One city councilman.

(11) Three representatives of the public at large, each of whom possesses special knowledge or experience in solid waste management and resource recovery, the conservation of natural resources, or environmental pollution.

(b) The chief executive officer of the board, the State Director of Health Services, the State Director of Food and Agriculture, and the Chief of the Division of Mines and Geology of the Department of Conservation shall serve as ex officio, nonvoting members.

SEC. 55. Section 66780.5 of the Government Code, as amended by Chapter 564 of the Statutes of 1977, is amended 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 Services.

(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.

(c) Any amendment to the plan shall be approved by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county. Each proposed amendment shall be submitted to each city within the county. Each city shall act upon the proposed amendment within 90 days after the city has received the amendment. If a city fails to act upon the proposed amendment within 90 days after receiving the amendment, the city shall be deemed to have approved the amendment as submitted. Each amendment shall be submitted to the board for approval as to its compliance with state policy.

SEC. 56. Section 66780.5 of the Government Code, as added by Chapter 689 of the Statutes of 1977, is amended and renumbered to read:

66780.6. A regional solid waste management plan shall be prepared and updated by the Association of Bay Area Governments for the San Francisco Bay Area, as defined by the Office of Planning and Research pursuant to Section 65040.4. The regional plan shall be developed in cooperation with all affected local jurisdictions, and shall be based primarily on county solid waste management plans submitted to and approved by the board pursuant to this chapter. The regional plan shall address only those regional issues identified by local governments in the county solid waste management plans. Policies and programs for regional solid waste management shall be consistent with the state policy to protect the public health, enhance the environment and conserve its natural resources, as adopted by the board pursuant to Section 66770 of this chapter. Regional programs and policies shall not include aspects of solid waste handling that are primarily the responsibility of local governments, as defined by Sections 66732 and 66771. In order that the provisions of Sections 66701 and 66770 of this chapter are carried out to the maximum feasible extent, the regional plan shall be consistent with the San Francisco Bay Area air quality maintenance plan prepared and revised pursuant to the Federal Clean Air Act of 1970, as amended, and shall be consistent with the areawide waste treatment management plan prepared and revised pursuant to Section 208 of the Federal Water Pollution Control Act, as amended. The regional plan, and subsequent amendments thereto, shall be submitted to the general assembly of the association. Once approved in such assembly by a majority of the counties representing a majority of the population of the San Francisco Bay Area, and in such assembly by a majority of the cities representing a majority of the population of incorporated areas in the San Francisco Bay Area, the regional plan

shall be submitted to the board for approval. Submission of the initial plan shall be made in April 1978, together with the areawide waste treatment management plan to be submitted to the State Water Resources Control Board and the air quality maintenance plan to be submitted to the State Air Resources Board. Hazardous waste policies and programs of the regional plan shall be submitted to the State Department of Health Services for approval. The regional plan shall, upon approval by the board and the State Department of Health Services, become part of the state plan to meet the requirements of the Federal Resource Conservation and Recovery Act of 1976. In carrying out the obligations of this section, the association shall comply with applicable guidelines and regulations of the board, the State Air Resources Board, the State Water Resources Control Board, and the State Department of Health Services. Nothing in this section shall preclude a local government from entering into a contract with the board for a solid waste management or resources recovery project consistent with state law.

SEC. 57. Section 66796.21 of the Government Code is amended to read:

66796.21. The board shall review the proposed designation and the enforcement program and shall obtain the recommendation of the State Department of Health Services regarding the proposed designation of the enforcement agency and its enforcement program.

SEC. 58. Section 103 of the Health and Safety Code is amended to read:

103. The State Department of Health Services succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health as they relate to public health, licensing and certification of health facilities, except community care facility licensing to which the State Department of Social Services succeeds, and any other functions performed by Division of Public Health of the State Department of Health on July 1, 1978, unless such function is transferred to a different state agency or department as a result of another provision of the statutes of the 1977–78 Regular Session of the Legislature. The State Department of Health Services also succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction specified by Section 10722 of the Welfare and Institutions Code regarding the California Medical Assistance Program (Medi-Cal) and family planning.

Unless the contrary is stated or clearly appears from the context, "state department," "department," or "State Department of Health" as used in this code means the State Department of Health Services.

SEC. 58.5. Section 208 of the Health and Safety Code is amended to read:

208. (a) It may adopt and enforce rules and regulations for the execution of its duties.

(b) All regulations heretofore adopted by the State Department of Health or its predecessors relating to public health, the licensing and certification of health facilities, except the licensing of community care facilities, or any other function performed by the Division of Public Health of the State Department of Health, and in effect immediately preceding the operative date of the amendment of this section enacted by the Legislature during the 1977–78 Regular Session, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director. This subdivision shall not apply to any regulation relating to a function transferred to a different state agency or department as a result of another provision of the statutes enacted during the 1977–78 Regular Session.

SEC. 59. Section 213 of the Health and Safety Code is amended to read:

213. With the approval of the Department of Finance, and for use in the furtherance of the work of the State Department of Health Services, the director may accept (a) grants of interest in real property, and (b) gifts of money from public agencies or from organizations or associations organized for scientific, educational or charitable purposes.

SEC. 60. Section 320.5 of the Health and Safety Code is amended to read:

320.5. 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 State Director of Health Services 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. 61. Section 323.5 of the Health and Safety Code is amended to read:

323.5. 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 Services 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 321.2. 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. 62. Section 324.2 of the Health and Safety Code is amended to read:

324.2. 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 Services, 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 323.5 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. 63. Section 382 of the Health and Safety Code is amended to read:

382. No person shall be awarded a scholarship under subdivision (a) or (b) of Section 381 unless:

(a) He is a resident of California.

(b) He is licensed as a registered nurse by this state.

(c) He has complied with all the rules and regulations adopted pursuant to this article.

(d) He has agreed that he will continue his education to completion of the bachelor's degree or a program supplemental to a bachelor's degree required for admission to master level studies in nursing, and that after completion of the requirements of Section 381 (a) or (b), and within a period of time to be determined by the Office of Statewide Health Planning and Development will enroll in an accredited master's degree program in teaching or supervision in a clinical nursing area.

(e) He agrees that immediately upon completion of his graduate study, either master's degree or post-master's program, he will assume an employment obligation in California in teaching or supervision in a clinical nursing area, for not less than one year.

SEC. 64. Section 384 of the Health and Safety Code is amended to read:

384. The Office of Statewide Health Planning and Development shall administer the program of nursing education scholarships and shall for such purpose, adopt such rules and regulations as it determines are necessary to carry out the provisions of this article.

SEC. 65. Section 385 of the Health and Safety Code is amended to read:

385. Applications for scholarships shall be made to the Office of Statewide Health Planning and Development, upon forms provided by it, at the times and in the manner prescribed by the rules and regulations adopted by the office.

SEC. 66. Section 386 of the Health and Safety Code is amended to read:

386. The Office of Statewide Health Planning and Development shall award the scholarships to the applicants which it determines are best fitted to undertake the educational program for which the scholarships are awarded and will be the best qualified to teach or supervise. In awarding the scholarships the office may give a

preference to applicants who are willing to be available, upon the completion of their educational program, for a position in any part of the state. The office shall not, however, award any scholarship to an applicant if it determines that the applicant has adequate financial resources to pay the cost of the education necessary to qualify him for teaching or supervision in a clinical area.

SEC. 67. Section 389 of the Health and Safety Code is amended to read:

389. A scholarship shall remain in effect only during the period, as determined by the Office of Statewide Health Planning and Development, that the person receiving the award achieves satisfactory progress and is regularly enrolled, within the terms of this article, as a full-time student.

SEC. 67.5. Section 405 of the Health and Safety Code is amended to read:

405. The State Department of Health Services may maintain a program of accidental injury study and control, including but not limited to, all of the following:

(a) The conduct of studies to determine the health and human components of accidental injury.

(b) The study of factors associated with prompt and efficient emergency treatment of accidental injuries.

(c) The study of human and environmental factors in the occurrence of accidental injury.

(d) The development of control programs to reduce the frequency and severity of accidental injuries resulting from health and other human factors, either alone or in combination with environmental factors.

(e) Consultation with and assistance to local health departments and other agencies in the development and maintenance of programs for the prevention and control of accidental injuries.

SEC. 68. Section 416.12 of the Health and Safety Code is amended to read:

416.12. The Director of Developmental Services shall file an official bond in no event less than twenty-five thousand dollars ($25,000), which bond shall inure to the joint benefit of the several guardianship or conservatorship estates and the State of California, and the Director of Developmental Services shall not be required to file bonds in individual cases.

SEC. 69. Section 416.16 of the Health and Safety Code is amended to read:

416.16. The Director of Developmental Services shall have the same powers and duties as those established for guardians and conservators in the Guardianship Act and the Conservatorship Act and shall succeed the State Director of Health as guardian or conservator of developmentally disabled individuals for whom the State Director of Health was appointed guardian or conservator.

SEC. 70. Section 429.71 of the Health and Safety Code is amended to read:

429.71. For the purposes of this article:

(a) "Office" means the Office of Statewide Health Planning and Development.

(b) "Approved project" means an educational or training program approved by the office which does any of the following on a pilot program basis:

(1) Teaches new skills to existing categories of health care personnel.

(2) Develops new categories of health care personnel.

(3) Accelerates the training of existing categories of health care personnel.

(4) Teaches new health care roles to previously untrained persons, and which has been so designated by the office.

(c) "Trainee" means a person to be taught health care skills.

(d) "Supervisor" means a person designated by the project sponsor who already possesses the skills to be taught the trainees and is certified or licensed in California to perform the health care tasks involving such skills.

(e) "Health care services" means the practice of medicine, dentistry, nursing, including, but not limited to, specialty areas of nursing such as midwifery, pharmacy, optometry, podiatry, and psychology.

SEC. 71. Section 429.72 of the Health and Safety Code is amended to read:

429.72. The office may designate experimental health manpower projects as approved projects where such projects are sponsored by nonprofit educational institutions or nonprofit community hospitals or clinics. Nothing in this section shall preclude approved projects from utilizing the offices of physicians, dentists, pharmacists, and other clinical settings as training sites.

SEC. 72. Section 429.73 of the Health and Safety Code is amended to read:

429.73. Notwithstanding any other provision of law, a trainee in an approved project may perform health care services under the supervision of a supervisor where the general scope of such services has been approved by the office.

SEC. 73. Section 429.76 of the Health and Safety Code is amended to read:

429.76. Organizations requesting designation as approved projects shall provide the office with a description of the project indicating the category of person to be trained, the tasks to be taught, the numbers of trainees and supervisors, a description of the health care agency to be used for training students, and a description of the types of patients likely to be seen or treated.

SEC. 74. Section 429.78 of the Health and Safety Code is amended to read:

429.78. The office shall carry out periodic onsite visitations of each approved project and shall evaluate each project to determine the following:

(a) The new health skills taught or extent to which existing skills have been reallocated.

(b) Implication of the project for existing licensure laws with suggestions for changes in the law where appropriate.

(c) Implications of the project for health services curricula and for the health care delivery systems.

(d) Teaching methods used in the project.

(e) The quality of care and patient acceptance in the project.

(f) The extent to which persons with the new skills could find employment in the health care system, assuming laws were changed to incorporate their skill.

(g) The cost of care provided in the project, the likely cost of such care if performed by the trainees subsequent to the project, and the cost for provision of such care by current providers thereof.

The office shall report to the Legislature and appropriate licensing boards annually beginning July 1, 1974, concerning the results of each evaluation.

SEC. 75. Section 429.79 of the Health and Safety Code is amended to read:

429.79. The office shall approve a sufficient number of projects to provide a basis for testing the validity of the experiment.

SEC. 76. Section 429.80 of the Health and Safety Code is amended to read:

429.80. The office shall seek the advice of appropriate professional societies and appropriate healing arts licensing boards prior to designating approved projects.

SEC. 77. Section 429.81 of the Health and Safety Code is amended to read:

429.81. The office shall not approve a project for a period lasting more than two training cycles plus a preceptorship of more than 24 months, unless the office determines that the project is likely to contribute substantially to the availability of high-quality health services in the state or a region therof.

SEC. 78. Section 429.91 of the Health and Safety Code is amended to read:

429.91. The office, in cooperation with the California Postsecondary Education Commission, shall administer the program established pursuant to this chapter and shall for such purpose, adopt such rules and regulations as it determines are reasonably necessary to carry out the provisions of this chapter.

SEC. 79. Section 429.92 of the Health and Safety Code is amended to read:

429.92. The office is authorized to make grants, from funds appropriated by the Legislature for such purpose, to assist organizations in meeting the cost of special projects to plan, develop, or establish innovative programs of education in the health professions, or for research in the various fields related to education in such health professions, or to develop training for new types of health professions personnel, or to meet the costs of planning

experimental teaching facilities.

In determining priority of project applications, the office shall give the highest priority to:

(1) Applicants able to obtain commitments for matching planning funds from other governmental and private sources.

(2) Applicants who develop a preliminary plan which conforms to the criteria stated hereinabove for innovative programs of education in the health sciences.

(3) Applicants which in its judgment are most able to translate a plan into a feasible program.

SEC. 80. Section 429.93 of the Health and Safety Code is amended to read:

429.93. The office shall conduct a survey to determine possible applicants for grants under this chapter and shall report annually to the Legislature beginning in January 1974 concerning all of the following:

(1) The number and characteristics of potential applicants for claims under this chapter.

(2) An evaluation of each possible applicant, and a ranking by priority of all possible applicants.

(3) Methods for evaluation of the effectiveness of the innovative training program proposed by each applicant.

(4) Recommendations as to the amount of funds needed to be appropriated for innovative programs of education in the health professions.

SEC. 81. Section 429.94 of the Health and Safety Code is amended to read:

429.94. The Office of Statewide Health Planning and Development shall prepare a Health Manpower Plan for California. The plan shall consist of at least the following elements:

(a) The establishment of appropriate standards for determining the adequacy of supply in California of at least each of the following categories of health personnel: physicians, midlevel medical practitioners (physician's assistants and nurse practitioners); nurses; dentists; midlevel dental practitioners (dental nurses and dental hygienists); optometrists; optometry assistants; pharmacists; and pharmacy technicians.

(b) A determination of appropriate standards for the adequacy of supply of the categories in subdivision (a) shall be made by taking into account all of the following: current levels of demand for health services in California; the capacity of each category of personnel in subdivision (a) to provide health services; the extent to which midlevel practitioners and assistants can substitute their services for those of other personnel; the likely impact of the implementation of a national health insurance program on the demand for health services in California; professionally developed standards for the adequacy of the supply of health personnel; and assumptions concerning the future organization of health care services in California.

(c) A determination of the adequacy of the current and future supply of health personnel by category in subdivision (a) taking into account the sources of supply for such personnel in California, the magnitude of immigration of personnel to California, and the likelihood of such immigration continuing.

(d) A determination of the adequacy of the supply of specialities within each category of health personnel in subdivision (a). Such determination shall be made, based upon standards of appropriate supply to speciality developed, in accordance with subdivision (b).

(e) Recommendations concerning changes in health manpower policies, licensing statutes, and programs needed to meet the state's need for health personnel.

SEC. 82. Section 429.95 of the Health and Safety Code is amended to read:

429.95. The Office of Statewide Health Planning and Development shall consult with the Health Manpower Policy Commission, health systems agencies, and other appropriate organizations in the preparation of this plan.

SEC. 83. Section 429.96 of the Health and Safety Code is amended to read:

429.96. The Office of Statewide Health Planning and Development shall issue an updated Health Manpower Plan and recommendations to the California Postsecondary Education Commission, the Legislature, and the Governor on or before September 1, 1977, and on or before September 1 of each odd-numbered calendar year thereafter.

SEC. 84. Section 431 of the Health and Safety Code is amended to read:

431. The Office of Statewide Health Planning and Development shall constitute the sole agency of the state for the following purposes:

(a) Making an inventory of existing hospitals, surveying the need for construction of hospitals, and developing a program of hospital construction as provided in Article 3 (commencing with Section 432) of this chapter.

(b) Developing and administering a state plan for the construction of public and other nonprofit hospitals as provided in Article 3 (commencing with Section 432) of this chapter.

SEC. 85. Section 432.2 of the Health and Safety Code is amended to read:

432.2. The Office of Statewide Health Planning and Development may make application to the Surgeon General for federal funds to assist in carrying out the survey and planning activities provided for in this article. Such funds shall be deposited in the Office of Statewide Health Planning and Development Fund in the State Treasury.

SEC. 86. Section 432.9 of the Health and Safety Code is amended to read:

432.9. The Office of Statewide Health Planning and

Development is hereby authorized to receive federal funds in behalf of, and transmit them to, such applicants. Money received from the federal government for a construction project approved by the Surgeon General shall be deposited in the Office of Statewide Health Planning and Development Fund, and shall be used solely for payments due applicants for work performed, or purchases made, in carrying out approved projects.

SEC. 87. Section 433 of the Health and Safety Code is amended to read:

433. Any moneys deposited in the Office of Statewide Health Planning and Development Fund in accordance with the provisions of this article are appropriated for expenditure by the office director for the purposes for which such moneys were received, in accordance with the provisions of this chapter. Any such funds received and not expended for the purposes of this article shall be repaid to the Treasury of the United States.

SEC. 88. Section 434 of the Health and Safety Code is amended to read:

434. The Legislature finds that in certain areas there is a need for nursing and convalescent homes for persons who are indigent. It is the purpose of this section to provide authorization for the construction of such homes, so that public medical assistance may be provided, under the state's medical assistance programs, for such indigent persons.

The Office of Statewide Health Planning and Development may issue a certificate of need upon application by a chartered nonprofit corporation, for a nursing and convalescent home which provides or makes available medical care for indigent persons, to be constructed under the Mortgage Insurance Program of the Federal Housing Administration.

SEC. 89. Section 435.2 of the Health and Safety Code is amended to read:

435.2. The Office of Statewide Health Planning and Development shall administer this article, and shall make such rules and regulations as may be necessary to carry out its provisions.

SEC. 90. Section 435.7 of the Health and Safety Code is amended to read:

435.7. Application for state assistance under this article shall be made to the Office of Statewide Health Planning and Development, in the manner and form prescribed by the office. The office shall prescribe the time and manner of payment of state assistance, if granted.

SEC. 91. Section 436.2 of the Health and Safety Code is amended to read:

436.2. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a

nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation which has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, and initial or additional equipping of any such buildings. "Construction" also includes consulting, financing, architectural, and engineering costs and fees, cost of land acquisition and site development, including parking facilities, and all other costs necessary or incidental to construct a new building or to expand, modernize, renovate, remodel or alter an existing building.

(d) "Council" means the Advisory Health Council.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Article XIII, Section 21.5 of the California Constitution.

(f) "Fund" means the Health Facility Construction Loan Insurance Fund.

(g) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. Except for facilities for the developmentally disabled, "health facility" does not include any institution furnishing primarily domiciliary care.

(h) "Office" means the Office of Statewide Health Planning and Development.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the construction costs of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue may constitute a "loan."

(k) "Maturity date" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(*l*) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation organized under the General Nonprofit Corporation Law (Part 1 (commencing with Section 9000), Division 2 of the Corporations Code) or its equivalent under the laws of the state of incorporation, organized for the purpose of owning and operating a health facility.

(p) "Political subdivision" means any city, county, city and county, joint powers entity, or local hospital district.

(q) "Project property" means the real property upon which the health facility is, or is to be, constructed, the health facility, and the initial equipment in such health facility.

(r) "Public health facility" means any health facility which is or will be constructed for and operated and maintained by any city, county, city and county, or local hospital district.

SEC. 92. Section 436.3 of the Health and Safety Code is amended to read:

436.3. The office shall administer this chapter and shall make all rules and regulations necessary to implement the provisions and achieve the purposes stated herein. The council, as authorized by this chapter and by Section 431.2, shall advise and consult with the office in carrying out the administration of this chapter.

SEC. 93. Section 436.4 of the Health and Safety Code is amended to read:

436.4. The office shall implement the loan insurance program for the construction of public and nonprofit corporation health facilities so that, in conjunction with all other existing facilities, the necessary physical facilities for furnishing adequate health facility services will be available to all the people of the state.

The office shall make an inventory of all existing health facilities and shall survey the need for construction of health facilities and, on the basis of such inventory and survey, shall develop a state plan.

Such state plan shall set forth the relative need for health facilities determined on the basis of the relative need of different sections of the population and of different areas and shall provide for the insurance of loans for health facility construction when need is clearly demonstrated, in the order of relative need so determined, except that preference shall be given to health facility construction which will (a) provide the more comprehensive health services, and (b) include outpatient and other integrated services useful and convenient to the operation of the facility and the community.

The health facility construction loan insurance program shall provide for health facility distribution throughout the state in such manner as to make all types of health facility services reasonably accessible to all persons in the state according to the state plan.

In performing its duties under this section, the office shall, insofar as possible and to the extent not inconsistent with this chapter, give consideration to the state plan and relative need for hospital construction determined under Sections 432, 432.1, and 432.5 of this

code.

SEC. 93.5. Section 436.45 of the Health and Safety Code is amended to read:

436.45. No insurance shall be provided for loans under this chapter until a statewide system of health facility planning has been established so that all hospitals as defined in Section 1250 and facilities licensed by the State Department of Health Services pursuant to Chapter 1 (commencing with Section 1200) to Chapter 2.5 (commencing with Section 1440), inclusive, except for Chapter 2.2 (commencing with Section 1340) of Division 2 of this code, have been reviewed by an area health planning agency prior to licensure. No insurance shall be provided for a loan under this chapter for a hospital or facility unless it has been finally approved through the statewide system of health facility planning.

SEC. 94. Section 436.5 of the Health and Safety Code is amended to read:

436.5. The proceeds of all loans insured pursuant to this chapter shall be disbursed only upon order of the office or its designated agent. The office shall make rules and regulations to insure the security of such proceeds.

SEC. 95. Section 436.6 of the Health and Safety Code is amended to read:

436.6. From time to time the office or its designated agent shall inspect each construction project for which loan insurance was approved, and if the inspection so warrants, the office or agent shall certify that the work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of the loan proceeds is due to the borrower. The office shall charge the borrower a fee for such inspections and certifications, which in no instance shall exceed four dollars ($4) for each one thousand dollars ($1,000) of the borrower's loan which is insured. Such fees shall be deposited in the fund.

SEC. 96. Section 436.7 of the Health and Safety Code is amended to read:

436.7. The office shall fix an annual premium charge for the insurance of hospital construction loans under this chapter, and such charge shall be deposited in the fund. The annual premium charge shall not be more than an amount equivalent to one-half of 1 percent per annum of the average amount of the principal obligation of the loan during the year in which the charge is made, without taking into account delinquent payments. The office may reduce or eliminate the premium charges for insured loans outstanding for a period in excess of three years. Such premium charges shall be payable by the borrower, or, where practicable, by the lender on account of a delinquent borrower, to the office at such times as shall be fixed by the office. The office may require the payment of one or more such premium charges at the time the loan is insured, at such discount rate as it may prescribe not in excess of the interest rate specified in the

loan. In the event that the principal obligation of any insured loan is paid in full prior to the maturity date, the office is authorized to refund to the borrower all, or such portion as the office shall determine to be equitable, of the current unearned premium charges theretofore paid by the borrower.

SEC. 97. Section 436.8 of the Health and Safety Code is amended to read:

436.8. A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a) When the borrower is a nonprofit corporation, such loan shall be secured by a mortgage, first lien, trust indenture, or such other security agreement as the office may require subject only to such conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office. When the borrower is a political subdivision, such loan may be evidenced by a duly authorized bond issue. A loan to a local hospital district may meet the requirement of this subdivision by either method.

(b) The borrower obtains an American Land Title Association title insurance policy with the office designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with such additional endorsements as the office may reasonably require.

(c) The proceeds of the loan shall be used exclusively for the construction of the health facility, as approved by the office under Section 436.4. The office may not insure a loan for a health facility which is not needed as determined by the state plan developed under the authorization of Section 436.4.

(d) The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization of the loan, except as authorized by subdivision (e), or 75 percent of the office's estimate of the economic life of the health facility, whichever is the lesser.

(e) The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the office. The office shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The office may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrower's best interest.

(f) The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the borrower and lender, as the office finds necessary to meet the loan money market. As used in this chapter, "interest" does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate which such bonds may legally bear.

(g) The loan shall provide for the application of the borrower's periodic payments to amortization of the principal of the loan.

(h) The loan shall contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the office may in its discretion prescribe.

(i) The loan shall have a principal obligation not in excess of an amount equal to 90 percent of the total construction cost. Where the borrower is a political subdivision, the office may fully insure loans equal to the total construction cost.

SEC. 98. Section 436.9 of the Health and Safety Code is amended to read:

436.9. Health facilities to be or already owned, established and operated by nonprofit corporations or political subdivisions may apply for state insurance of needed construction loans as provided in this chapter. Applications shall be submitted to the office by the nonprofit corporation or political subdivision authorized to construct and operate a health facility. Each application shall conform to state requirements, shall be submitted in the manner and form prescribed by the office, and shall be accompanied by an application fee of one-half of 1 percent of the amount of the loan applied for, but in no case shall the application fee exceed five hundred dollars ($500). Such fees shall be deposited by the office in the fund and used to defray the office's expenditures in the administration of this chapter.

SEC. 99. Section 436.10 of the Health and Safety Code is amended to read:

436.10. Every applicant for insurance shall be afforded an opportunity for a fair hearing before the council upon 10 days' written notice to the applicant. If the office, after affording reasonable opportunity for development and presentation of the application and after receiving the advice of the council, finds that an application complies with the requirements of this article and of Section 436.4 and is otherwise in conformity with the state plan, it may approve such application for insurance. The office shall consider and approve applications in the order of relative need set forth in the state plan in accordance with Section 436.4.

SEC. 100. Section 436.11 of the Health and Safety Code is amended to read:

436.11. The office may upon application of the borrower insure any loan which is eligible for insurance under this chapter; and upon such terms as the office may prescribe may make commitments for the insuring of such loans prior to their date of execution or disbursement thereon. The office may, for five years after the effective date of this chapter, accept and approve applications for insurance of loans executed during the period from and including November 5, 1968, to the effective date of this chapter.

SEC. 101. Section 436.12 of the Health and Safety Code is amended to read:

436.12. Any contract of insurance executed by the office under this chapter shall be conclusive evidence of the eligibility of the loan

for insurance and the validity of any contract of insurance so executed shall be incontestable from the date of the execution of the contract, except in case of fraud or misrepresentation on the part of such lender.

SEC. 102. Section 436.13 of the Health and Safety Code is amended to read:

436.13. In any case in which the lender under a loan to a nonprofit corporation insured under this chapter shall have foreclosed and taken possession of the property under a mortgage in accordance with regulations of, and within a period to be determined by the office, or shall, with the consent of the office, have otherwise acquired such property from the borrower after default, the lender shall be entitled to receive the benefit of the insurance as provided in this section, upon (a) the prompt conveyance to the office of title to the property which meets the requirements of rules and regulations of the office in force at the time the loan was insured, and which is evidenced in the manner prescribed by such rules and regulations, and (b) the assignment to the office of all claims of the lender against the borrower or others arising out of the loan transaction or foreclosure proceedings except such claims as may have been released with the consent of the office. Upon such conveyance and assignment, the office shall notify the State Treasurer, who shall issue to the lender debentures having a total face value equal to the outstanding value of the loan.

For the purposes of this section, the outstanding value of the loan shall be determined, in accordance with rules and regulations prescribed by the office, by (a) adding to the amounts of the original principal obligation of the loan and interest which are accrued and unpaid the amount of all payments which have been made by the lender for the following: taxes and assessments, ground rents, water rates, and other liens which are prior to the mortgage; charges for the administration, operation, maintenance and repair of the health facility property; insurance on the project property, loan insurance premiums, and any tax imposed by a city or county upon any deed or other instrument by which the property was acquired by the lender and transferred or conveyed to the office; and the costs of foreclosure or of acquiring the property by other means actually paid by the lender and approved by the office; and by (b) deducting from such total amount any amounts received by the lender after the borrower's default on account of the loans or as rent or other income from the property.

SEC. 103. Section 436.14 of the Health and Safety Code is amended to read:

436.14. In any case in which a political subdivision defaults on the payment of interest or principal accrued and due on bonds or other evidences of indebtedness insured under this chapter, debentures in an amount equal to the outstanding original principal obligation and interest on the bonds which were accrued and unpaid on the date of default and bearing interest at a rate equal to and payment

schedule identical with those of such bonds shall be issued by the State Treasurer upon notification thereof by the office to the bondholders upon the surrender of such bonds to the office.

In any case in which a hospital district defaults on the payment of interest or principal accrued and due on an insured loan secured by a first mortgage, first deed of trust, or other security agreement as authorized by Section 32127.2, debentures shall be issued to the lender in a total face value equal to the outstanding value of the loan as determined by the applicable provisions of Section 436.13 after the state has enforced its rights under such first mortgage, first deed of trust, or other security agreement. Such debentures shall be dated, bear interest, and have a maturity date as prescribed by Section 436.20 as such section relates to Section 436.13.

SEC. 104. Section 436.15 of the Health and Safety Code is amended to read:

436.15. Notwithstanding any requirement contained in this chapter relating to acquistion of title and possession of the project property by the lender and its subsequent conveyance and transfer to the office, and for the purpose of avoiding unnecessary conveyance expense in connection with payment of insurance benefits under the provisions of this chapter, the office may, subject to such rules and regulations as it may prescribe, permit the lender to tender to the office a satisfactory conveyance of title and transfer of possession direct from the borrower or other appropriate grantor and to pay to the lender the insurance benefits to which it would otherwise be entitled if such conveyance had been made to the lender and from the lender to the office.

SEC. 105. Section 436.16 of the Health and Safety Code is amended to read:

436.16. Upon receiving notice of the default of any loan insured under this chapter the office, in its discretion and for the purpose of avoiding foreclosure under Section 436.13 and notwithstanding the fact that it has previously approved a request of the lender for extensions of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the project property, or has approved a modification of the loan for the purpose of changing the amortization provisions by recasting the unpaid balance, may acquire the loan and security agreements securing such loans upon the issuance to the lender of debentures in an amount equal to the unpaid principal balance of the loan plus any accrued unpaid loan interest plus reimbursement for such costs and attorney's fees of the lender enumerated in Section 436.13.

After the acquisition of such loan and security interests therefor by the office, the lender shall have no further rights, liabilities, or obligations with respect thereto. The provisions of Section 436.13 relating to the issuance of debentures incident to the acquisition of foreclosed properties shall apply with respect to debentures issued under this section, and the provisions of this chapter relating to the rights, liabilities, and obligations of a lender shall apply with respect

to the office when it has acquired an insured loan under this section, in accordance with and subject to any regulations prescribed by the office modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective.

SEC. 106. Section 436.17 of the Health and Safety Code is amended to read:

436.17. Notwithstanding any other provision of this chapter, after the office determines that the lender and borrower have exhausted all reasonable means of curing any default, the office within its discretion may, when such is in the best interests of the state, the borrower, and the lender, cure the default of the borrower by making payment from the fund directly to the lender of any amounts of the original principal obligation and interest of the loan which are accrued and unpaid. Such payment shall be secured by an assignment to the office of a pro rata share of the security agreements made to the lender and, upon such payment, the borrower shall become liable for repayment of the amount thereof to the office over a period and at a rate of interest as shall be determined by the office.

SEC. 107. Section 436.18 of the Health and Safety Code is amended to read:

436.18. The office may at any time, under such terms and conditions as it may prescribe, consent to the lender's release of the borrower from its liability under the loan or the security agreement securing such loan, or consent to the release of parts of the project property from the lien of any security agreement.

SEC. 108. Section 436.19 of the Health and Safety Code is amended to read:

436.19. Debentures issued under this chapter shall be in such form and denomination in multiples of one thousand dollars ($1,000), shall be subject to such terms and conditions, shall include such provisions for redemption, if any, as may be prescribed by the office with the approval of the State Treasurer, and may be in coupon or registered form. Any difference between the value of the loan determined as herein provided and the aggregate face value of the debentures issued, not to exceed one thousand dollars ($1,000), shall be adjusted by the payment of cash by the office to the lender from the fund.

SEC. 109. Section 436.20 of the Health and Safety Code is amended to read:

436.20. All debentures issued under this chapter to any lender or bondholder shall be executed in the name of the fund as obligor, shall be signed by the State Treasurer, and shall be negotiable. Pursuant to Sections 436.13 and 436.14, all such debentures shall be dated as of the date of the institution of foreclosure proceedings or as of the date of the acquisition of the property after default by other than foreclosure, or as of such later date as the office, in its discretion, may establish by regulation. The debentures shall bear interest from such date at a rate approved by the State Treasurer, equal to either the rate applicable to the most recent issue of State General Fund bonds

or that specified in Section 436.14, shall be payable semiannually on the first day of January and the first day of July of each year except in the case of bonds or other evidences of indebtedness as specified in Section 436.14, and shall have the same maturity date as the loan which they insured. All such debentures shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the state or local taxing agencies, shall be paid out of the fund, which shall be primarily liable therefor, and shall be, pursuant to Section 4 of Article XVI of the California Constitution, fully and unconditionally guaranteed as to principal and interest by the State of California, which guaranty shall be expressed on the face of the debentures. In the event that the fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this chapter, the State Treasurer shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the State Treasurer shall succeed to all the rights of the holders of such debentures. The fund shall be liable for repayment to the Treasury of any money paid therefrom pursuant to this section in accordance with procedures jointly established by the State Treasurer and the office.

SEC. 110. Section 436.21 of the Health and Safety Code is amended to read:

436.21. Notwithstanding any other provision of law relating to the acquisition, management or disposal of real property by the state, the office shall have power to deal with, operate, complete, lease, rent, renovate, modernize, insure, or sell for cash or credit, in its discretion, any properties conveyed to it in exchange for debentures as provided in this chapter; and notwithstanding any other provision of law, the office shall also have power to pursue to final collection by way of compromise or otherwise all claims against borrowers assigned by lenders to the office as provided in this chapter. All income from the operation, rental, or lease of such property and all proceeds from the sale thereof shall be deposited in the fund and all costs incurred by the office in its exercise of powers granted in this section shall be met by the fund.

The power to convey and to execute in the name of the office deeds of conveyance, deeds of release, assignments and satisfactions of loans and mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the office pursuant to the provisions of this chapter may be exercised by the office or by any officer of the office appointed by it.

SEC. 111. Section 436.22 of the Health and Safety Code is amended to read:

436.22. No lender or borrower shall have any right or interest in any property conveyed to the office or in any claim assigned to it, nor shall the office owe any duty to any lender or borrower with respect to the management or disposal of any such property.

SEC. 112. Section 436.23 of the Health and Safety Code is

amended to read:

436.23. Should a borrower be more than 10 days delinquent in paying the premium charges or inspection fees for insurance under this chapter, the office shall notify the borrower in writing. If that payment remains delinquent more than 30 days after the sending of the office's notice to the borrower, the office shall make every reasonable effort to notify the lender in writing. If that delinquency continues, on the 31st day after sending of the office's notice to the lender, the insurance shall be terminated and become null and void.

SEC. 113. Section 436.24 of the Health and Safety Code is amended to read:

436.24. The obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the lender and the borrower under this chapter shall terminate as of the date of such notice, as herein provided, in the event that (a) any lender under a loan forecloses on the mortgaged property, or has otherwise acquired the project property from the borrower after default, but does not convey such property to the office in accordance with this chapter, and the office is given written notice thereof, or (b) the borrower pays the obligation under the loan in full prior to the maturity thereof, and the office is given written notice thereof.

SEC. 114. Section 436.25 of the Health and Safety Code is amended to read:

436.25. The office is authorized to terminate any insurance contract upon joint request by the borrower and the lender and upon payment of such termination charge as the office determines to be equitable, taking into consideration the necessity of protecting the fund. Upon such termination, borrowers and lenders shall be entitled to the rights, if any, to which they would be entitled under this chapter if the insurance contract were terminated by payment in full of the insured loan.

SEC. 115. Section 436.26 of the Health and Safety Code is amended to read:

436.26. There is hereby established a Health Facility Construction Loan Insurance Fund, which shall be used by the office as a revolving fund for carrying out the provisions and administrative costs of this chapter. The money in the fund is hereby appropriated to the office without regard to fiscal years for the purposes of this chapter.

SEC. 116. Section 436.27 of the Health and Safety Code is amended to read:

436.27. Moneys in the fund not needed for the current operations of the office under this chapter shall be invested pursuant to law. The office may, with the approval of the State Treasurer, purchase the debentures issued under this chapter. Debentures so purchased shall be canceled and not reissued.

SEC. 117. Section 436.28 of the Health and Safety Code is amended to read:

436.28. The office's authorization to insure health facility

construction loans under this chapter shall be limited to a total of not more than one hundred fifty million dollars ($150,000,000) of insurance for each of the first five fiscal years during which this chapter is operative, except that any unused portion of any year's authorization shall be carried forward and added to the amount otherwise authorized for the succeeding fiscal year. Beginning July 1, 1974, there shall be no limits set upon the total amount of insurance which the office may authorize in any fiscal year.

SEC. 119. Section 437.01 of the Health and Safety Code is amended to read:

437.01. As used in this part, "office" means the Office of Statewide Health Planning and Development and "office director" means the Director of the Office of Statewide Health Planning and Development.

Any reference in this part to the State Department of Health, the state department, or the Director of Health shall be deemed a reference to the Office of Statewide Health Planning and Development in the Health and Welfare Agency.

SEC. 120. Section 437.6 of the Health and Safety Code is amended to read:

437.6. The office director shall adopt regulations for the implementation of the provisions of this part, as amended during the 1975-76 Regular Session of the Legislature by the act adding this section.

SEC. 121. Section 437.7 of the Health and Safety Code is amended to read:

437.7. In order to assure availability of objective and impartial review by planning groups (referred to as area health planning agencies) of proposals for health facility projects as set forth in Section 437.10, the Advisory Health Council shall evaluate and shall designate annually no more than one area health planning agency for any area of the state designated by the council, provided such agency shall be incorporated as a nonprofit corporation and be controlled by a board of directors consisting of a majority representing the public and local government as consumers of health services with the balance being broadly representative of the providers of health services and the health professions, or alternatively be a health systems agency established pursuant to Public Law 93-641. The functions of area health planning agencies shall be the following:

(a) To review information on utilization of hospitals and related health facilities.

(b) To develop area plans to be used for the determination of community need and desirability of projects specified in Section 437.10, consistent with the regulations adopted by the Office of Statewide Health Planning and Development pursuant to Section 437.8. Each such plan shall become effective upon a determination by the council that the plan is in conformance with regulations adopted pursuant to Section 437.8. The council shall integrate all such area plans into a single Statewide Health Facilities and Services Plan,

which shall become effective upon formal adoption by the council.

(c) To conduct public meetings in which providers of health care and consumers will be encouraged to participate.

(d) To review applications for certificates of need as required by Section 437.10 and make recommendations to the office as to the need and desirability for the project proposed in the application, based upon the statewide and area plans adopted pursuant to subdivision (b) or, prior to the adoption of such plans, based upon the existing plans specified in Section 437.9.

(e) To make written findings of fact and recommendations to be delivered to applicant and filed with the office as a public record.

Area health planning agencies shall comply with the following requirements:

(1) The governing body of such agency shall, to the extent feasible, be composed of individuals representative of the major social, economic, linguistic, and racial populations, and geographic areas, within the area served by the agency.

(2) The agency shall hold public meetings and hearings only after reasonable public notice. Such notice shall, to the extent feasible, be publicized directly to those who, as determined by the director, are medically underserved and are in other ways denied equal access to good medical care.

(3) The agency shall file with the Advisory Health Council an affirmative action employment plan approved by the office.

Area health planning agencies may divide their areas into local areas for purposes of more effective health facility planning, with the approval of the Advisory Health Council. Such local areas shall be of a geographic size and contain adequate population to insure a broad base for planning decisions. Each local area shall contain a local health planning agency which shall meet the requirements of this section.

An organization which meets the requirements of this section may make application to its area health planning agency for designation as a local health planning agency for a designated area. Within 45 days after a complete application for designation has been received, the area agency shall reach a decision concerning the application.

Each area health planning agency existing on the operative date of amendments to this section enacted during the 1976 portion of the 1975–76 Regular Session of the Legislature shall continue to function as an area planning agency pursuant to this part, and shall provide review and recommendations on applications for certificates of need until such time as one or more designated health systems agencies are fully operational, as determined by the Advisory Health Council in the area served, or formerly served, by the respective area health planning agency.

If the Advisory Health Council determines that an area health planning agency approved under this section is dissolved or unable to carry out the functions required by this part, the office shall fulfill the responsibilities of an area health planning agency pursuant to this

part in the area until such time as another area health planning agency is designated by the Advisory Health Council for such area and becomes fully operational.

Adoption of regulations setting forth administrative procedures for area and local area health planning agencies shall be made by the office pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 122. Section 437.8 of the Health and Safety Code is amended to read:

437.8. The Office of Statewide Health Planning and Development shall promulgate regulations setting forth statewide policies for area health planning agencies in the performance of their responsibilities under Section 437.7.

In adopting such regulations, the office shall, with the advice of the Advisory Health Council, consider the following factors, and may consider other factors not inconsistent with the following:

(a) The need for health care services in the area and the requirements of the population to be served, including evaluation of current utilization patterns;

(b) The availability and adequacy of health care services in the area's existing facilities which currently conform to federal and state standards;

(c) The availability and adequacy of services in the area such as preadmission, ambulatory or home care services which may serve as alternatives or substitutes for care in health facilities;

(d) The possible economies and improvement in service that may be derived from the following:

(1) Operation of joint, cooperative, or shared health care resources;

(2) Maximum utilization of health facilities consistent with the appropriate levels of care, including but not limited to intensive care, acute general care, and skilled nursing care;

(3) Development of medical group practices, especially those providing services appropriately coordinated or integrated with institutional health service, and development of health maintenance organizations;

(e) The development of comprehensive services for the community to be served. Such services may be either direct or indirect through formal affiliation with other health programs in the area, and include preventive, diagnostic, treatment and rehabilitation services. Preference shall be given to health facilities which will provide the most comprehensive health services and include outpatient and other integrated services useful and convenient to the operation of the facility and the community;

(f) The needs or reasonably anticipated needs of special populations, including members of a comprehensive group practice prepayment health care service plan, members of a religious body or denomination who desire to receive care and treatment in accordance with their religious conviction, or persons otherwise

contracted or enrolled under extended health care arrangements, including life-care agreements pursuant to Chapter 10 (commencing with Section 1770), Division 2 of the Health and Safety Code.

(g) The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located. Such entities may include medical and other health professional schools, multidisciplinary clinics, and specialty centers.

SEC. 123. Section 437.9 of the Health and Safety Code is amended to read:

437.9. The basis for decisions by the Office of Statewide Health Planning and Development on applications for certificates of need filed pursuant to this part shall be:

(a) The Statewide Health Facilities and Services Plan specified in subdivision (b) of Section 437.7. Until the statewide plan is adopted by the council pursuant to subdivision (b) of Section 437.7:

(1) Existing area plans developed pursuant to subdivision (b) of Section 437.7, as it existed prior to its amendment by enactment of this section, shall continue in effect, and shall be the basis for decisions on projects requiring a certificate of need pursuant to subdivision (a) of Section 437.10.

(2) Review and approval of projects requiring a certificate of need pursuant to subdivision (b), (c), (d), or (e) of Section 437.10 shall be governed by regulations which shall be adopted by the office pursuant to Section 437.6.

(b) The statewide policies developed pursuant to Section 437.8.

SEC. 124. Section 437.13 of the Health and Safety Code, as amended by Chapter 1198 of the Statutes of 1977, is amended to read:

437.13. (a) Notwithstanding any other provision of law, no proposal for the remodeling of any health facility licensed on or before September 9, 1976, or for the construction of any new health facility to replace in whole or in part any existing health facility licensed on or before September 9, 1976, or for the replacement of the equipment or services of any health facility licensed on or before September 9, 1976, shall be required to be approved as provided in this part, unless the proposal involves one of the following:

(1) An increase in bed capacity.

(2) The conversion of a facility in one category of licensure to a different category of licensure.

(3) The conversion of any of a health facility's existing beds from one classification set forth in Section 1250.1 to another classification, except as authorized by Section 437.10.

(4) A significant expansion or addition of diagnostic or therapeutic capability, or a significant expansion or addition of services.

(5) Location of the health facility on a site which is not the same site or immediately adjacent thereto.

(6) The remodeling or replacement of any special service set forth in subdivision (a), (b), (c), (d), (e), (f), (g), or (h) of Section 1255,

which exceeds a cost of one hundred fifty thousand dollars ($150,000), unless a certificate of need has been obtained for such remodeling or replacement of such special service.

(7) The replacement of any diagnostic or therapeutic equipment at a cost in excess of one hundred fifty thousand dollars ($150,000), when such equipment has been in operation for five years or less. For the purposes of this paragraph, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the Office of Statewide Health Planning and Development, shall be considered together.

(8) The replacement or remodeling of patient rooms and nursing stations costing in excess of two hundred fifty thousand dollars ($250,000), unless such replacement or remodeling meets the requirements of subdivision (b).

(9) Except as provided in subdivision (c), a project for the remodeling or replacement of all or any portion of a health facility or equipment thereof which is not limited to a project specified in paragraph (6), (7), or (8) of this subdivision and the cost of which exceeds the lesser of one million five hundred thousand dollars ($1,500,000) or four thousand dollars ($4,000) multiplied by the health facility's total authorized bed capacity, excluding the cost of projects covered in paragraphs (6), (7), or (8).

(b) Any project specified in paragraph (8) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if any of the following conditions are met:

(1) Where the health facility has over the previous three years experienced an average licensed bed occupancy rate of over 80 percent, the licensed bed capacity shall not be required to be reduced by a remodeling or replacement proposal.

(2) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 76 nor more than 80 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 95 percent of the licensed bed capacity prior to the project.

(3) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 71 nor more than 75 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the licensed bed capacity prior to the project.

(4) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 66 nor more than 70 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 85 percent of the licensed bed capacity prior to the project.

(5) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not more than 65 percent, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 80 percent of the licensed bed capacity prior to the project.

(6) Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the facility's average bed occupancy rate over the previous three years was in excess of 65 percent, the licensed bed capacity shall not be required to be reduced. Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the health facility's average bed occupancy rate is below 65 percent over the previous three years, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the facility's licensed bed capacity prior to the project.

(c) Any project specified in paragraph (9) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if the applicant demonstrates to the satisfaction of the office director that the project is necessary in order for the facility to be able to continue the provision of service in a manner consistent with current standards of practice, and that the project meets all of the following criteria:

(1) The proposed space in square feet for the project, upon completion, is not more than 5 percent net above the statewide average number of square feet per licensed bed in services or departments of comparably sized facilities approved in California during the previous two years pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5 unless the applicant demonstrates to the satisfaction of the office director special requirements for additional space.

(2) Financial resources exist to successfully complete and implement the project, and the financing will not result in an undesirable increase in patient charges in the facility.

(3) The project promotes fiscal economics through measures that assure efficiency and effectiveness, which may include the operation of joint cooperative or shared facility health resources and maximum utilization of facilities.

(4) Less costly alternatives for the project were evaluated by the applicant and found not to be as desirable as the proposed project.

(5) The cost of equipment and construction is within reasonable limits and range for the area, type of project, and projected operational cost.

(6) The size of the project is based on historical or reasonably projected utilization of the service, equipment, or facility.

The office shall adopt regulations further defining the specifics of

the criteria set forth in this subdivision.

(d) For all purposes, including those specified in Section 14105.5 of the Welfare and Institutions Code and in Section 1268 of this code, it shall be deemed that a certificate of need has been issued for any proposal issued a certificate of exemption under this section.

Health facilities desiring an exemption under this section shall, pursuant to regulations of the office, submit an application and plans to the office. The office shall inform the applicant in writing of its determination as to eligibility of the applicant's proposal for such exemption within 60 calendar days of receipt of the application. If the office determines that the proposal is not eligible for such exemption, the applicant may reapply for a certificate of need as provided in Section 438 or seek judicial review.

This section shall remain in effect only until July 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1986, deletes or extends such date.

SEC. 124.5. Section 437.14 of the Health and Safety Code is amended to read:

437.14. (a) The Office of Statewide Health Planning and Development shall not accept an application for an exemption under paragraph (8) or (9) of subdivision (a) of Section 437.13 if a certificate of exemption has been granted pursuant to such section within the two-year period immediately preceding submission of the new application, unless the applicant shows to the office director's satisfaction that the new application is necessitated by emergency conditions which could not reasonably have been foreseen at the time the prior application was submitted.

(b) Except as provided in subdivision (c), a certificate of exemption issued pursuant to Section 437.13 shall expire upon failure to commence or complete the project authorized thereby within the time specified in this subdivision. Any project involving only the acquisition and installation of equipment shall be completed within two years of issuance of the certificate of exemption. Any other project issued a certificate of exemption under Section 437.13 shall be commenced within two years and completed within five years of issuance of the certificate of exemption. A project shall be deemed commenced for purposes of this subdivision if both of the following have occurred:

(1) Submission to the office of an internal commitment of funds through a force account or the submission to the office of a written agreement executed between the applicant and a licensed general contractor to construct and complete the project within a designated time schedule in accordance with final architectural plans and specifications, which, if required, have been approved pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5.

(2) Completion of construction work on the project to such a degree as to justify and require a progress payment by the applicant to the general contractor under terms of the construction agreement. If the construction agreement does not require progress

payments, then completion of construction shall be at that stage where an initial progress payment would otherwise be required in accordance with the usual and customary practices of the building industry.

(c) The office director may extend the time for commencement or completion of a project exempted pursuant to Section 437.13 if the holder of the certificate of exemption satisfies the office director that the delay is the result of an unpreventable or unexpected occurrence such as an emergency, strike, disaster, unforeseen shortage of materials, or other unforeseen event.

(d) Any project for which an exemption has been approved pursuant to Section 437.13 prior to January 1, 1978, shall not be subject to revocation of such exemption by reason of failure to meet new criteria or requirements effective on or after such date. However, the time limitations specified in subdivisions (b) and (c) of this section for commencement and completion shall be applicable to such projects.

SEC. 125. Section 438.1 of the Health and Safety Code is amended to read:

438.1. Each application for a certificate of need shall contain all of the information required by the Office of Statewide Health Planning and Development and, except as otherwise provided in this part, shall be accompanied by a fee. Such fee shall be determined annually by regulation of the office director and shall be set forth in a schedule differentiating by type and cost of project, as determined by the office director. The office director shall establish such fees so that in the aggregate they will defray costs of processing certificate of need applications which are not otherwise defrayed by the special fees charged pursuant to Section 439. However, the application fee for a certificate of need shall not in any event exceed five thousand dollars ($5,000).

SEC. 126. Section 438.5 of the Health and Safety Code is amended to read:

438.5. (a) Within 90 calendar days of the receipt of the complete application, or an application otherwise deemed complete pursuant to Section 438.2, the Office of Statewide Health Planning and Development shall hold a hearing on the application in the geographical area served by the area health planning agency reviewing the project. At the hearing, the area health planning agency shall present its recommendations and comments on the application. Except as otherwise provided in this part, the hearing 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, except that the office may use its own hearing officer.

(b) On verified petition of any party, the office or the hearing officer shall order that the testimony of any material witness residing within or without the state be taken by deposition in the manner prescribed by law for depositions in civil actions where the party shows and the office or hearing officer finds that the proposed

testimony is material. The petition shall set forth the nature of the pending proceedings, the name and address of the witness whose testimony is desired, a showing of the materiality of the testimony, and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. Where the witness resides outside the state and where the agency has ordered the taking of the testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition therefor in the superior court in Sacramento County. The proceedings thereon shall be in accordance with the provisions of Section 11189 of the Government Code. The provisions of this subdivision shall have no force or effect on and after two years following the effective date of this section.

(c) The office shall make a final decision on an application within 15 calendar days after the conclusion of the public hearing at which the application was considered and shall make its findings public. The decision shall either approve the application, approve it with modifications, reject it, or approve it with conditions mutually agreed upon by the applicant and the office. Failure of the office to render a decision within such time shall be deemed approval of the application and the office shall issue a certificate of need for the project described in the application. The failure of any applicant to fulfill the conditions under which the certificate of need was granted shall constitute grounds for revocation of such certificate of need.

(d) Notice of the substance of the office's decision shall be published in a newspaper of general circulation within the area served by the area health planning agency which reviewed the application, within 10 calendar days following the decision. If the decision differs from the recommendation of the area health planning agency, the office shall submit to the area health planning agency a detailed, explanatory statement.

SEC. 127. Section 438.8 of the Health and Safety Code is amended to read:

438.8. Any decision issued pursuant to Section 438.5 shall take effect 30 calendar days following its issuance unless within such time the applicant or the appropriate area health planning agency files a petition for appeal with the Advisory Health Council. The Advisory Health Council shall render a decision on each such appeal, and appeal shall be by right. The filing of a petition shall operate to suspend and stay the decision by the Office of Statewide Health Planning and Development pending the hearing and entry of a final decision.

A petition for appeal shall be filed with the council within 30 calendar days following the date a decision is issued by the office. The petition shall be filed in the form and manner as prescribed by the office. As soon as such a petition is filed, the council shall be polled and respond in writing to determine within 30 calendar days whether it will take oral argument on such petition. The council shall order a hearing if at least seven of the members certify in writing that

they agree to take oral argument. If the council orders a hearing, the hearing shall be held within 60 calendar days of the date of the council's order. If a hearing is denied, a statement of the reasons for denial shall be issued by the council which shall be sent to the applicant, the office, the area health planning agency, and persons requesting such a statement.

The council shall cause to be published in a newspaper of general circulation in the area in which the proposed project is to be located, at least 30 calendar days prior to the appeal hearing, a notice summarizing the application and the office's decision, with such particulars as the council may deem necessary, including, but not limited to, the name and address of the applicant, the type of project, and the date, time and place of the appeal hearing. In addition, the council shall send copies of such notice to the applicant, the office, the area health planning agency, and any person requesting such a notice.

Parties to the appeals proceedings may be the applicant, the office, or the area agency from the area in which the proposed project would be located. A petition for appeal from an area health planning agency shall be signed by at least a majority of the agency's governing board, and a majority of the signatories shall be consumers, as defined by regulation of the office. Any other person shall have the right to appear and be heard at the appeal hearing, but shall not be a party to the proceedings.

The appeal hearing may be held by the council or by a hearing officer, as ordered by the council. If there is a hearing officer, he shall rule on the admission and exclusion of evidence. The council shall exercise all other powers relating to the conduct of the hearing, but may delegate any or all of such powers to the hearing officer. Except as otherwise provided in this part, appeal hearings shall conform to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the office may use its own hearing officer.

SEC. 128. Section 446.3 of the Health and Safety Code is amended to read:

446.3. The Office of Statewide Health Planning and Development succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health relating to health planning and research development. The office shall assume the functions and responsibilities of the Facilities Construction Unit of the former State Department of Health, including, but not limited to, those functions and responsibilities performed pursuant to the following provisions of law:

Article 5.5 (commencing with Section 380) of Chapter 2 of Part 1 of Division 1; Article 18 (commencing with Section 429.70) and Article 19 (commencing with Section 429.94) of Chapter 2.5 of Part 1 of Division 1; Chapter 3 (commencing with Section 430) and Chapter 4 (commencing with Section 436) of Part 1 of Division 1; Part 1.5 (commencing with Section 437) of Division 1; Section 1260;

Chapter 10 (commencing with Section 1770) of Division 2; Section 13113; and Division 12.5 (commencing with Section 15000).

SEC. 129. Section 446.35 is added to the Health and Safety Code, to read:

446.35. All regulations heretofore adopted by the State Department of Health which relate to functions vested in the Office of Statewide Health Planning and Development and which are in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the Office of Statewide Health Planning and Development.

SEC. 130. Section 1157 of the Health and Safety Code is amended to read:

1157. In lieu of any other provisions of this chapter, upon request of the board of supervisors of any county of less than 40,000 population and upon the appropriation for public health purposes by such county of a sum of not less than fifty-five cents ($0.55) per capita for the total county population, the State Department of Health Services may organize and operate a local public health service in such county. The State Department of Health Services may conduct such local public health service either directly, or by contract with other agencies, or by some combination of these methods as may be agreed upon by the State Department of Health Services and the board of supervisors of the county concerned. The creation of a county board of public health or a similar local advisory group shall be at the discretion of the board of supervisors. The state financial assistance which is appropriated for public health services in counties which have not qualified or do not elect to qualify for such funds under other provisions of this chapter, is hereby made available to the State Department of Health Services for such purposes. Funds expended pursuant to this section shall be in accordance with law regarding expenditures of money appropriated out of the State Treasury, including those in the Budget Act and any applicable provisions of the Government Code.

SEC. 131. Section 1185 of the Health and Safety Code is amended to read:

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 Services. 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 State Department of Health Services to coordinate rural health programs.

SEC. 132. Section 1260 of the Health and Safety Code is amended to read:

1260. (a) As used in this section, "nonprofit hospital" means a general acute care hospital, or an acute psychiatric hospital, owned and operated by a fund, foundation, or corporation, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) A nonprofit hospital may exercise the right of eminent domain to acquire property necessary for the establishment, operation, or expansion of the nonprofit hospital if both of the following requirements are satisfied:

(1) The property to be acquired by eminent domain is adjacent to other property used or to be used for the establishment, operation, or expansion of the nonprofit hospital.

(2) The Director of the Office of Statewide Health Planning and Development has certified, after the public hearing required by subdivision (c), that (i) the acquisition of the property sought to be condemned is necessary for the establishment, operation, or expansion of the nonprofit hospital, (ii) the public interest and necessity require the proposed project, and (iii) the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(c) The Director of the Office of Statewide Health Planning and Development shall adopt reasonable regulations which will provide for a public hearing to be conducted by a hearing officer in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code in the area where the hospital is located to determine the necessity of the proposed project and of any acquisition of property for the project. Written notice of the hearing shall be given to the voluntary area health planning agency, if one exists, in the area where the hospital is located. The voluntary area health planning agency so notified shall make its recommendations to the hearing officer within 90 days from the receipt of notice. No hearing shall be held prior to the expiration of such 90-day period unless the hearing officer has received the recommendations of the voluntary area health planning agency. At the public hearing, the hearing officer shall insure that the hearing,

in part at least, considers the impact of the proposed project upon the delivery of health care services in the community and upon the environment, as gathered from an environmental impact report. The applicant and all interested parties to the acquisition, including the voluntary area health planning agency, have the right to representation by counsel, the right to present oral and written evidence, and the right to confront and cross-examine opposing witnesses. A transcript of the public hearing shall be filed with the Office of Statewide Health Planning and Development as a public record.

SEC. 133. 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 State Director of Health Services may exempt from the provisions of this chapter any pilot program contracting with the State Department of Health Services pursuant to Article 7 (commencing with Section 14490), Chapter 8, Part 3, Division 9 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. 134. Section 1442 of the Health and Safety Code is amended to read:

1442. The board of supervisors in each county, prior to closing a county hospital or other county medical facility, eliminating any area of service in a county hospital or other county medical facility or reducing the level of services provided to indigents as of January 1, 1975, or prior to leasing, selling, or in any way transferring the management of a county hospital or other county medical facility, shall file with the State Department of Health Services and the appropriate areawide voluntary health planning agency the following:

(a) A description of the county's existing facilities and services, the board's proposal for changing those facilities or services, including a plan for providing the eliminated services or facilities through alternative means.

(b) A copy of any contracts, agreements, or arrangements with any facility or individual to provide services to indigent people.

These documents shall be filed by the county at least 60 days prior to the effective date of such plan for providing the eliminated services or facilities, or any such contracts, agreements or arrangements.

The State Department of Health Services shall file annually with the Legislature a report of all such closings of facilities and reductions or elimination of services.

SEC. 134.5. Section 1494 of the Health and Safety Code is amended to read:

1494. The State Department of Health Services shall, by regulation, adopt a standard and complete protocol for the examination of a victim of rape or other sexual assault. The department shall also adopt by reference in such regulations guidelines for treatment of a victim of rape or other sexual assault.

Medical personnel in a county hospital who examine or treat a victim of rape or other sexual assault shall utilize the protocol and guidelines in the examination and treatment.

The department shall transmit a copy of the protocol and guidelines to every county hospital, private general acute care hospital, and public general acute care hospital.

SEC. 134.55. Section 1502 of the Health and Safety Code is amended to read:

1502. The following definitions shall govern the construction of this chapter:

(a) "Department" means the State Department of Social Services.

(b) "Director" means the Director of Social Services.

(c) "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:

(1) "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.

(2) "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.

(3) "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.

SEC. 134.6. Section 1532 of the Health and Safety Code is amended to read:

1532. The director shall appoint a statewide Advisory Committee on Community Care Facilities consisting of 21 members to advise him on the delivery of care and services through community care facilities. The membership of the advisory committee shall be divided into three groups of seven members each, to be appointed at staggered intervals for three-year terms. The advisory committee shall advise the director regarding regulations, policy, and administrative practices pertaining to community care facilities. The advisory committee shall review proposed regulations for community care facilities, and submit its written comments to the director prior to the adoption of such regulations.

The Advisory Committee on Community Care Facilities shall be solely advisory in character and shall not be delegated any administrative authority or responsibility. Committee members shall be selected from concerned interests including representatives of professional associations, providers and employees of care and services, and consumers of all major types of community care facility services. Such members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in connection with the performance of their duties.

SEC. 135. Section 1572 of the Health and Safety Code is amended to read:

1572. An Adult Day Health Care Review Committee is hereby established in the State Department of Health Services. The committee shall include a representative of the Department of Aging, the California Commission on Aging, and each appropriate

functional division within the state department, as determined by the director (including alternative health systems, social services, Medi-Cal, rates and fees, and licensing and certification). The committee shall assist the director in developing policies and procedures for regulation of adult day health care pursuant to this chapter and respecting reimbursement therefor under the Medi-Cal Act. Additionally, the functions of the committee shall include the following:

(a) The committee shall develop guidelines for adoption by the director setting forth principles for evaluation of community need for adult day health care, which shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

(b) The committee shall review county plans submitted pursuant to Section 1572.9. Such county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (a).

(c) The committee shall review and make recommendations to the director concerning individual proposals for original licensure of proposed adult day health centers. Such review may include onsite inspections by the committee, or a special subcommittee thereof, for the purpose of evaluating a proposed provider or its facility. The basis of such review shall be the approved county plan and an evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder. Public hearings on individual proposals for adult day health centers shall be held by the committee in the county to be served.

SEC. 136. Section 1701 of the Health and Safety Code is amended to read:

1701. There is in the State Department of Health Services a Cancer Advisory Council composed of nine physicians and surgeons licensed to practice medicine in, and residing in, this state, three persons who are not physicians and surgeons, two persons representing nonprofit cancer research institutes recognized by the National Cancer Institute, and the director of the state department, who shall be an ex officio member. The members of the council shall be appointed by the Governor to serve for terms of four years. The Governor, in appointing the first members, shall appoint at least one member from the faculty of each of the schools teaching medicine and surgery and located in this state that are approved by the State Board of Medical Quality Assurance. The Governor shall endeavor to maintain one member from the faculty of each school in making subsequent appointments.

SEC. 137. Section 2863 of the Health and Safety Code is amended to read:

2863. When any nuisance is found to exist on any property subject

to the control of any state or local agency, the district shall notify the state or local agency of the existence of the nuisance. The provisions of Sections 2858, 2860, 2861, 2861.5, and 2862, shall govern the contents of the notice and the manner of serving it, the right of the state or local agency to a hearing before the board, the hearing before the board, and the power of the district to abate the nuisance if it is not abated by the state or local agency. If the state or local agency determines that the order to prevent recurrence of the breeding specified in the notice to abate the nuisance is excessive or inappropriate for the intended use of the land, or if the state or local agency determines that a nuisance, as specified in Section 2800.5, does not exist, such agency may appeal the decision of the board to the State Director of Health Services within 10 days subsequent to the hearing. The director shall decide the matters on appeal and convey his decision to the agency and district within 30 days of the receipt of the appeal. The decision of the director shall be final and conclusive. If the control of the nuisance is performed by the district, the cost for such control is a charge against, and shall be paid from, the maintenance fund or from other funds for the support of the state or local agency.

Any state or local agency and a district may enter into contractual agreements to provide control of nuisances. The authority which is granted by this paragraph is in addition to any other authority which a state or local agency and a district may have to enter into contractual agreements for such purpose.

As used in this section, the term "state agency" has the meaning prescribed by Section 11000 of the Government Code and the term "local agency" means a city, county, city and county, district, or other public corporation.

SEC. 137.1. Section 2950 of the Health and Safety Code is amended to read:

2950. Any physician and surgeon who knows, or has reasonable cause to believe, that a patient is suffering from pesticide poisoning or any disease or condition caused by a pesticide shall promptly report such fact to the local health officer by telephone within 24 hours and by a copy of the report required pursuant to subdivision (a) of Section 6409 of the Labor Code within seven days, except that the information which is available to the physician and surgeon is all that is required to be reported as long as reasonable efforts are made to obtain such information. Each local health officer shall immediately notify the county agricultural commissioner of any such report received and shall report to the Director of Food and Agriculture, and the State Director of Health Services, on a form prescribed by the State Director of Health Services, each case reported to him pursuant to this section within seven days after receipt of any such report.

In no case shall the treatment administered for pesticide poisoning or a condition suspected as pesticide poisoning be deemed to be first aid treatment.

Any physician and surgeon who fails to comply with the reporting requirements of this section or any regulations adopted pursuant to this section shall be liable for a civil penalty of two hundred fifty dollars ($250). For the purposes of this section, failure to report a case of pesticide poisoning involving one or more employees in the same incident shall constitute a single violation. The Division of Industrial Safety of the Department of Industrial Relations shall enforce these provisions by issuance of a citation and notice of civil penalty in a manner consistent with Section 6317 of the Labor Code. Any physician and surgeon who receives a citation and notice of civil penalty may appeal to the Occupational Safety and Health Appeals Board in a manner consistent with Section 6319 of the Labor Code.

Each local health officer shall maintain the ability to receive and investigate reports of pesticide poisoning at all times pursuant to Section 12982 of the Food and Agricultural Code.

SEC. 137.2. Section 2950.1 of the Health and Safety Code is amended to read:

2950.1. The State Department of Health Services shall develop and implement, in cooperation with local health officers and state and local medical associations, a program of medical education to alert physicians and other health care professionals to the symptoms, diagnosis, treatment, and reporting of pesticide poisoning.

SEC. 137.3. Section 3380 of the Health and Safety Code is amended to read:

3380. In enacting this chapter, it is the intent of the Legislature to provide:

(a) A means for the eventual achievement of total immunization of appropriate age groups against diphtheria, pertussis, tetanus, poliomyelitis, and measles.

(b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the State Department of Health Services and that a record of the immunization is made in accordance with such regulations.

(c) Exemptions from immunization for medical reasons or because of personal beliefs.

(d) For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

SEC. 137.4. Section 3751 of the Health and Safety Code is amended to read:

3751. Unsanitary packing material shall not be used until it has been cleaned and disinfected to the satisfaction of the Department of Food and Agriculture, State Department of Health Services, or the agents of either or both, or by a county health officer.

SEC. 137.5. Section 11752.1 of the Health and Safety Code is amended to read:

11752.1. There is in the State Department of Alcohol and Drug Abuse a Division of Alcohol Abuse and Alcoholism and a Division of Drug Abuse.

SEC. 137.6. Section 11753 of the Health and Safety Code is amended to read:

11753. The State Department of Alcohol and Drug Abuse succeeds to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction of the Office of Alcoholism, which shall be administered by the Division of Alcohol Abuse and Alcoholism. The State Department of Alcohol and Drug Abuse also succeeds to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction of the substance abuse function of the State Department of Health, which shall be administered by the Division of Drug Abuse.

SEC. 138. Section 11759 is added to the Health and Safety Code, to read:

11759. All regulations heretofore adopted by the Office of Alcoholism or the State Department of Health which relate to functions vested in the State Department of Alcohol and Drug Abuse and which are in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the State Department of Alcohol and Drug Abuse.

SEC. 138.5. The heading of Part 2 (commencing with Section 11775) of Division 10.5 of the Health and Safety Code is amended to read:

PART 2. ALCOHOL ABUSE AND ALCOHOLISM

SEC. 138.6. The heading of Article 1 (commencing with Section 11775) of Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code is amended to read:

Article 1. Division of Alcohol Abuse and Alcoholism

SEC. 139. Section 11780 of the Health and Safety Code is amended to read:

11780. There is hereby established an Interdepartmental Coordinating Committee composed of the directors, or their designated representatives, of the Departments of Health Services, Mental Health, Social Services, Rehabilitation, Corrections, Youth Authority, Employment Development, Education, Motor Vehicles, Office of Traffic Safety, representatives of the Legislative Analyst and Department of Finance, such other appropriate agencies as the Governor shall designate, and the state department. The committee shall meet at least twice annually at the call of the director, who shall be its chairman. The committee shall provide for the coordination of,

and exchange of information on, all programs relating to alcoholism, and shall act as a permanent liaison among the departments and agencies engaged in activities affecting alcoholics and their families. The committee shall assist the director in formulating a comprehensive state plan for prevention of alcoholism and for treatment and rehabilitation of alcoholics and their families.

SEC. 139.5. Article 5 (commencing with Section 11850) is added to Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code, to read:

Article 5. Treatment for Drinking Drivers

11850. (a) As an alternative to the provisions of law relating to suspension of a person's privilege to operate a motor vehicle upon conviction for driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, as set forth in Section 13201.5 and subdivisions (a), (c), and (e) of Section 13352 of the Vehicle Code, a court may refrain from suspending such privilege and the Department of Motor Vehicles may not suspend or revoke such privilege because of such a conviction if the person convicted of that offense has consented to participate, for at least one year and in a manner satisfactory to the court, in a program for the supervision of such persons and for treatment of their problem drinking or alcoholism that is approved pursuant to this article.

(b) In determining whether to refer such a person to an approved program, the court may consider any relevant information about the person made available pursuant to a presentence investigation or other screening procedure. No such information may be furnished, however, by any person who also provides services in a privately operated, approved program or who has any direct interest in a privately operated, approved program. In addition, the court shall obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in an approved program pursuant to the provisions of this article.

(c) The court may refer persons only to approved programs. If an approved program does not exist in the county on the date of conviction of the person and if the county does not have an agreement pursuant to Section 11851 to allow referral of persons to approved programs located in another county, the provisions of Section 13352 of the Vehicle Code shall apply.

(d) The court may refer a person to an approved program, even though the person's privilege to operate a motor vehicle is suspended or revoked, if the period of suspension or revocation will terminate within six months after the person's commencement of participation in the program.

(e) As used in this article, "program" means all the elements of the program described in the amendment to the county alcoholism

program budget submitted pursuant to subdivision (c) of Section 11850.6.

11850.1. (a) In utilizing any such program, the court shall require periodic reports concerning the performance of each person referred to and participating in a program and the immediate report of any failure of any such person to comply with the program's rules and regulations. If, at any time after referral to or while participating in a program, a participant fails to comply with the rules and regulations of the program, the court, upon finding such fact, shall immediately suspend, or order suspension or revocation of, the privilege of such person to operate a motor vehicle for the period prescribed by law.

(b) If, at any time after referral to or while participating in a program, a participant refuses, for any reason, to consent to a chemical test that he or she is required to submit to pursuant to Section 13353 of the Vehicle Code, his or her participation in the program shall be terminated and the Department of Motor Vehicles shall immediately suspend or revoke his or her privilege to operate a motor vehicle for the period prescribed in Section 13352 of the Vehicle Code, according to the offense for which he or she was convicted immediately prior to referral to the program. Such period of suspension or revocation shall be in addition to the period of suspension imposed by the Department of Motor Vehicles pursuant to Section 13353 of the Vehicle Code.

(c) In the event the state department withdraws approval of a program, the Department of Motor Vehicles shall suspend or revoke, for the period prescribed by law, the privilege to operate a motor vehicle of every person previously participating in the program who does not commence participation, in a manner satisfactory to the court, in an approved program within 21 days after the date approval was withdrawn from the previous program.

(d) In addition to any other condition of probation, the court shall have the discretion to determine whether any person desiring to participate in a program shall be required to furnish proof of ability to respond in damages, as defined in Section 16430 of the Vehicle Code, as a condition to participation in the program.

11850.2. The court, upon convicting a person of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, shall transfer jurisdiction of all postjudgment matters in the case to the court in the county where such person resides for further proceedings pursuant to this article if the court finds that such person has consented to participate in an approved program in, or closer to, his county of residence in a manner satisfactory to the court. The state department shall establish reporting procedures for transfers of jurisdiction pursuant to this section in order to assure effective implementation of this section. Upon receiving notice that a person has not commenced participation, in a manner satisfactory to the court to which jurisdiction has been transferred, in an approved program

within 21 days after the date of conviction, excluding any days of imprisonment served by such person pursuant to sentence imposed for conviction for such offense, the Department of Motor Vehicles shall suspend or revoke the person's privilege to operate a motor vehicle for the period prescribed by law.

11850.3. No person may be admitted or readmitted into a program for the supervision and treatment of problem drinking or alcoholism pursuant to this article until four years after such person ceases his or her prior participation in such a program. The four-year period shall commence either on the date the court orders the suspension or revocation of such person's privilege to operate a motor vehicle pursuant to Section 11850.1 or on the date such person successfully completes the program, whichever is later. With respect to any person arrested for the offense of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug subsequent to the commencement of a four-year period, such person's eligibility to participate in the program again shall be determined on the basis of the date on which such person is alleged to have committed that offense.

11850.4. (a) The state department shall have sole authority to approve programs pursuant to this article. No program, regardless of how it is funded, may be approved unless it meets the standards established by the state department, which shall include, but need not be limited to, the following:

(1) Each program shall provide for close and regular supervision of the person, including face-to-face interviews at least once every other calendar week, regarding the person's progress in the program. Such interviews shall be conducted individually with each person being supervised and shall occur at times during which any group to which such person is assigned is not participating in any other activities of the program.

(2) The state department shall approve all fee schedules for such programs and shall require that each program make provision for persons who cannot afford such fees in order to enable such persons to participate. The state department shall ensure that such fees are set at amounts which will enable programs to provide adequately for the services required pursuant to this article. Such fees shall be used only for the purposes set forth in this article. The state department may not approve any program if the state department finds that any element of the administration of the program does not assure the fiscal integrity of the program.

(3) Each program shall include a variety of treatment services for problem drinkers and alcoholics or shall have the capability of referring such persons to, and regularly and closely supervising such persons while in, appropriate treatment services for their problem drinking or alcoholism. In addition to the requirements of paragraph (1) of this subdivision, the state department shall prescribe in its standards what other services the program shall provide its participants, which services may include lectures, classes, group

discussions, individual counseling in addition to the interviews required by paragraph (1), or any combination thereof. However, any class or group discussion, other than lectures, shall not exceed 15 persons at any one meeting.

(4) In order to assure effective treatment and supervision in any program, the state department shall require, whenever appropriate, that the program provides services to ethnic minorities, women, youth, or any other group that has particular needs relating to the program.

(5) The goal of each program shall be to enable the person participating in the program to address successfully his or her alcohol abuse or alcoholism problem, to eliminate any dependence on alcoholic beverages, and to protect the public's health and safety upon the highways.

(b) Each program may be an extension of an existing program or a new program. No such program may be approved, however, unless the county complies with the requirements of Section 11817.

(c) The state department shall adopt standards, which it may issue in the form of regulations, in addition to any of the standards set forth in this section in order to assure effective implementation of the procedure established by this article.

11850.5. (a) No person may participate in any program that has not been approved or reapproved by the state department pursuant to the standards established pursuant to this article. The state department shall reapprove existing programs in the demonstration counties that were selected pursuant to Section 13201.5 of the Vehicle Code, as added by Chapter 1133 of the Statutes of 1975, if such programs meet the standards established pursuant to this article; and no person may participate in any such program until it is reapproved pursuant to this article.

(b) The state department may charge a reasonable fee for approval or reapproval of a program. The fee shall be set at a level sufficient to cover all administrative costs of the program incurred by the state department and the Department of Motor Vehicles. All such fees received by the state department shall be deposited in the General Fund for reimbursing the state department and the Department of Motor Vehicles their costs incurred in approving or reapproving programs and their administrative costs, when appropriated for that purpose by the Legislature.

11850.6. (a) The Legislature recognizes that were the state department to be charged with monitoring closely the programs established pursuant to this article, it would require significantly increased staff. The Legislature also recognizes that such monitoring by state agencies often is ineffective and misleads the Legislature and public into believing that the state can and has adequately fulfilled such responsibilities. The Legislature also recognizes that the governing body and responsible county staff are much closer to, and more informed about, the daily activities of the programs approved pursuant to this article and about the impact that failure

of such programs might have for the citizens of their county. The Legislature also recognizes that if a program is deficient, clients may receive inadequate supervision and treatment and may therefore remain a danger to the public health and safety and a burden to themselves, their family, and the community. Therefore, the Legislature places the major responsibility for assuring programmatic and fiscal integrity of each program with the governing body of each county utilizing a program pursuant to this article.

(b) The governing body shall delegate to the alcoholism administrator, pursuant to the provisions of Article 2 (commencing with Section 11790) of this chapter, the responsibility to assure compliance with the standards of the state department by any program designated by the county for operation therein and approved by the state department. In any county in which such an administrator has not been appointed, the head of the health-related agency or department designated pursuant to Section 11793 shall assume the duties of the alcoholism administrator and administer the program pursuant to the provisions of this article.

(c) The alcoholism administrator shall submit to the governing body a description of each program to be utilized in the county in the form of a proposed amendment to the county alcoholism program budget required by Article 3 (commencing with Section 11810) of this chapter. Prior to such submission, the advisory board shall review the proposal, and its comments shall be included in the submission to the governing body. If the governing body approves the amendment, it shall submit the amendment to the state department for approval. The state department shall approve the amendment if it finds that the program meets the requirements of this article. The state department may approve a program on a provisional basis.

(d) In addition to the provisions of Section 11797, no person may serve as a member of the advisory board who is an employee, director, or member of any advisory body, or holds any similar position or title on a compensated or noncompensated basis in any program which seeks or possesses approval pursuant to this article.

11850.7. (a) The alcoholism administrator, or the advisory board acting through the alcoholism administrator, shall inform the governing body immediately if it is determined that any program is not meeting the standards established by the state department. The governing body shall immediately notify the state department, which, if it finds that such program does not meet such standards or cannot meet such standards within 30 days of notice by the state department, shall withdraw approval of the program.

(b) If the state department modifies any of its standards, the alcoholism administrator shall assure within a time period established by the state department that each program within his or her county has met such standards. The state department shall withdraw approval of any program that does not at any time meet

the standards established by the state department.

(c) The alcoholism administrator, chief probation officer, the director, or their authorized representatives may enter, in a nondisruptive manner, any class, lecture, group discussion, or any other program element to observe such activities.

(d) Within its staff and time limitations, the state department may require reapproval of all programs on a periodic basis commencing January 1, 1979, and may charge a fee pursuant to subdivision (b) of Section 11850.5 for such reapproval.

(e) Notwithstanding the provisions of subdivision (a) of Section 11850.6, the state department may audit, or contract for the auditing of, any approved program.

11850.8. (a) The state department shall authorize each alcoholism administrator to retain, in an amount to be specified by the state department, a portion of the fees charged for participation in the program that is sufficient to reimburse the county for the costs and expenses which the administrator reasonably incurs in discharging his or her duties pursuant to this article.

(b) A county may not use for any purpose set forth in this article any funds allocated to it by the state department pursuant to Article 4 (commencing with Section 11830) of this chapter. The governing body may authorize the use of any other funds for any such purpose.

11850.9. As an element of the program, the probation department may provide any of the face-to-face interviews required pursuant to paragraph (1) of subdivision (a) of Section 11850.4 and may supplement any of the other services required to be provided by a program. The participation of the probation department shall be described in the amendment to the county alcoholism program budget.

11851. The Legislature encourages all counties to utilize the procedure described in this article, but recognizes that it is not feasible for every county to establish its own programs. Accordingly, two or more counties may jointly establish programs pursuant to subdivision (b) of Section 11790 of this code or Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code or may furnish by contract such program services to residents of another county pursuant to Section 11803 of this code. The governing body of the county in which the program is located shall be responsible for assuring the integrity of the program as required pursuant to subdivision (a) of Section 11850.6.

11851.1. The state department, in cooperation with the Department of Motor Vehicles, shall establish uniform statewide reporting procedures and forms for the submission of any appropriate documents or information from governing bodies, alcoholism administrators, administrators of programs, and program participants to assure effective implementation of this article.

11851.2. The Legislature finds and declares that, in order to provide for orderly and effective implementation of this article, to prevent the courts and programs in each county from being

overburdened at the commencement of the implementation of this article, and to protect the public health and safety, this article shall apply only on a prospective basis. Therefore, this article shall apply only to persons either (a) who are alleged to have committed the offense of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug on or after January 1, 1978, and are subsequently convicted, for that offense or (b) who are alleged to have committed that offense on or after the date when a program, to which such a person may be referred by the court upon conviction for that offense, has been approved by the state department, and are subsequently convicted for that offense, whichever date is later.

SEC. 139.6. The heading of Part 3 (commencing with Section 11860) of Division 10.5 of the Health and Safety Code is amended to read:

PART 3. DIVISION OF DRUG ABUSE

SEC. 140. Section 11881 of the Health and Safety Code is amended to read:

11881. The State Department of Health Services shall establish criteria for acceptable performance from those laboratories performing urinalysis or other body fluid analysis and shall not permit utilization of laboratories unable to meet an acceptable level of performance. The results of any performance evaluation of any laboratory shall immediately be made available to the local programs upon request. Nothing in this section shall prohibit body fluid analysis to be performed by the methadone program upon approval of the State Department of Health Services.

SEC. 141. Section 11885 of the Health and Safety Code is amended to read:

11885. The State Department of Health Services shall adopt and publish such rules and regulations to be used in approving and governing the operation of laboratories engaging in the performance of tests referred to in Section 11886, including, but not limited to, the qualifications of the employees of such laboratories who perform such tests, as it determines are reasonably necessary to insure the competence of such laboratories and employees to prepare, analyze, and report the results of such tests.

SEC. 142. Section 11886 of the Health and Safety Code is amended to read:

11886. The testing of urine or other body fluid analysis for the methadone programs operating in the state shall be performed only by a laboratory approved and licensed by the State Department of Health Services for the performance of such tests.

SEC. 143. Section 11887 of the Health and Safety Code is amended to read:

11887. Each laboratory in this state which performs the test referred to in Section 11886 shall be licensed by the State Director

of Health Services. Each such laboratory, other than a laboratory operated by the state, county, city, or city and county, other public agency, or a clinical laboratory licensed pursuant to subdivision (f) of Section 1300 of the Business and Professions Code, shall, upon application for licensing, pay a fee to the State Department of Health Services in an amount to be determined by such department, which will reimburse the department for the costs incurred by the department in the issuance and renewal of such licenses, but not to exceed one hundred dollars ($100). On or before July 1 of each year thereafter, each such laboratory shall pay to the State Department of Health Services a fee so determined by such department, not to exceed one hundred dollars ($100), for the renewal of its license.

SEC. 144. Section 11888 of the Health and Safety Code is amended to read:

11888. The State Department of Health Services shall enforce the provisions of this article and such rules and regulations as are adopted by such department.

SEC. 145. Section 11889 of the Health and Safety Code is amended to read:

11889. The State Department of Health Services shall annually publish a list of approved and licensed laboratories engaging in the performance of tests referred to in Section 11886.

SEC. 146. Section 11890 of the Health and Safety Code is amended to read:

11890. Every laboratory which has been approved and for which a license has been issued shall be periodically inspected by a duly authorized representative of the State Department of Health Services. Reports of each such inspection shall be prepared by the representative conducting it upon forms prepared and furnished by the State Department of Health Services and shall be filed with that department.

SEC. 147. Section 11891 of the Health and Safety Code is amended to read:

11891. Any license issued pursuant to Section 11887 may be suspended or revoked by the State Director of Health Services for any of the reasons set forth in Section 11992. The State Director of Health Services may refuse to issue a license to any applicant for any of the reasons set forth in Section 11992. Any proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code, and the State Director of Health Services shall have the powers and duties granted therein.

SEC. 148. Section 11892 of the Health and Safety Code is amended to read:

11892. The State Director of Health Services may deny a license if any of the following apply to the applicant, or any partner, officer, or director thereof:

(a) Such person fails to meet the qualifications established by the State Department of Health Services pursuant to this chapter for the

issuance of the license applied for.

(b) Such person was previously the holder of a license issued under this chapter, which license has been revoked and never reissued or which license was suspended and the terms of the suspension have not been fulfilled.

(c) Such person has committed any act involving dishonesty, fraud, or deceit, whereby another was injured or whereby applicant has benefited.

SEC. 149. Section 11893 of the Health and Safety Code is amended to read:

11893. The State Director of Health Services may suspend, revoke, or take other disciplinary action against a licensee as provided in this chapter, if the licensee or any partner, officer, or director thereof does any of the following:

(a) Violates any of the regulations promulgated by the State Department of Health Services pursuant to this article.

(b) Commits any act of dishonesty, fraud or deceit, whereby another is injured or whereby the licensee benefited.

(c) Misrepresents any material fact in obtaining a license.

SEC. 150. Section 11894 of the Health and Safety Code is amended to read:

11894. The State Director of Health Services may take disciplinary action against any licensee after a hearing as provided in this article by any of the following:

(a) Imposing probation upon terms and conditions to be set forth by the State Director of Health Services.

(b) Suspending the license.

(c) Revoking the license.

SEC. 151. Section 11895 of the Health and Safety Code is amended to read:

11895. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (c) of Section 11993, the accusation shall be filed within two years after the discovery by the State Department of Health Services of the alleged facts constituting the fraud or misrepresentation prohibited by such section.

SEC. 152. Section 11896 of the Health and Safety Code is amended to read:

11896. After suspension of the license upon any of the grounds set forth in this article, the license shall not be reinstated or reissued within a period of one year after the effective date of revocation. After one year after the effective date of the revocation, the State Department of Health Services may reinstate the license upon proof of compliance by the applicant with all provisions of the decision as to reinstatement.

SEC. 153. Section 11991 of the Health and Safety Code is repealed.

SEC. 153.5. Section 15021 of the Health and Safety Code is

amended to read:

15021. There is in the state department a Building Safety Board which shall advise and act as a board of appeals with regard to seismic structural safety of hospitals. The State Director of Health Services, with the advice of the Department of General Services, shall appoint the members of the Building Safety Board, which shall advise and act as a board of appeals in all matters affecting seismic structural safety in the administration and enforcement of this chapter. The board shall consist of 11 members appointed by the State Director of Health Services and six ex officio members who are: State Director of Health Services, the State Architect, the State Fire Marshal, the State Geologist, the Chief of the Bureau of Health Facilities Planning and Construction in the state department and the Chief Structural Engineer of the Schoolhouse Section of the Office of Architecture and Construction in the Department of General Services. Of the appointive members, two shall be structural engineers, two shall be architects, one shall be an engineering geologist, one shall be a soils engineer, one shall be a seismologist, one shall be a mechanical engineer, one shall be an electrical engineer, and one shall be a hospital administrator. The appointive members shall serve at the pleasure of the director. He may also appoint as many other ex officio members as he may desire. Ex officio members are not entitled to vote. Board members, qualified by close connection with hospital design and construction and highly knowledgeable in their respective fields with particular reference to seismic safety, shall be appointed from nominees recommended by the governing bodies of the Structural Engineers Association of California; the California Council, American Institute of Architects; the Earthquake Engineering Research Institute; the Association of Engineering Geologists; the Consulting Engineers Association of California; the California Hospital Association. Board members shall be residents of California.

SEC. 153.6. Section 27000 of the Health and Safety Code is amended to read:

27000. "Processed pet food" means a food for pets which has been prepared by heating, drying, semidrying, canning, or by a method of treatment prescribed by regulation of the State Department of Health Services. The term includes, special diet, health foods, supplements, treats and candy for pets, but does not include fresh or frozen pet foods subject to the control of the Department of Food and Agriculture of this state.

SEC. 153.7. Section 27002 of the Health and Safety Code is amended to read:

27002. "Pet food ingredients" means each of the constituent materials making up a processed pet food. Pet food ingredients of animal or poultry origin shall be only from animals or poultry slaughtered or processed in an approved or licensed establishment. Such animal or poultry ingredients condemned for human food but passed for animal food in an establishment inspected by the United

States Department of Agriculture or the Department of Food and Agriculture of this state may be used for pet food, provided it is properly denatured or handled in accordance with this chapter and regulations of the State Department of Health Services and the regulations of the Department of Food and Agriculture of this state so as to render the ingredients safe for pet food. Animals or poultry classified as "deads" are prohibited.

SEC. 154. Section 32127.2 of the Health and Safety Code is amended to read:

32127.2. Exclusively for the purpose of securing state insurance of financing for the construction of new health facilities, the expansion, modernization, renovation, remodeling and alteration of existing health facilities, and the initial equipping of any such health facilities under Chapter 4 (commencing with Section 436) of Part 1 of Division 1, and notwithstanding any provision of this division or any other provision or holding of law, the board of directors of any district may (a) borrow money or credit from private or public lenders, as well as by the financing methods specified in this division, and (b) execute in favor of the state first mortgages, first deeds of trust, and such other necessary security interests as the Office of Statewide Health Planning and Development may reasonably require in respect to a health facility project property as security for such insurance. No payments of principal, interest, insurance premium and inspection fees, and all other costs of state-insured loans obtained under the authorization of this section shall be made from funds derived from the district's power to tax. It is hereby declared that the authorizations for the executing of such mortgages, deeds of trust and other necessary security agreements by the board and for the enforcement of the state's rights thereunder is in the public interest in order to preserve and promote the health, welfare, and safety of the people of this state by providing, without cost to the state, a state insurance program for health facility construction loans in order to stimulate the flow of private capital into health facilities construction to enable the rational meeting of the critical need for new, expanded and modernized public health facilities.

SEC. 155. Section 32201 of the Health and Safety Code is amended to read:

32201. Annually, on or before August 1st, the board of directors of each local hospital district shall furnish to the board of supervisors and county auditor of the county in which the district or any part thereof is situated an estimate in writing of the amount of money necessary to be raised by taxation for all purposes required under the provisions of this division during the next ensuing fiscal year. In addition to such written estimate the board of directors of each local hospital district shall furnish to the board of supervisors for each tax year occurring after the second full fiscal year of actual hospital operations a certified copy of a resolution of such board of directors finding that the rates and charges made for services and facilities in the hospital on an overall basis are comparable to charges made for

similar services and facilities by the nonprofit hospitals operated within the hospital service area in which the district hospital is located. No such certificate need be furnished if there are no nonprofit hospitals in such service area. Such hospital service area shall be as from time to time delineated by the Office of Statewide Health Planning and Development.

SEC. 156. Section 34705 of the Health and Safety Code is amended to read:

34705. As used in this part, "persons requiring continuing care" means persons not confined in an institution under the jurisdiction of the State Department of Developmental Services or State Department of Mental Health who are eligible to receive housing assistance pursuant to federal law because of financial inability to provide adequate housing for themselves or persons dependent upon them and who meet the following criteria.

(a) The person shall have been determined to be developmentally disabled by the State Department of Developmental Services, a county health department, or a regional center established pursuant to Section 4561 of the Welfare and Institutions Code; or

(b) The person shall have been determined to be mentally disordered by a local director of mental health services, or by the designated representative thereof; or

(c) The person shall have been determined to be physically disabled by the Department of Rehabilitation.

SEC. 156.1. Section 38224 of the Health and Safety Code is repealed.

SEC. 156.2. Section 38261 of the Health and Safety Code is repealed.

SEC. 156.3. Section 38261.2 of the Health and Safety Code is repealed.

SEC. 156.4. Section 38500 of the Health and Safety Code is repealed.

SEC. 157. Section 39606 of the Health and Safety Code is amended to read:

39606. The state board shall:

(a) Based upon similar meteorological and geographic conditions and consideration for political boundary lines whenever practicable, divide the state into air basins to fulfill the purposes of this division.

(b) Adopt standards of ambient air quality for each air basin in consideration of the public health, safety, and welfare, including, but not limited to, health, illness, irritation to the senses, aesthetic value, interference with visibility, and effects on the economy. These standards may vary from one air basin to another. Standards relating to health effects shall be based upon the recommendations of the State Department of Health Services.

SEC. 157.1. Section 142.3 of the Labor Code is amended to read:

142.3. (a) The board, by an affirmative vote of at least four members, may adopt, amend or repeal occupational safety and health standards and orders. The board shall be the only agency in

the state authorized to adopt occupational safety and health standards. The board shall adopt standards at least as effective as the federal standards for all issues for which federal standards have been promulgated under Section 6 of the Occupational Safety and Health Act of 1970 (P.L. 91-596) within six months of the effective date of the federal standards and which, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce.

(b) Any standard or order promulgated under this section shall prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions for safe use or exposure. Where appropriate, such standards or orders shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard or order shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employee is adversely affected by such exposure.

(c) The results of such examination or tests shall be furnished only to the Division of Industrial Safety, the State Department of Health Services, any other authorized state agency, the employer, the employee, and, at the request of the employee, to his physician.

SEC. 157.2. Section 144.5 of the Labor Code is amended to read:

144.5. (a) The State Department of Health Services in connection with the enforcement of occupational safety and health standards adopted pursuant to this chapter shall do all of the following:

(1) Upon request from the Division of Industrial Safety, assist in the conduct of inspections or investigations related to specific workplaces for the evaluation of occupational health problems or environmental conditions which may be harmful to the health of employees. The State Department of Health Services shall report its finding to the division as soon as practicable.

(2) Upon request of the Division of Industrial Safety, any employer or employee, or on its own initiative, conduct special investigations or studies of occupational health problems which are unrelated to a specific enforcement action to the extent the circumstances indicate and priorities permit. Studies initiated by the State Department of Health Services shall be coordinated with and reported to the division.

(3) Provide a continuing program of training for safety engineers of the Division of Industrial Safety in the recognition of health

hazards, in dealing with such hazards that do not require specialized competence or equipment and in acquainting them with the skills available from the State Department of Health Services and local health agencies.

(b) (1) When requested by a local health department, the State Department of Health Services shall enter into a written agreement with such local health department to conduct inspections and evaluations of occupational health problems, including environmental and sanitary conditions, in places of employment.

(2) Any such agreement shall be subject to the provisions of Section 144. It shall be entered into only with the specific agreement of the Department of Industrial Relations and only after a finding by the Department of Industrial Relations that the local health department can meet the necessary standards of performance for inspections and evaluations to be conducted pursuant to the agreement.

(3) Such agreement shall not be binding upon either party unless and until it has been fully approved by the United States Department of Labor.

(4) Such agreements shall be completed by the State Department of Health Services and submitted for approval to the United States Department of Labor not later than six months from the date of request by the local health department.

(5) Inspection services performed under the agreement shall be conducted pursuant to the occupational safety and health standards adopted pursuant to this chapter.

SEC. 157.3. Section 147 of the Labor Code is amended to read:

147. The board shall refer to the State Department of Health Services for evaluation any proposed occupational health standard or variance from adopted standards received by the board from sources other than the State Department of Health Services. The board shall refer to the Division of Industrial Safety for evaluation any proposed occupational safety standard or variance received by the board from sources other than the Division of Industrial Safety.

SEC. 157.4. Section 147.1 of the Labor Code is amended to read:

147.1. In connection with the development and promulgation of occupational health standards the State Department of Health Services shall perform all of the following functions:

(a) Analyze proposed and new federal occupational health standards, evaluate their impact on California, determine any necessity for their modification, and present proposed standards to the board in sufficient time for the board to conduct hearings and adopt standards within the time required.

(b) Maintain liaison with the National Institute of Occupational Safety and Health and the federal Occupational Safety and Health Administration in the development of recommended federal standards and when appropriate provide representation on federal advisory committees dealing with the development of occupational health standards.

(c) On occupational health issues not covered by federal standards maintain surveillance, determine the necessity for standards, develop and present proposed standards to the board.

(d) Evaluate any proposed occupational health standard or application for a variance of an occupational health standard received by the board or the Division of Industrial Safety and referred to the State Department of Health Services, and submit a report to the board or the Division of Industrial Safety on the proposed standard or variance within 60 days of receipt thereof.

(e) Appear and testify at board hearings and other public proceedings involving occupational health matters.

SEC. 157.5. Section 830.3 of the Penal Code is amended to read:

830.3. (a) The Deputy Director, assistant directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are so designated by the Attorney General, are peace officers.

The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(b) 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.

(c) 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.

(d) (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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(*l*) 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.

(m) 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.

(n) 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.

(o) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Abuse and the Office of Statewide Health Planning and Development, are peace officers; provided that the primary duty of such peace officer shall be the enforcement of the law relating to the duties of his department or office. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, the investigators shall not carry firearms.

(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. 158. 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) The hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and police officers designated by him pursuant to Section 4313 or 4493, respectively, 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 Divison 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 in pursuit 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.

(20) Transit police officers of the Southern California Rapid Transit District. Before exercising the powers of a peace officer, any person so employed shall have satisfactorily completed the courses of instruction required by Section 832.

(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; provided, that the primary duty of any such peace officer pursuant to paragraph (20) of subdivision (a) shall be the enforcement of the law in or about properties owned, operated or administered by the district when performing necessary duties with respect to patrons, employees and properties of the district, 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 from within or about properties owned, operated or administered by the district when performing necessary duties with respect to patrons, employees and properties of the district; (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 or about properties owned, operated or administered by the district; 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.

SEC. 159. Section 1370.1 of the Penal Code is amended to read:

1370.1. (a) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent and is developmentally disabled, the trial or judgment shall be suspended until he becomes mentally competent, and the court shall order that (1) in the meantime, the defendant be delivered by the sheriff or other person designated by the court to a state hospital for the care and treatment of the developmentally disabled or any other available residential facility approved by the director of a regional center for the developmentally disabled established under Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code as will promote the defendant's speedy restoration of mental competence, or be ordered to undergo outpatient treatment as specified in Section 1370.3 and (2) upon his becoming competent, he be redelivered to the sheriff or other person designated by the court to be returned to court where the criminal process shall resume. The court shall transmit a copy of its order to the regional center director or his designee.

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 Developmental Services, 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.

If the defendant has been charged with murder, mayhem, a violation of Section 207 or 209 in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of Section 211a, a violation of Section 447a involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) or (3) of Section 261, a violation of Section 459 in the first degree, assault with intent to commit murder, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.3, 12308, 12309, or 12310, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another

person, the court shall direct that the defendant be confined for evaluation and treatment in a state hospital or other residential facility approved by the regional center director for a minimum of 90 days before such defendant may be released on outpatient treatment pursuant to Section 1374. Prior to release on outpatient treatment, such defendant shall be returned to court for a hearing to determine whether the defendant is entitled to be admitted to bail or released upon his own recognizance.

Prior to making such order, the court shall order the regional center director or his designee to evaluate the defendant and to submit to the court within 15 judicial days of such order his written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other available residential facility approved by the regional center director.

If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the superintendent of the state hospital and the regional center director that the defendant be transferred to a residential facility approved by the regional center director, order the defendant transferred to such facility. If the defendant is committed or transferred to a residential facility approved by the regional center director, the court may, upon receiving the written recommendation of the regional center director, transfer the defendant to a state hospital or to another residential facility approved by the regional center director.

In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code.

The defendant or prosecuting attorney, if he chooses to contest either kind of order of transfer, may petition the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the regional center director or his designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the superintendent of the state hospital or other facility to which the defendant is committed or from which the defendant is placed on outpatient treatment shall make a written report to the regional center director or his designee concerning the

defendant's progress toward recovery of his mental competence which the regional center director or his designee shall immediately transmit to the court as part of the defendant's progress report. If the defendant has not recovered his mental competence, but the report discloses a substantial likelihood the defendant will regain his mental competence in the foreseeable future, he shall remain in the state hospital or other facility or on outpatient treatment. Thereafter, at six-month intervals or until the defendant becomes mentally competent, the superintendent of the hospital or person in charge of the facility shall report to the regional center director or his designee regarding the defendant's progress toward recovery of his mental competence which the regional center director or his designee shall immediately transmit to the court as part of the defendant's progress report. If the report indicates that there is no substantial likelihood that the defendant will regain his mental competence in the foreseeable future, the committing court shall order him to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the regional center director or his designee.

(2) If, after the defendant has been committed or has undergone outpatient treatment for 18 months, he is still hospitalized or on outpatient treatment pursuant to this section, he shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369. The court shall transmit a copy of its order to the regional center director or his designee.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court.

(4) The regional center director or his designee shall deliver the reports made pursuant to paragraph (1) to the committing court and shall provide a copy thereof to the defendant, his attorney of record, and any other interested person specified by the defendant.

(c) (1) If, at the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, the defendant has not recovered his mental competence, he shall be returned to the committing court. The court shall notify the regional center director or his designee of such return and of any resulting court orders.

(2) If it is found that the person is not subject to commitment or detention pursuant to the applicable provision of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or to commitment or detention pursuant to a petition filed pursuant to Section 6502 of the Welfare and Institutions Code, the individual shall not be subject to further confinement pursuant to this article and the criminal action remains subject to dismissal pursuant to Section 1385.

(d) Notwithstanding any other provision of this section, the criminal action remains subject to dismissal pursuant to Section 1385. If at any time prior to the maximum period of time allowed for proceedings under this article, the regional center director concludes that the behavior of the defendant related to the defendant's criminal offense has been eliminated during time spent in court-ordered programs, the court may, upon recommendation of the regional center director, dismiss the criminal charges.

SEC. 160. Section 2684 of the Penal Code is amended to read:

2684. If, in the opinion of the Director of Corrections, the rehabilitation of any mentally ill, mentally deficient, or insane person confined in a state prison may be expedited by treatment at any one of the state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the Director of Corrections, with the approval of the Community Release Board for persons sentenced pursuant to subdivision (b) of Section 1168, shall certify that fact to the director of the appropriate department who shall evaluate the prisoner to determine if he would benefit from care and treatment in a state hospital. If the director of the appropriate department so determines, the superintendent of the hospital shall receive the prisoner and keep him until in the opinion of the superintendent such person has been treated to such an extent that he will not benefit from further care and treatment in the state hospital.

SEC. 161. Section 17226 of the Revenue and Taxation Code is amended to read:

17226. (a) Every taxpayer at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), based on a period of 60 months. Such amortization deduction shall be an amount with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by Section 17208. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the taxable year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such

time, as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 17208 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1977, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or admission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, and

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 17208, which is identifiable as a treatment facility, and which—

(A) Is property—

(i) The construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1970, or

(ii) Acquired after December 31, 1970, if the original use of the property commences with the taxpayer and commences after such date.

In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1970.

(B) In the case of any treatment facility used in connection with any plant or other property not in operation before January 1971, the

preceding sentence shall be applied by substituting December 31, 1976, for December 31, 1970.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) (A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 17208 shall, despite the provisions of subdivision (a), be allowed with repsect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

(j) The amendments made to subdivision (d) by the 1977–78 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

SEC. 161.5. Section 19286.5 of the Revenue and Taxation Code is amended to read:

19286.5. (a) Subject to the limitations of subdivision (b) of this section and federal law, the Franchise Tax Board may permit the Director of Social Services or deputy directors to inspect the income tax returns of applicants for aid, recipients of aid, or responsible relatives, or in lieu of such inspection, the State Franchise Tax Board may provide the director or deputy directors an abstract of the income tax return requested, or supply information concerning any item of income contained in the return or disclosed by the report of any investigation of the income or return of the applicant for aid, recipient of aid or responsible relative.

(b) The right of the director or deputy directors to inspect income tax records or obtain such other information as provided in this section shall be limited to the records for the current year and the year preceding inspection of applicants or recipients of assistance under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, and the responsible relatives of such applicants or recipients. The information obtained pursuant to this section shall be used or disclosed only for the purpose of enabling the Director of Social Services or his deputy directors to verify or determine the eligibility or entitlement of an applicant for, or recipient of, public social services or the obligation of a responsible relative.

(c) The counties are authorized to request such information as provided in this section from the Director of Social Services or deputy directors. The director may release such information to the director of a county from which the applicant or recipient receives aid and such information shall be used or disclosed by the director of said county only for the purpose specified in subdivision (b).

(d) The applicant or recipient or responsible relative whose income tax records have been requested of the Franchise Tax Board shall be notified by mail that such request has been made at the time of said request.

SEC. 162. Section 24372 of the Revenue and Taxation Code is amended to read:

24372. (a) Every taxpayer at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by Section 24349. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the income year succeeding the income year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 24349 shall be allowed, beginning with the first months as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1977, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing or preventing the creation or emission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination and

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 24349, which is identifiable as a treatment facility, and which—

(A) Is property—

(i) The construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1970, or

(ii) Acquired after December 31, 1970, if the original use of the property commences with the taxpayer and commences after such date.

(B) In applying this section in the case of property described in clause (i) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1970.

(C) In the case of any treatment facility used in connection with any plant or other property not in operation before January 1971, the preceding sentence shall be applied by substituting December 31, 1976, for December 31, 1970.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) (A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 24349 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) The amendment made to subdivision (d) by the 1977–78 Legislature shall apply to income years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

SEC. 163. Section 301.1 of the Unemployment Insurance Code is repealed.

SEC. 164. Section 301.2 of the Unemployment Insurance Code is repealed.

SEC. 165. Section 301.3 of the Unemployment Insurance Code is repealed.

SEC. 166. Section 301.4 of the Unemployment Insurance Code is repealed.

SEC. 166.5. Section 305.6 of the Unemployment Insurance Code is amended to read:

305.6. All regulations heretofore adopted by the Director of Benefit Payments pursuant to this code and in effect immediately preceding the operative date of the amendment of this section enacted by the Legislature during the 1977–78 Regular Session, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Employment Development.

SEC. 167. Section 410 of the Unemployment Insurance Code is amended to read:

410. A decision of the appeals board is final, except for such action as may be taken by a judicial tribunal as permitted or required by law.

A decision of the appeals board is binding on the director with respect to the parties involved in the particular appeal.

The director shall have the right to seek judicial review from an appeals board decision irrespective of whether or not he appeared or participated in the appeal to the referee or to the appeals board.

Notwithstanding any other provision of law, the right of the director, or of any other party except as provided by Sections 1035, 1055, 1182, and 5308, to seek judicial review from an appeals board decision shall be exercised not later than six months after the date of the decision of the appeals board or the date on which the decision is designated as a precedent decision, whichever is later.

The appeals board shall attach to all of its decisions where a request for review may be taken, an explanation of the party's right to seek such review.

SEC. 168. Section 1332 of the Unemployment Insurance Code is amended to read:

1332. (a) The department may for good cause reconsider any determination within either five days after an appeal to a referee is filed or, if no appeal is filed, within 20 days after mailing or personal service of the notice of determination. The department may, if a claimant has not filed an appeal to a referee from any determination which finds that a claimant is ineligible or disqualified, for good cause also reconsider the determination during the benefit year or extended duration period or extended benefit period to which the determination relates. The department shall give notice of any reconsidered determination to the claimant and any employer or employing unit which received notice under Sections 1328 and 1331 and the claimant or employer may appeal therefrom in the manner prescribed in Section 1328.

(b) The department may for good cause reconsider any computation or recomputation provided for in this article during the benefit year or extended duration period to which the notice of computation or recomputation relates, except that no recomputation may be considered with respect to any issue considered or under consideration in an appeal taken from a denial of recomputation. The department shall promptly notify the claimant and each of the claimant's base period employers of the recomputation. The claimant and any base period employer may protest the accuracy of the recomputation as prescribed in Section 1330.

SEC. 170. Section 2627.5 of the Unemployment Insurance Code is amended to read:

2627.5. (a) If an individual, pursuant to orders of his or her physician, is confined in a hospital for at least one day, any unexpired full days of the waiting period required by subdivision (b) of Section

2627 shall be waived. This subdivision shall apply to an individual's confinement in a nursing home as defined by subdivision (c) (4) (B), but only if immediately prior to such confinement he or she was confined in a hospital (other than a nursing home) for not less than 15 consecutive days pursuant to the orders of his or her physician or confined to such nursing home by order of a physician, where such nursing home is used where an individual's disability requires immediate hospitalization and a bed is unavailable in a hospital (other than a nursing home).

(b) In addition to the certificate required by Section 2706.1, the waiver provided by this section shall be supported by a certificate stating the day an individual's confinement in a hospital commenced, and stating that the confinement was 24 hours or more in duration or that a full day's rate was charged, and signed by the registrar or other appropriate official of the hospital.

(c) As used in this section:

(1) "Confined" means a registered bed patient.

(2) "Day" means any 24-hour period of time during which the claimant is in a hospital, or any 24-hour period or any part thereof for which a hospital charges a patient a full day's rate.

(3) "Full day's rate" means the regular and customary daily charge for board and room by the hospital.

(4) "Hospital" means:

(A) Within the State of California any institution which is:

(i) Licensed by the State Department of Health Services as a general hospital, maternity hospital, tuberculosis hospital or sanitorium or specialized hospital; or

(ii) Operated as a hospital but exempt from licensing by the State Department of Health Services under subdivision (a) of Section 1270 of the Health and Safety Code; or

(iii) Operated as a mental hospital licensed by the State Department of Health Services which is primarily intended for, staffed and equipped to provide for the reception, care, diagnosis and treatment of acute mental and nervous diseases.

(B) Within the states of the United States any institution operated as a "nursing home" which is:

(i) An extended care facility as defined in subsection (j) of Section 1395x of Title 42 of the United States Code; or

(ii) Conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(C) Outside the State of California any institution in other states or foreign countries, or in the territories or possessions of any country which is:

(i) Licensed as a hospital pursuant to the statutes or laws of that state or foreign country, or a territory or possession of a country; or,

(ii) Operated pursuant to law with organized facilities for

diagnosis and surgery, and 24-hour nursing service for the care and treatment of sick and injured persons, if the state or foreign country, or the territory or possession of the country does not have statutes or laws concerning the requirements for licensing hospitals.

(D) Any institution which is operated as a hospital by the United States government or a duly authorized agency thereof.

(5) "Orders of his or her physician" means court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a practitioner duly authorized by any bona fide church, sect, denomination or organization whose principles or teachings call for dependence for healing entirely upon prayer or spiritual means or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

SEC. 171. Section 3129 of the Unemployment Insurance Code is amended to read:

3129. When the money invested under the provisions of this article for the providing and equipment of buildings or facilities has been repaid to the Disability Fund together with interest, the jurisdiction and control of any such buildings or facilities, and the operation and management thereof, shall vest in the Department of General Services, but the department shall have priority to occupy any space within such buildings or facilities at rental rates not exceeding the cost of providing maintenance and other services.

SEC. 172. Section 3265 of the Unemployment Insurance Code is amended to read:

3265. (a) If, on appeal, it is decided that an employee is entitled to receive disability benefits under an approved voluntary plan and the employer or insurer fails to pay the same within 15 days after notice of a decision by a referee or the appeals board, the director shall pay such benefits and shall assess the amount thereof against the employer or the insurer, and the provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of such benefit payments. Amounts so collected shall be deposited in the Disability Fund.

(b) If an approved voluntary plan is not terminated because of the enactment of any law increasing the benefit amounts provided by Sections 2653 and 2655, and the employer or insurer fails to pay such increase under the plan, the director shall pay such benefits to an employee, if otherwise eligible, and shall assess the amount thereof against the employer or the insurer and the provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this

division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to the recovery of such benefit payments. Amounts so collected shall be deposited in the Disability Fund.

SEC. 173. Section 2512 of the Vehicle Code is amended to read:

2512. (a) The commissioner, after consultation with, and pursuant to the recommendations of, the State Department of Health Services and the Department of Motor Vehicles, shall adopt and enforce such reasonable regulations as he determines are necessary for the public health and safety regarding the operation, equipment, and certification of drivers of all ambulances used for emergency services. Such regulations shall not conflict with standards established by the State Department of Health Services pursuant to subdivision (f) of Section 1760 of the Health and Safety Code. The commissioner shall exempt, upon request of the county board of supervisors that such exemption is necessary for public health and safety, noncommercial ambulances operated within the county from such regulations adopted under this section as are specified in the board of supervisors' request. The State Department of Health Services shall be notified by the county boards of supervisors of any such exemptions. The commissioner may, with the consent of the Director of Motor Vehicles, authorize the director to administer any regulations adopted pursuant to this section which relate to the issuance, suspension, or revocation of ambulance drivers' certificates and, in such administration, to exercise the powers granted to the commissioner by this section.

(b) This section shall not preclude the adoption of more restrictive regulations by local authorities, but it is the intent of the Legislature that regulations adopted by the commissioner pursuant to this section shall be the minimum necessary to protect public health and safety, and shall not be so restrictive as to preclude compliance by ambulances operated in sparsely populated areas. The provisions of this subdivision shall not relieve the owner or driver of any ambulance from compliance with Section 21055.

SEC. 174. Section 12522 of the Vehicle Code is amended to read:

12522. (a) Every person who operates a schoolbus in the transportation of school pupils shall, in addition to any other requirement for a schoolbus driver's certificate, qualify by an examination on first aid practices deemed necessary for schoolbus operators as determined and prescribed by the State Department of Health Services after consultation with the Departments of Education, Motor Vehicles, and California Highway Patrol. The local school authority employing the applicant shall provide a course of instruction concerning necessary first aid practices.

(b) The California Highway Patrol shall conduct the first aid examination as part of the examination of applicants for a schoolbus driver's certificate and shall certify to the Department of Motor Vehicles that the applicant has satisfactorily demonstrated his

qualifications in first aid practices, knowledge of schoolbus laws and regulations, and ability to operate a schoolbus. The first aid certifications shall be valid for the term of the schoolbus driver's certificate.

(c) The first aid examination may be waived if the applicant holds a first aid certificate issued by the American Red Cross or United States Bureau of Mines that will remain valid throughout the term of the schoolbus driver's certificate.

(d) No person shall be denied a schoolbus driver's certificate if he is in the process of completing a first aid course which will satisfy the requirements of this section. If the course or examination given pursuant to this section is not satisfactorily completed within 90 days from the issuance of the certificate, the certificate becomes invalid on the 91st day after the date of issuance.

SEC. 174.5. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) The department may not suspend or revoke, pursuant to subdivision (a), (c), or (e) of Section 13352 or any other provision of law, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person was driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, if the court has certified to the department that such person has consented to participate for at least one year, and is participating, in a manner satisfactory to the court, in a public or private program for the supervision of such persons and the treatment of their problem drinking or alcoholism pursuant to the provisions of Article 5 (commencing with Section 11850) of Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code.

(b) All abstracts of record showing such a conviction that are forwarded to the department pursuant to Section 1803 shall indicate whether the person convicted has consented to participate, and is participating, in such a program.

SEC. 174.6. Section 23102.1 of the Vehicle Code is amended to read:

23102.1. Notwithstanding the requirements of subdivision (e) of Section 23102, the court may suspend execution of the sentence, as to the imprisonment of any person convicted for a second offense under Section 23102 if the person has consented to participate, for at least one year and in a manner satisfactory to the court, in a program approved pursuant to Article 5 (commencing with Section 11850) of Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code and the court has referred the person to such a program. If at any time the person is found by the court to have failed to comply with the rules and regulations of the program or does not successfully complete the program, the court shall revoke such suspension or shall revoke and terminate probation, or both, and shall proceed in the manner provided in subdivision (c) of Section 1203.2 of the Penal Code.

SEC. 175. Section 303 of the Welfare and Institutions Code is amended to read:

303. (a) Each year the State Department of Social Services 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 of each of the following, on a statewide basis, as it deems appropriate:

(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 concurrently with submission of the report required by Section 29 of Chapter 977 of the Statutes of 1976. If the department excludes any of the information required herein, it shall explain why it was not included, whether it believes it is appropriate to include such information, and an estimate of any costs to the state or counties for the collection of such information.

(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 10850.

(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. 176. Section 362 of the Welfare and Institutions Code is amended 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 2 (commencing with Section 1250) or 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 Social Services, 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. 177. Section 362.5 of the Welfare and Institutions Code is amended to read:

362.5. When a minor is adjudged a dependent child of the juvenile court of a demonstration county, on the ground that he is a person described by Section 300 or 302, 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 social worker in a county welfare department of a demonstration county designated pursuant to Section 272 or, if the minor is removed from the custody of his parents or guardians pursuant to Section 361.5, the court 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 or social worker, to be boarded out or placed in some suitable family home or suitable private institution, subject to the requirements of Chapter 2 (commencing with Section 1250) or 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 Social Services, the placement of a minor in a home certified as meeting minimum standards for boarding homes by the probation officer or social worker 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 or social worker, the parent or guardian may be required, and may be ordered, to participate in a counseling program 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 or social worker, the parent or guardian shall be required to participate in a counseling program designated by the court.

SEC. 177.5. Section 727 of the Welfare and Institutions Code is amended to read:

727. (a) 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.

(b) 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 (a).

SEC. 178. Section 1756 of the Welfare and Institutions Code is amended to read:

1756. Notwithstanding any other provision of law, if, in the opinion of the Director of the Youth Authority, the rehabilitation of any mentally disordered, or developmentally disabled person confined in a state correctional school may be expedited by treatment at one of the state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services the Director of the Youth Authority shall certify that fact to the director of the appropriate department who may authorize receipt of such person at one of such hospitals for care and treatment. Upon notification from such director that the person will no longer benefit from further care and treatment in the state hospital, the Director of the Youth Authority will immediately send for, take and receive the person back into a state correctional school. Any person placed in a state hospital under this section who is committed to the authority shall be released from the hospital upon termination of his commitment unless a petition for detention of such person is filed under the provisions of Part 1 (commencing with Section 5000) of Division 5.

SEC. 178.5. Section 4005.4 of the Welfare and Institutions Code is amended to read:

4005.4. All regulations heretofore adopted by the State Department of Health pursuant to authority now vested in the State Department of Mental Health by Section 4005.1 and in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Mental Health.

SEC. 179. Section 4006 of the Welfare and Institutions Code is amended to read:

4006. With the approval of the Department of Finance and for use in the furtherance of the work of the State Department of Mental Health, the director may accept any or all of the following:

(a) Grants of interest in real property.

(b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.

(c) Gifts of money from public agencies or from persons, organizations, or associations interested in scientific, educational,

charitable, or mental hygiene fields.

SEC. 180. Section 4021 of the Welfare and Institutions Code is amended to read:

4021. When the department has reason to believe that any person held in custody as mentally disordered is wrongfully deprived of his liberty, or is cruelly or negligently treated, or that inadequate provision is made for the skillful medical care, proper supervision, and safekeeping of any such person, it may ascertain the facts. It may issue compulsory process for the attendance of witnesses and the production of papers, and may exercise the powers conferred upon a referee in a superior court. It may make such orders for the care and treatment of such person as it deems proper.

Whenever the department undertakes an investigation into the general management and administration of any establishment or place of detention for the mentally disordered, it may give notice of such investigation to the Attorney General, who shall appear personally or by deputy, to examine witnesses in attendance and to assist the department in the exercise of the powers conferred upon it in this code.

SEC. 181. Section 4100.5 is added to the Welfare and Institutions Code, to read:

4100.5. The department may contract with the State Department of Developmental Services to provide services to persons with mental disorders in state hospitals under the jurisdiction of the State Department of Developmental Services.

SEC. 182. Section 4106 of the Welfare and Institutions Code is amended and renumbered to read:

4445.5. The Director of General Services shall grant to the County of San Bernardino under such terms, conditions, and restrictions as he deems to be for the best interests of the state, the necessary easements and rights-of-way for all purposes of a public road on the Patton State Hospital property. The right-of-way shall be across, along, and upon the following described property:

The east 40 feet of the east one-half of the northwest one-quarter of Section 32, Township 1 North, Range 3 West, San Bernardino Base and Meridian, in the County of San Bernardino, State of California.

SEC. 183. Section 4106.1 of the Welfare and Institutions Code is amended and renumbered to read:

4445.6. The Director of General Services may sell, to the City of San Bernardino, under such terms, conditions and restrictions as he deems to be for the best interests of the state, the following described property on the site of the Patton State Hospital:

Beginning at a point in the centerline of Highland Avenue, which point is Westerly thereon a distance of 246.15 feet from the intersection of said centerline with the centerline of Orange Street; thence North 89° 43' 01" East along said centerline of Highland Avenue, a distance of 246.15 feet to the centerline of said Orange Street; thence North 00° 21' 29" West along said centerline of Orange Street, a distance of 460.60 feet; thence North 82° 29' 49" West, a

distance of 186.86 feet; thence South 63° 18' 31" West, a distance of 68.21 feet; thence Southerly in a straight line a distance of 455.50 feet, more or less, to the point of beginning, containing 91,476 square feet (2.1 acres), more or less.

Any cost or expenses incurred in the disposition of such property shall be reimbursed from the proceeds of such disposition. The balance of any moneys received from the disposition of such property shall be paid into the General Fund.

SEC. 184. Section 4119 of the Welfare and Institutions Code is amended to read:

4119. The State Department of Mental Health shall investigate and examine all nonresident persons judicially committed to any state hospital for the mentally disordered and shall cause such persons, when found to be nonresidents as defined in this chapter, to be promptly and humanely returned under proper supervision to the states in which they have legal residence. The department may defer such action by reason of a patient's medical condition.

For the purpose of facilitating the prompt and humane return of such persons the State Department of Mental Health may enter into reciprocal agreements with the proper boards, commissions, or officers of other states or political subdivision thereof for the mutual exchange or return of such persons judicially committed to any state hospital in one state whose legal residence is in the other, and it may in such reciprocal agreements vary the period of residence as defined in this chapter to meet the requirements or laws of the other states.

The department may give written permission for the return of any resident of this state confined in a public institution in another state, corresponding to any state hospital for the mentally disordered of this state. When a resident is returned to this state pursuant to this chapter, he may be admitted as a voluntary patient to any institution of the department as designated by the Director of Mental Health. If he is mentally disordered and is a danger to himself or others or he is gravely disabled, he may be detained and given care and services in accordance with the provisions of Part 1 (commencing with Section 5000) of Division 5, or, if he is a person subject to judicial commitment, he may be committed in accordance with the law.

SEC. 185. Section 4120 of the Welfare and Institutions Code is amended to read:

4120. Except as otherwise provided in this section in determining residence for purposes of being entitled to hospitalization in this state and for purposes of returning patients to the states of their residence, an adult person who has lived continuously in this state for a period of one year and who has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state shall be deemed to be a resident of this state. Except as otherwise provided in this section a minor is entitled to hospitalization in this state if the parent or guardian having custody of the minor has lived continuously in this state for a period

of one year and has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state. Such parent or guardian shall be deemed a resident of this state for the purposes of this section, and such minor shall be eligible for hospitalization in this state as a mentally disordered person. The eligibility of such minor for hospitalization in this state ceases when such parent or guardian ceases to be a resident of this state and such minor shall be transferred to the state of residence of the parent or guardian in accordance with the applicable provisions of this code. Time spent in a public institution for the care of the mentally disordered or developmentally disabled or on leave of absence therefrom shall not be counted in determining the matter of residence in this or another state.

Residence acquired in this or in another state shall not be lost by reason of military service in the armed forces of the United States.

SEC. 186. Section 4126 of the Welfare and Institutions Code is amended to read:

4126. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Mental Health dies, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative all money and other personal property of such decedent remaining in the custody or possession of the superintendent thereof shall be held by him for a period of one year from the date of death of the decedent, for the benefit of the heirs, legatees, or successors in interest of such decedent.

Upon the expiration of said one-year period, any money remaining unclaimed in the custody or possession of the superintendent shall be delivered by him to the State Treasurer for deposit in the Unclaimed Property Fund under the provision of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of said one-year period, all personal property and documents of the decedent, other than cash, remaining unclaimed in the custody or possession of the superintendent, shall be disposed of as follows:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of the decedent;

(b) All other personal property shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale delivered by him to the State Treasurer in the same manner as is herein provided with respect to unclaimed money of the decedent. If he deems it expedient to do so, the superintendent may accumulate the property of several decedents and sell the property in such lots as he may determine, provided that he makes a determination as to each decedent's share of the proceeds;

(c) If any personal property of the decedent is not salable at public

auction, or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify the deposit of such property in the State Treasury, the superintendent may order it destroyed;

(d) All other unclaimed personal property of the decedent not disposed of as provided in paragraph (a), (b), or (c) hereof, shall be delivered by the superintendent to the State Controller for deposit in the State Treasury under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

SEC. 187. Section 4127 of the Welfare and Institutions Code is amended to read:

4127. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Mental Health escapes, or is discharged or is on leave of absence from such institution, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative, all money and other intangible personal property of such patient, other than deeds, contracts, or assignments, remaining in the custody or possession of the superintendent thereof shall be held by him for a period of seven years from the date of such escape, discharge, or leave of absence, for the benefit of such patient or his successors in interest; provided, however, that unclaimed personal funds or property of minors on leave of absence may be exempted from the provisions of this section during the period of their minority and for a period of one year thereafter, at the discretion of the Director of Mental Health.

Upon the expiration of said seven-year period, any money and other intangible property, other than deeds, contracts, or assignments, remaining unclaimed in the custody or possession of the superintendent shall be subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of one year from the date of such escape, discharge or parole:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of such patient.

(b) All tangible personal property other than money, remaining unclaimed in his custody or possession, shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him subject to the provisions of Section 4125 of this code, and subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. If he deems it expedient to do so, the superintendent may accumulate the property of several patients and may seal the property in such lots as he may determine, provided that he makes a determination as to each patient's share of the proceeds.

If any tangible personal property covered by this section is not salable at public auction or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify its retention by the superintendent to be offered for sale at public auction or upon a sealed-bid basis at a later date, the superintendent may order it destroyed.

SEC. 188. Section 4136 of the Welfare and Institutions Code is amended to read:

4136. Each patient in a state hospital for the mentally disordered who has resided in the state hospital for a period of at least 30 days shall be paid an amount of aid for his personal and incidental needs which when added to his income equals twelve dollars and fifty cents ($12.50) per month.

SEC. 189. Section 4315 of the Welfare and Institutions Code, as added by Chapter 72 of the Statutes of 1977, is amended and renumbered to read:

4319. To assure a continuous level of competency for all state hospital treatment personnel under the jurisdiction of the State Department of Mental Health, the department shall provide adequate in-service training programs for such state hospital treatment personnel.

SEC. 190. Section 4316 of the Welfare and Institutions Code, as added by Chapter 72 of the Statutes of 1977, is amended and renumbered to read:

4320. To assure an adequate supply of licensed psychiatric technicians for state hospitals for the mentally disordered, the State Department of Mental Health, to the extent necessary, shall establish in state hospitals for the mentally disordered a course of study and training equivalent, as determined by the Board of Vocational Nurse and Psychiatric Technician Examiners, to the minimum requirements of an accredited program for psychiatric technicians in the state. No unlicensed psychiatric technician trainee shall be permitted to perform the duties of a licensed psychiatric technician as provided by Section 4502 of the Business and Professions Code unless such trainee performs such duties pursuant to a plan of supervision approved by the Board of Vocational Nurse and Psychiatric Technician Examiners as part of the equivalency trainee program. This section shall not be construed to reduce the effort presently expended by the community college system or private colleges in training psychiatric technicians.

SEC. 191. Section 4409 of the Welfare and Institutions Code is amended to read:

4409. All regulations heretofore adopted by the State Department of Health pursuant to authority now vested in the State Department of Developmental Services by Section 4406 and in effect immediately preceding the operative date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Developmental Services.

SEC. 192. Section 4446.5 of the Welfare and Institutions Code, as amended and renumbered by Chapter 1252 of the Statutes of 1977, is amended to read:

4446.5. Notwithstanding the provisions of Section 4444, the Director of General Services, with the consent of the State Department of Developmental Services, may grant to the County of Napa a right-of-way for public road purposes over the northerly portion of the Napa State Hospital lands for the widening of Imola Avenue between Penny Lane and Fourth Avenue, upon such terms and conditions as the Director of General Services may deem for the best interests of the state.

SEC. 193. Section 4449 of the Welfare and Institutions Code is amended to read:

4449. The State Department of Developmental Services has general control and direction of the property and concerns of each state hospital specified in Section 4440. The department shall:

(a) Take care of the interests of the hospital, and see that its purpose and its bylaws, rules, and regulations are carried into effect, according to law.

(b) Establish such bylaws, rules, and regulations as it deems necessary and expedient for regulating the duties of officers and employees of the hospital, and for its internal government, discipline, and management.

(c) Maintain an effective inspection of the hospital.

SEC. 194. Section 4456 of the Welfare and Institutions Code is amended to read:

4456. The department may establish and supervise under its rules and regulations training schools or courses for employees of the department or of state institutions under its jurisdiction.

SEC. 195. Section 4460 of the Welfare and Institutions Code is amended to read:

4460. In order to be entitled to hospitalization in this state, an adult developmentally disabled person or the parent or guardian of a developmentally disabled minor shall be a state resident. Residence acquired in this or in another state shall not be lost by reason of military service in the armed forces of the United States.

SEC. 196. Section 4472 of the Welfare and Institutions Code is amended to read:

4472. The state hospitals under the jurisdiction of the State Department of Developmental Services shall comply with the provisions contained in the California Food Sanitation Act, Article 1 (commencing with Section 28280) of Chapter 7 of Division 21 of the Health and Safety Code.

The state hospitals under the jurisdiction of the State Department of Developmental Services shall also comply with the provisions contained in the California Restaurant Act, Chapter 11 (commencing with Section 28520) of Division 21 of the Health and Safety Code.

Sanitation, health and hygiene standards which have been adopted

by a city, county, or city and county which are more strict than those of the California Restaurant Act or the California Food Sanitation Act shall not be applicable to state hospitals which are under the jurisdiction of the State Department of Developmental Services.

SEC. 197. Section 4473 is added to the Welfare and Institutions Code, to read:

4473. Each patient in a state hospital for the developmentally disabled who has resided in the state hospital for a period of at least 30 days shall be paid an amount of aid for his personal and incidental needs which when added to his income equals twelve dollars and fifty cents ($12.50) per month.

SEC. 198. Section 4488 of the Welfare and Institutions Code is amended to read:

4488. As often as a vacancy occurs in a hospital under the jurisdiction of the Director of Developmental Services, he shall appoint, as provided in Section 4481, a clinical director, a hospital administrator, a hospital director, a medical program director, and program directors.

A hospital administrator shall be a college graduate preferably with an advanced degree in hospital, business or public administration and shall have had experience in this area. He shall receive a salary which is competitive with other private and public hospital administrators.

A clinical director for a state hospital for the developmentally disabled shall be a person who is a physician, psychologist, registered nurse, clinical social worker, physical therapist or psychiatric technician, and licensed as such pursuant to the Business and Professions Code. The clinical director for any state hospital shall be well qualified by training or experience to have proven skills in programs for the developmentally disabled.

The hospital director shall be either the hospital administrator or the clinical director. He shall be selected based on his overall knowledge of the hospital, its programs, and its relationship to its community, and on his demonstrated abilities to administer a large facility.

The standards for the professional qualifications of a program director shall be established by the Director of Developmental Services for each patient program. The director shall not adopt any regulations which prohibit a licensed psychiatrist, psychologist, psychiatric technician, or clinical social worker from employment in a patient program in any professional, administrative, or technical position; provided, however, that the program director of a medical-surgical unit shall be a licensed physician.

If the program director is not a physician, a physician shall be available to assume responsibility for all those acts of diagnosis, treatment, or prescribing or ordering of drugs which may only be performed by a licensed physician.

A medical program director for a state hospital for the developmentally disabled shall be a physician who has passed, or

shall pass, an examination for a license to practice medicine in California and who shall be a qualified specialist in a branch of medicine which includes diseases affecting the brain and nervous system, and the care, treatment, and habilitation of the developmentally disabled.

SEC. 199. Section 4498 of the Welfare and Institutions Code is repealed.

SEC. 200. Section 4498 is added to the Welfare and Institutions Code, to read:

4498. To assure a continuous level of competency for all state hospital treatment personnel under the jurisdiction of the State Department of Developmental Services, the department shall provide adequate in-service training programs for such state hospital treatment personnel.

SEC. 201. Section 4499 is added to the Welfare and Institutions Code, to read:

4499. To assure an adequate supply of licensed psychiatric technicians for state hospitals for the developmentally disabled, the State Department of Developmental Services, to the extent necessary, shall establish in state hospitals for the developmentally disabled a course of study and training equivalent, as determined by the Board of Vocational Nurse and Psychiatric Technician Examiners, to the minimum requirements of an accredited program for psychiatric technicians in the state. No unlicensed psychiatric technician trainee shall be permitted to perform the duties of a licensed psychiatric technician as provided by Section 4502 of the Business and Professions Code unless such trainee performs such duties pursuant to a plan of supervision approved by the Board of Vocational Nurse and Psychiatric Technician Examiners as part of the equivalency trainee program. This section shall not be construed to reduce the effort presently expended by the community college system or private colleges in training psychiatric technicians.

SEC. 201.1. Section 4510 of the Welfare and Institutions Code is repealed.

SEC. 201.2. Section 4511 of the Welfare and Institutions Code is repealed.

SEC. 201.3. Section 4656 is added to the Welfare and Institutions Code, to read:

4656. (a) A qualified physician and surgeon who diagnoses a developmental disability, as defined in subdivision (a) of Section 4512, of a patient who is a minor shall attempt to determine from the patient, the parents or guardian of the patient, or the regional center for the area whether such person has been previously referred to the regional center for the area. If the patient has not been previously referred to the regional center, the physician and surgeon shall inform a parent or the guardian of the patient of the existence of the regional center for the area, its address and telephone number, and shall describe to such person the services available through the regional center, and shall, upon request of the parent or guardian of

the patient, refer in writing the patient through his parent or guardian to the regional center. Upon obtaining the consent of the patient's parent or guardian, the physician and surgeon shall notify the regional center of such referral.

For the purposes of this section, "qualified physician and surgeon" means those physicians and surgeons who have recognized and accredited training and a specialized pediatric practice in childhood disabilities.

(b) Each regional center shall maintain a record of every developmentally disabled person under the age of 18 years known by the regional center to have been referred to it for its services, whether nor not services are actually provided.

(c) The state department shall transmit a copy of this section and of subdivision (a) of Section 4512 to every physician and surgeon licensed to practice in this state and every general acute care hosptial licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. A list of the name and address of each regional center and such other pertinent information as the state department deems appropriate shall also be transmitted, both in English and Spanish.

(d) It is not the intent of the Legislature in enacting this section to prevent any physician and surgeon subject to subdivision (a) from providing care or treatment to a developmentally disabled minor or to deprive developmentally disabled minors of adequate care provided through sources other than a regional center.

SEC. 201.4. Section 4681 of the Welfare and Institutions Code is amended to read:

4681. By July 1, 1977, and each year thereafter, the department shall establish rates, which shall be reviewed by the state council. Such rates shall annually be proposed to the Legislature by March 1 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 department shall 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 furnishing), food, 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 department using the best available estimating methods.

(b) Rates established for all facilites 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 person 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 individual program plan developed pursuant to Section 4646 shall determine the amount of "direct supervision" required for each individual. 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 rates 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, taxes, interest, insurance depreciation, 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."

(g) Rates established for all facilities shall include as a "factor" an amount to reflect differences in the cost of living for different geographic areas in the state.

SEC. 201.5. Section 4681.2 is added to the Welfare and Institutions Code, to read:

4681.2. The Legislative Analyst shall conduct a study of the feasibility of establishing an independent rate-setting commission responsible for the establishment of rates and fees for community care facilities as defined in Section 1502 of the Health and Safety Code, and health facilities, as defined in Section 1250 of the Health and Safety Code, for developmentally disabled persons and report thereon to the Legislature no later than March 1, 1978. The study shall evaluate the feasibility of adopting a system similar to the rate-setting system for public utilities in California.

SEC. 201.6. Section 4825 of the Welfare and Institutions Code is amended to read:

4825. This chapter shall not be construed to terminate any appointment of the State Department of Mental Health as guardian of a developmentally disabled person prior to July 1, 1971.

It is the intent of this section that the Director of Developmental Services 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) Chapter 2, Part 1, Division 1 of the Health and Safety Code.

Notwithstanding Section 6000, 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 4563 and 4803. 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 4566, any adult developmentally disabled person who is competent to do so may apply for and receive any services provided by a regional center.

SEC. 202. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis;

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section

5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of this part;

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of this code, or under Title XVIII of the Federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation;

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. Such services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle Programs or other local agencies.

Each agency or facililty providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. Such files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals;

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services;

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; and interview with the petitioner and, whenever possible,

the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part;

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350) of this part;

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his basic personal needs for food, clothing, or shelter; or

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him and to assist counsel in the conduct of his defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his basic personal needs for food, clothing, or shelter.

A person of any age may be "gravely disabled" under this definition, but the term does not include mentally retarded persons;

(i) "Peace officer" means each of the persons specified in Sections 830.1 and 830.2 of the Penal Code;

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of this part;

(k) "Court," unless otherwise specified, means a court of record or a justice court.

SEC. 203. Section 5008.1 of the Welfare and Institutions Code is amended to read:

5008.1. As used in this division and in Division 4 (commencing with Section 4001), Division 4.1 (commencing with Section 4400), Division 6 (commencing with Section 6000), Division 7

(commencing with Section 7000), and Division 8 (commencing with Section 8000), the term "judicially committed" means all of the following:

(a) Persons who are mentally disordered sex offenders placed in a state hospital or institutional unit for observation or committed to the State Department of Mental Health pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6.

(b) Developmentally disabled persons who are admitted to a state hospital upon application or who are committed to the State Department of Developmental Services by court order pursuant to Article 5 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6.

(c) Persons committed to the State Department of Mental Health or a state hospital pursuant to the Penal Code.

SEC. 204. Section 5170 of the Welfare and Institutions Code is amended to read:

5170. When any person is a danger to others, or to himself, or gravely disabled as a result of inebriation, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, or other person designated by the county may, upon reasonable cause, take, or cause to be taken, the person into civil protective custody and place him in a facility designated by the county and approved by the State Department of Alcohol and Drug Abuse as a facility for 72-hour treatment and evaluation of inebriates.

SEC. 205. Section 5174 of the Welfare and Institutions Code is amended to read:

5174. It is the intent of the Legislature (a) that facilities for 72-hour treatment and evaluation of inebriates be subject to state funding under Part 2 (commencing with Section 5600) of this division only if they provide screening, evaluation and referral services and have available medical services in the facility or by referral agreement with an appropriate medical facility, and would normally be considered an integral part of a community health program; (b) that state reimbursement under Part 2 (commencing with Section 5600) for such 72-hour facilities and intensive treatment facilities, under this article shall not be included as priority funding as are reimbursements for other county expenditures under this part for involuntary treatment services, but may be provided on the basis of new and expanded services if funds for new and expanded services are available; that while facilities receiving funds from other sources may, if eligible for funding under this division, be designated as 72-hour facilities, or intensive treatment facilities for the purposes of this article, funding of such facilities under this division shall not be substituted for such previous funding.

No 72-hour facility, or intensive treatment facility for the purposes of this article shall be eligible for funding under Part 2 (commencing with Section 5600) of this division until approved by the Director of

Alcohol and Drug Abuse in accordance with standards established by the State Department of Alcohol and Drug Abuse in regulations adopted pursuant to this part. To the maximum extent possible, each county shall utilize services provided for inebriates and persons impaired by chronic alcoholism by federal and other funds presently used for such services, including federal and other funds made available to the State Department of Rehabilitation and the State Department of Alcohol and Drug Abuse. McAteer funds shall not be utilized for the purposes of the 72-hour involuntary holding program as outlined in this chapter.

SEC. 206. 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 for psychiatric evaluation or treatment 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 the predominant languages of the community and explained in a language or modality accessible to the patient in all facilities providing such services and otherwise brought to his attention by such additional means as the Director of Mental 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 or to have such calls made for them.

(e) To have ready access to letterwriting 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, actions, 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, actions, or behavior.

Psychosurgery does not include prefrontal sonic treatment wherein there is no destruction of brain tissue. The Director of Mental Health shall promulgate appropriate regulations to assure adequate protection of patients' rights in such treatment.

(h) Other rights, as specified by regulation.

Each patient shall also be given notification in a language or modality accessible to the patient of other constitutional and statutory rights which are found by the State Department of Mental Health to be frequently misunderstood, ignored, or denied.

Upon admission to a facility each patient shall immediately be given a copy of a State Department of Mental Health prepared patients' rights handbook.

The State Department of Mental Health shall prepare and provide the forms specified in this section and in Section 5157.

SEC. 207. Section 5326.9 of the Welfare and Institutions Code is amended 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 Mental Health, who shall investigate and report each such alleged or suspected violation and the results of the investigation to the Board of Medical Quality Assurance. 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. 209. Section 5329 of the Welfare and Institutions Code is amended to read:

5329. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards set by the Director of Mental Health or the Director of Developmental Services.

SEC. 209.5. Section 5352.5 of the Welfare and Institutions Code is amended to read:

5352.5. Conservatorship proceedings may be initiated for any person committed to a state hospital or local mental health facility or placed on outpatient treatment pursuant to Section 1026 or 1370 of the Penal Code or transferred pursuant to Section 4011.6 of the

Penal Code upon recommendation of the medical director of the state hospital, or his designee, or professional person in charge of the local mental health facility, or his designee, or the local mental health director, or his designee, to the conservatorship investigator of the county of residence of the person prior to his admission to the hospital or facility or of the county in which the hospital or facility is located. The initiation of conservatorship proceedings or the existence of a conservatorship shall not affect any pending criminal proceedings.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person convicted of a felony who has been transferred to a state hospital under the jurisdiction of the State Department of Mental Health pursuant to Section 2684 of the Penal Code by the recommendation of the superintendent of the state hospital to the conservatorship investigator of the county of residence of the person or of the county in which the state hospital is located.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person committed to the Youth Authority, or on parole from a facility of the Youth Authority, by the Director of the Department of the Youth Authority or his designee, to the conservatorship investigator of the county of residence of such person or of the county in which such facility is situated.

The county mental health program providing conservatorship investigation services and conservatorship case management services for any such persons except those transferred pursuant to Section 4011.6 of the Penal Code shall be reimbursed for the expenditures made by it for such services pursuant to the Short-Doyle Act (commencing with Section 5600) at 100 percent of such expenditures. Each county Short-Doyle plan shall include provision for such services in the plan.

SEC. 209.6. Section 5402.1 of the Welfare and Institutions Code is amended to read:

5402.1. The Director of Mental Health shall conduct a study in order to compare the relative cost of treatment, the duration of treatment, and the efficacy of treatment, including the effect of treatment on subsequent criminal behavior, between those patients committed to state hospitals and those patients committed to other facilities or placed on outpatient treatment pursuant to Sections 1026, 1026.1, 1370, 1370.3 of the Penal Code and Section 6316 of the Welfare and Institutions Code. The director shall report his findings to the Legislature by July 1, 1979, and shall submit progress reports on January 15, 1978, and January 1, 1979. The Department of Justice shall furnish criminal offender record information to the director for the purposes of this study.

SEC. 210. Section 5604 of the Welfare and Institutions Code is amended to read:

5604. (a) Each community mental health service shall have an advisory board of 17 members appointed by the governing body

except that such boards in counties with a population of less than 100,000 may have a minimum of 11 members. One member of the advisory board shall be the chairman of the local governing body. Not less than 51 percent of the members of the advisory board shall be persons representative of the public interest in mental health; provided, however, that not less than one-half of the members representing the public interest shall be persons or the parents, spouse, or adult children of persons, who have received mental health services. The advisory board shall contain two physicians, one of whom shall specialize in psychiatry, and the remaining members shall be selected from among the following disciplines: psychology, social work, nursing, education, marriage and family counseling, psychiatric technology, criminal justice, hospital or community mental health facility administration, and fiscal management. For members not representing the public interest, the governing body shall appoint persons representing different disciplines. The governing body may designate a person of its choice who does not qualify as a professional member under this section to serve instead of the chairman as a member of the advisory board.

(b) The term of each member of the board shall be for three years; provided, however, that of the members first appointed to a board with 17 members, six shall be appointed for one year, six for a term of two years, and five for a term of three years. For members appointed to boards of less than 17 members, the governing body shall equitably stagger the appointments so that approximately one-third of the appointments shall be for one year, one-third for two years, and one-third for three years. For the members first appointed as a result of the amendment to this section by the 1975–76 Regular Session of the Legislature, one-third shall be for a term of one year, one-third for a term of two years, and one-third for a term of three years. If, however, prior to the expiration of such term a member ceases to retain the status which qualified the person for appointment on the board, the membership on the board shall terminate and there shall be a vacancy on the board.

(c) If two local agencies jointly establish a community health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the advisory board for such community mental health service shall consist of an additional two members, one of whom shall be the chairman of the second governing body or a person who does not qualify as a professional member under this section designated by the second governing body and the second of whom shall be an additional person or a parent, spouse, or adult child of a person who has received mental health services.

(d) No member of the advisory board or his or her spouse shall be a full-time or part-time county employee of the county mental health service, an employee of the State Department of Mental Health, or an employee of a Short-Doyle contract facility.

(e) If it is not possible to secure membership as specified from

among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of Mental Health, or on the staff of a Short-Doyle contract facility.

SEC. 211. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The county Short-Doyle plan shall include the following:

(a) A description of the persons to be served. This shall include the number of persons to be served in each of the following target groups: general mental disorder, children and adolescents, drug abuse, and developmentally disabled. Each target group shall be further categorized by age groups.

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the state, county, and private resources providing the services, the cost of each comprehensive program, and the cost of each major program element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services. The drug abuse component of the plan shall also include but not be limited to, elements relating to prevention, detoxification, treatment and referral services, rehabilitation, and coordination of programs and other community services.

(d) A three-year projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the three-year projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year. This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part.

The State Department of Mental Health shall provide the counties, to the extent possible, the information upon which to base this estimate.

No mentally disordered person shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A detailed description of the methodology to be used by the county for evaluating the results of the programs and services being provided for each target group. This methodology shall permit program evaluation including the relative cost and effectiveness of alternative forms and patterns of services.

(i) A description of the procedures used to insure citizen and professional involvement at all stages of the planning process leading to the formulation and adoption of the county Short-Doyle plan. Such procedures shall be reviewed and approved by the local mental health advisory board.

SEC. 212. Section 5652 of the Welfare and Institutions Code is amended to read:

5652. When the county Short-Doyle plan is submitted to the Director of the State Department of Mental Health it shall be accompanied by a document indicating the plan has been reviewed by the local mental health advisory board. If, pursuant to subdivision (b) of Section 5606.5, the drug program portion of the county Short-Doyle plan has been reviewed by the advisory committee on drug abuse in lieu of the mandated review of the local mental health advisory board, the document shall so indicate.

SEC. 213. Section 5702 of the Welfare and Institutions Code is amended to read:

5702. The department shall continue to receive separate appropriations for central office functions, research and training functions, and state hospital services for the developmentally disabled and the judicially committed.

SEC. 214. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto; provided, however, that such standards, rules and regulations shall be adopted only after consultation with both the Citizens Advisory Council and the California Conference of Local Mental Health Directors. Adoption of such standards, rules and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session.

If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the department for its approval, the department may submit such standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the Citizens Advisory Council, and a member designated by the State Advisory Health Council.

SEC. 215. Section 5755.5 of the Welfare and Institutions Code is amended to read:

5755.5. The three-year state plan for community mental health services pursuant to Section 5755 shall include a detailed analysis of the alternatives being considered in terms of projected future hospital closures.

SEC. 216. Section 5764 of the Welfare and Institutions Code is amended to read:

5764. The Citizens Advisory Council shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter including, but not limited to the following:

(a) To advise the Director of Mental Health on the development of the state three-year mental health plan and the system of priorities contained in that plan.

(b) To periodically review all mental health services in California, conducting independent investigations and studies as necessary. The Citizens Advisory Council may prepare such reports as necessary to the Governor, the Legislature, and the Director of Mental Health, and the State Advisory Health Council.

(c) To suggest rules, regulations and standards for the administration of this division.

(d) To encourage, whenever necessary and possible the coordination on a regional basis of community mental health resources, with the purpose of avoiding duplication and fragmentation of services.

(e) To mediate disputes between counties and the state arising under this part.

(f) To employ such administrative, technical and other personnel as may be necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(g) To fix the salaries of the personnel employed pursuant to this section which salaries shall be fixed as nearly as possible to conform to salaries established by the State Personnel Board for classes of positions in the state civil service involving comparable duties and responsibilities.

(h) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the Citizens Advisory Council, subject to the approval of the Department of Finance.

(i) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the Citizens Advisory Council, subject to the approval of the Department of Finance.

SEC. 217. Section 5764.5 of the Welfare and Institutions Code is amended to read:

5764.5. The Citizens Advisory Council shall appoint a technical advisory committee on narcotics and drug abuse. The membership of the committee shall be composed of not more than seven persons who are determined by the council to be representative of law enforcement agencies, public drug programs, private drug programs, education, and the general public.

The committee shall have the powers and authority necessary to carry out the duties imposed upon it by the council, including, but not limited to, the following:

(a) To advise the council on the development of the drug abuse component of the state three-year plan.

(b) To periodically review drug abuse treatment services in this state, and prepare such reports as necessary for the council.

(c) To suggest such rules, regulations, and standards to the council as it determines would promote effective drug abuse treatment services in this state.

SEC. 218. Section 5765 of the Welfare and Institutions Code is amended to read:

5765. The state three-year mental health plan shall be submitted to the Advisory Health Council for review and recommendations as to conformance with California's comprehensive statewide health plan.

The state three-year mental health plan shall be submitted on an annual basis or as often as there are amendments or changes thereto.

SEC. 219. Section 6000 of the Welfare and Institutions Code is amended to read:

6000. Pursuant to applicable rules and regulations established by the State Department of Mental Health or the State Department of Developmental Services, the medical director of a state hospital for the mentally disordered or developmentally disabled may receive in such hospital, as a boarder and patient, any person who is a suitable person for care and treatment in such hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(a) In the case of an adult person, the application shall be made voluntarily by the person, at a time when he is in such condition of mind as to render him competent to make it or, if he is a conservatee with a conservator of the person or person and estate who was appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under Section 5328 to place his conservatee in a state hospital, by his conservator.

(b) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, or other person entitled to his custody to any of such mental hospitals as may be designated by the Director of Mental Health or the Director of Developmental Services to admit minors on voluntary applications. If the minor has a conservator of the person, or the person and the estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5328 to place the conservatee in a state hospital the application for the minor shall be made by his conservator.

Any such person received in a state hospital shall be deemed a voluntary patient.

Upon the admission of a voluntary patient to a state hospital the medical director shall immediately forward to the office of the State Department of Mental Health or the State Department of Developmental Services the record of such voluntary patient, showing the name, residence, age, sex, place of birth, occupation, civil condition, date of admission of such patient to such hospital, and such other information as is required by the rules and regulations of the department.

The charges for the care and keeping of a mentally disordered person in a state hospital shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Part 4 relating to the charges for the care and keeping of mentally disordered persons in state hospitals.

A voluntary adult patient may leave the hospital or institution at any time by giving notice of his desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

A minor person who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in charge by the parents, or the parent, guardian, or other person entitled to the custody of the minor, of their desire to remove him from the hospital.

No person received into a state hospital, private mental institution, or county psychiatric hospital as a voluntary patient during his minority shall be detained therein after he reaches the age of majority, but any such person, after attaining the age of majority, may apply for admission into the hospital or institution for care and treatment in the manner prescribed in this section for applications by adult persons.

The State Department of Mental Health or the State Department of Developmental Services shall establish such rules and regulations as are necessary to carry out properly the provisions of this section.

SEC. 220. Section 6500.1 of the Welfare and Institutions Code is amended to read:

6500.1. On and after July 1, 1971, no mentally retarded person may be committed to the State Department of Developmental Services pursuant to this article, unless he is a danger to himself or others. For the purposes of this article, dangerousness to self or others shall be considered to include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach,

as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) or (3) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.3, 12308, 12309, or 12310 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event such subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article the alleged mentally retarded person 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.

SEC. 221. Section 7200 of the Welfare and Institutions Code is amended to read:

7200. There are in the state the following state hospitals for the care, treatment, and education of the mentally disordered:

(a) Metropolitan State Hospital near the City of Norwalk, Los Angeles County.

(b) Atascadero State Hospital near the City of Atascadero, San Luis Obispo County.

SEC. 222. Section 7206 of the Welfare and Institutions Code is amended to read:

7206. Notwithstanding the provisions of Section 4444, the Director of General Services, with the consent of the Director of Developmental Services, may grant a right-of-way for road purposes to the County of San Bernardino over and along a portion of the Patton State Hospital property adjacent to Arden Way and Pacific Street upon such terms and conditions and with such reservations and exceptions as in the opinion of the Director of General Services will be for the best interests of the state.

SEC. 223. Section 7292 of the Welfare and Institutions Code is amended to read:

7292. The cost of such care shall be determined and fixed from time to time by the Director of Mental Health, but in no case shall it exceed the rate of forty dollars ($40) per month.

SEC. 224. Section 7293 of the Welfare and Institutions Code is amended to read:

7293. The State Department of Mental Health shall present to the county, not more frequently than monthly, a claim for the amount

due the state under Section 7291 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. 225. Section 7301 of the Welfare and Institutions Code is amended to read:

7301. Whenever, in the opinion of the Director of Mental Health and with the approval of the Director of Corrections, any person who has been committed to a state hospital pursuant to provisions of the Penal Code or who has been placed in a state hospital temporarily for observation pursuant to, or who has been committed to a state hospital pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of this code needs care and treatment under conditions of custodial security which can be better provided within the Department of Corrections, such person may be transferred for such purposes from an institution under the jurisdiction of the State Department of Mental Health to an institution under the jurisdiction of the Department of Corrections.

Persons so transferred shall not be subject to the provisions of Section 4500, 4501, 4501.5, 4502, 4530, or 4531 of the Penal Code. However, they shall be subject to the general rules of the Director of Corrections and of the facility where they are confined and any correctional employee dealing with such persons during the course of an escape or attempted escape, a fight or a riot, shall have the same rights, privileges and immunities as if the person transferred had been committed to the Director of Corrections.

Whenever a person is transferred to an institution under the jurisdiction of the Department of Corrections pursuant to this section, any report, opinion, or certificate required or authorized to be filed with the court which committed such person to a state hospital, or ordered such person placed therein, shall be prepared and filed with the court by the head of the institution in which the person is actually confined or by the designee of such head.

SEC. 226. Section 7305 of the Welfare and Institutions Code is amended to read:

7305. A developmentally disabled patient in a state hospital shall not be transferred by the State Department of Developmental Services to a different state hospital without the consent of his parent, or guardian, if any.

SEC. 227. Section 7354.5 of the Welfare and Institutions Code is amended to read:

7354.5. Any developmentally disabled person may be granted care in a licensed institution or other suitably licensed or certified facility. The State Department of Developmental Services may pay for such care at a rate not exceeding the average cost of care of patients in the state hospitals as determined by the Director of Developmental Services. Such payments shall be made from funds available to the State Department of Developmental Services for that purpose.

The State Department of Developmental Services may make

payments for services for developmentally disabled patients in private facilities released or discharged from state hospitals on the basis of reimbursement for reasonable cost, using the same standards and rates consistent with those established by the State Department of Developmental Services for similar types of care. Such payments shall be made within the limitation of funds appropriated to the State Department of Developmental Services for that purpose. No payments for care or services of a developmentally disabled person shall be made by the State Department of Developmental Services pursuant to this section, unless requested by the regional center having jurisdiction over the patient and provision for such care or services is made in the areawide plan for the developmentally disabled.

SEC. 228. Section 7362 of the Welfare and Institutions Code is amended to read:

7362. The medical superintendent of a state hospital, on filing his written certificate with the Director of Mental Health, may on his own motion, and shall on the order of the State Department of Mental Health, discharge any patient who comes within any of the following descriptions:

(a) Who is not a proper case for treatment therein.

(b) Who is developmentally disabled or is affected with a chronic harmless mental disorder.

Such person, when discharged, shall be returned to the county of his residence at the expense of such county, and delivered to the sheriff or other appropriate county official to be designated by the board of supervisors, for delivery to the official or agency in that county charged with the responsibility for such person. Should such person be a poor and indigent person, he shall be cared for by such county as are other indigent poor.

No person who has been discharged from any state hospital under the provisions of subdivision (b) above shall be again committed to any state hospital for the mentally disordered unless he is subject to judicial commitment.

SEC. 229. Section 8200 of the Welfare and Institutions Code is amended to read:

8200. If provision is made by law of the United States for the administration by public agencies of this state of federal appropriations for the welfare of the Indians in this state, such state agencies may administer the expenditure of such federal appropriations within the scope of their legal powers.

The State Department of Health Services shall administer the expenditure of all such federal appropriations for the care and hospitalization of, and for medical attention to, sick or injured Indians and for the control and prevention of communicable and infectious diseases and general sanitation among the Indians in this state.

The State Department of Education shall administer the expenditure of such federal appropriations for the construction and

maintenance of schools and the education of the Indians in this state.

The State Department of Social Services shall administer the expenditure of such federal appropriations for the relief of aged, infirm, and indigent Indians in this state.

Subject to such limitations as the law of the United States or the Secretary of the Interior lawfully imposes upon the administration of such funds, the state departments above mentioned may expend the same for the purposes within their respective jurisdictions which the respective heads of the departments deem best to conserve the interests and welfare of all the Indians residing within the state.

SEC. 230. Section 10053.8 of the Welfare and Institutions Code is amended and renumbered to read:

4012.6. The department may directly, or through the county, provide protective social services for the care of mentally disordered patients released from state hospitals or to prevent the unnecessary admission of mentally disordered persons to hospitals at public expense or to facilitate the release of mentally disordered patients for whom such hospital care is no longer the appropriate treatment; provided that such services may be rendered only if provision for such services is made in the county Short-Doyle plan for the county.

The department, to the extent funds are appropriated and available, shall pay for the cost of providing for care in a private home for mentally disordered persons described in, and subject to the request and plan conditions of, the immediately preceding paragraph. The monthly rate for such private home care shall be set by the department at an amount which will provide the best possible care at minimum cost and also insure:

(1) That the person will receive proper treatment and may be expected to show progress in achieving the maximum adjustment toward returning to community life; and

(2) That sufficient homes can be recruited to achieve the stated objectives of this section.

For all such persons without public or private financial resources who are placed in private homes at state expense, the department may provide from local assistance budget funds, at a rate to be determined by the Secretary of the Health and Welfare Agency, moneys necessary to furnish clothing and to meet incidental living expenses.

Any funds expended for the care of persons in a private home, including costs of administration and staffing and including money necessary to furnish clothing and to meet incidental living expenses, at the request of the local director of a mental health service pursuant to this section shall be expended by the department only if the department and the local mental health service enter a contract in accordance with the Short-Doyle Act (Part 2 (commencing with Section 5600), Division 5 of this code) under which the county shall reimburse the department for 10 percent of the amount expended by the department, exclusive of such portion of the cost as is provided by the federal government.

The provision for such 10 percent county share shall be inapplicable with respect to any county with a population of under 100,000 which has not elected to participate financially in providing services under Division 5 (commencing with Section 5000) in accordance with Section 5709.5.

The department may provide services pursuant to this section directly or through contract with public or private entities.

The department, may directly, or through the county, provide protective social services, including the cost of care in a private home pursuant to this section or in a suitable facility as specified in Section 7354, for judicially committed mentally disordered patients released from a state hospital on leave of absence or parole, and payments therefor shall be made from funds available to the department for that purpose or for the support of patients in state hospitals for the mentally disordered.

In facilitating the release of mentally disordered patients or persons who have been mentally disordered patients to suitably licensed facilities, the department shall provide the licensee with information concerning the previous conduct of the patients which would be relevant in determining the suitability of the particular facility for the patient and the suitability of placement of such patient in such facility. The release of this information shall be consistent with the confidentiality guidelines under the Lanterman-Petris-Short Act and the Short-Doyle Act.

SEC. 231. Section 10053.85 of the Welfare and Institutions Code is amended and renumbered to read:

4418.5. The department may provide protective social services for the care of developmentally disabled patients released from state hospitals of the department or to prevent the unnecessary admission of developmentally disabled persons to hospitals at public expense or to facilitate the release of developmentally disabled patients for whom such hospital care is no longer the appropriate treatment; provided that such services may be rendered only if provision for such services is made in the areawide plan for the developmentally disabled.

The department, to the extent funds are appropriated and available, shall pay for the cost of providing for care in a private home for developmentally disabled persons described in, and subject to the request and plan conditions of, the immediately preceding paragraph. The monthly rate for such private home care shall be set by the department at an amount which will provide the best possible care at minimum cost and also insure:

(1) That the person will receive proper treatment and may be expected to show progress in achieving the maximum adjustment toward returning to community life; and

(2) That sufficient homes can be recruited to achieve the stated objectives of this section.

It is the legislative intent that the department may make the fullest possible use of available resources in serving developmentally

disabled persons.

The department may provide services pursuant to this section directly or through contract with public or private entities.

Notwithstanding any other provision of law, any contract or grant entered into with a public or private nonprofit corporation for the provision of services to developmentally disabled persons may provide for periodic advance 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.

The department may provide protective social services, including the cost of care in a private home pursuant to this section or in a suitable facility as specified in Section 7354, for judicially committed developmentally disabled patients released from a state hospital on leave of absence or parole, and payments therefor shall be made from funds available to the department for that purpose or for the support of patients in state hospitals.

SEC. 232. Section 10053.9 of the Welfare and Institutions Code is amended and renumbered to read:

4418.6. The department may establish within its family care program respite care services for the developmentally disabled. Such respite care services may be available to both family home caretakers and to persons referred by the regional centers for the developmentally disabled. For purposes of this section, respite care means temporary and intermittent care provided for short periods of time.

The rate of reimbursement for such respite care service shall be established by the department after it conducts a study to determine if there are increased costs inherent in the provision of an intermittent and irregular service.

SEC. 232.5. Section 10553 of the Welfare and Institutions Code is amended to read:

10553. The director shall:

(a) Be responsible for the management of the department.

(b) Administer the laws pertaining to the administration of public social services, except health care services and medical assistance.

(c) Observe and report to the Governor on the conditions of public social services, except health care services and medical assistance, throughout the state.

(d) Perform the disability determination function pursuant to Titles II and XVI of the federal Social Security Act.

(e) Formulate, adopt, amend or repeal regulations and general policies affecting the purposes, responsibilities, and jurisdiction of the department and which are consistent with law and necessary for the administration of public social services, except health care services and medical assistance, and the disability determination function pursuant to Titles II and XVI of the federal Social Security Act.

All regulations relating to public social services, except health care services and medical assistance, or relating to the disability

determination function pursuant to Titles II and XVI of the federal Social Security Act, the licensing of community care facilities, or any other function vested in the department, heretofore adopted by the State Department of Health, the State Department of Benefit Payments, or any predecessor department, and in effect immediately preceding the operative date of amendments to this section enacted by the Legislature during the 1977–78 Regular Session, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the director.

(f) 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.

SEC. 233. Section 10554 of the Welfare and Institutions Code is amended to read:

10554. The director 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 department, 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 such regulations need not be printed in the California Administrative Code or California Administrative Register if they are included in the publications of the department.

In adopting regulations the director shall strive for clarity of language which may be readily understood by those administering public social services or subject to such regulations.

The rules of the department 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 department is required to use, submit or maintain such forms, reports or records.

SEC. 233.5. Section 10554.3 of the Welfare and Institutions Code is repealed.

SEC. 234. Section 10600.1 of the Welfare and Institutions Code is amended to read:

10600.1. The State Department of Social Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Department of Health or the State Department of Benefit Payments pursuant to the provisions of this division, except those contained in Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), Chapter 8.5 (commencing with Section 14500), and Chapter 8.7 (commencing with Section 14520) of Part 3, on the date immediately prior to the date this section becomes operative.

The State Department of Social Services also succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Health with respect to its disability determination function performed pursuant to Titles

II and XVI of the federal Social Security Act; provided, however, that this paragraph shall not vest in the State Department of Social Services any power or authority over programs for aid or rehabilitation of mentally disordered or developmentally disabled persons administered by the State Department of Mental Health or the State Department of Developmental Services.

SEC. 234.5. Section 10604 of the Welfare and Institutions Code is amended to read:

10604. In administering any funds appropriated or made available for disbursement through the counties for welfare purposes, the department shall:

(a) Require as a condition for receiving such grants-in-aid, that the county shall bear that proportion of the total expense of furnishing aid, as is fixed by the law relating to such aid.

(b) Establish regulations not in conflict with the law fixing statewide standards for the administration of all state or federally assisted public social services, except health care services and medical assistance, which define and control the conditions under which such public social services may be granted or refused. All regulations established by the department shall be binding upon the boards of supervisors and the county department.

SEC. 235. Section 10726 of the Welfare and Institutions Code is amended to read:

10726. All regulations heretofore adopted by the Director of the State Department of Benefit Payments which relate to payment, accounting, auditing and collection functions vested in the State Department of Health Services, or by the State Department of Health or any predecessor department which relate to health care services or medical assistance functions vested in the State Department of Health Services, and which are in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the State Director of Health Services.

SEC. 236. Section 10743 of the Welfare and Institutions Code is amended to read:

10743. In administering any funds appropriated or made available to the department for disbursement through the counties for welfare purposes, the department shall establish regulations, not in conflict with the law fixing statewide standards for the administration of all state or federally assisted health care services or medical assistance programs. All regulations established by the department shall be binding upon the boards of supervisors and the county department.

SEC. 238. Section 10850 of the Welfare and Institutions Code is amended to read:

10850. Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social

services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information which identifies by name or address any applicant for or recipient of such grants-in-aid to any committee or Legislature is prohibited.

Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services or the State Department of Health Services, and such lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services or the State Department of Health Services. Such lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for such purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient. However, this section shall not prohibit the furnishing of such information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents of schools or superintendents of school districts only as necessary for the administration of federally-assisted programs providing assistance in cash or in-kind or services directly to individuals on the basis of need. Any person knowingly and intentionally violating the provisions of this paragraph is guilty of a misdemeanor.

The State Department of Social Services shall inform the Department of Motor Vehicles of the names, birth dates, and addresses of all applicants or recipients of aid to the blind. The Department of Motor Vehicles, upon receipt of such information, shall inform the State Department of Social Services of any such applicant or recipient of aid to the blind who holds a valid California driver's license.

The State Department of Social Services and the State Department of Health Services may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging

information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of public social services.

Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

The provisions of this section shall be operative only to the extent permitted by federal law.

SEC. 238.5. Section 10950 of the Welfare and Institutions Code is amended to read:

10950. If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his application for or receipt of public social services, if his application is not acted upon with reasonable promptness, or if any person who desires to apply for public social services is refused the opportunity to submit a signed application therefor, and is dissatisfied with such refusal, he shall, in person or through an authorized representative, without the necessity of filing a claim with the board of supervisors, upon filing a request with the State Department of Social Services or the State Department of Health Services, whichever department administers the public social service, be accorded an opportunity for a fair hearing.

For the purposes of administering health care services and medical assistance, the State Director of Health Services shall have those powers and duties conferred on the Director of Social Services by this chapter to conduct fair hearings in order to secure approval of a state plan under the provisions of applicable federal law.

The State Director of Health Services may contract with the State Department of Social Services for the provisions of fair hearings in accordance with this chapter.

As used in this chapter, "recipient" means an applicant for or recipient of public social services except aid exclusively financed by county funds or aid under Chapter 3 (commencing with Section 12000) of Part 3 of this division.

SEC. 239. 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 department or the State Department of Health Services 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 department or the State Department of Health Services shall initiate license or permit revocation proceedings.

SEC. 240. Section 11478.5 of the Welfare and Institutions Code 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.

To effectuate the purposes of this section, the Attorney General shall, to the extent necessary, utilize the parent locator service in the United States 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 Department of Justice 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 State Department of Social Services, 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. 241. Section 14016 of the Welfare and Institutions Code is amended to read:

14016. The county in which the person resides shall determine the eligibility of each person pursuant to Sections 14005.1, 14005.4, and 14005.7, and each recipient of public assistance and, upon termination of such assistance, whether the person remains eligible for Medi-Cal coverage under one of said sections. It shall be the responsibility of the department to certify for Medi-Cal coverage those persons determined by the county to be eligible under Section 14005.4 or 14005.7.

SEC. 242. Section 14017 of the Welfare and Institutions Code is amended to read:

14017. Each public assistance recipient, each eligible person under Section 14005.1, and each person eligible under Section 14005.4 or 14005.7 who is certified shall be provided, by the department, with a Medi-Cal card certifying his status, identification number, expiration date, and his entitlements, insofar as these do not require specific prior authorization. The department shall determine the form of the Medi-Cal card. Such cards shall be for a term as determined by the department and, unless canceled for cause, shall entitle individuals to care and service as indicated. Cause for cancellation shall exist when the person dies, loses state residence, is found to be ineligible, or the person has been issued a new Medi-Cal card.

SEC. 243. Section 14053 of the Welfare and Institutions Code is amended to read:

14053. The term "health care services" means the benefits set forth in Article 4 (commencing with Section 14131) of this chapter and in Section 14021. The term includes inpatient hospital services for any individual under 21 years of age in an institution for mental diseases. Any individual under 21 years of age receiving such inpatient psychiatric hospital services immediately preceding the date on which he attains age 21 may continue to receive such services until he attains age 22.

The term "health care services" shall not include, except to the extent permitted by federal law,

(a) Any care or services for any individual who is an inmate of an institution (except as a patient in a medical institution); or

(b) Any care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis; or

(c) Any care or services for any individual who is 21 years of age or over, except as provided in the first paragraph of this section, and has not attained 65 years of age and who is a patient in an institution for mental diseases.

SEC. 244. Section 14064 of the Welfare and Institutions Code, as added by Chapter 1252 of the Statutes of 1977, is amended and

renumbered to read:

14066. As used in this chapter, Chapter 8 (commencing with Section 14200), Chapter 8.5 (commencing with Section 14500), and Chapter 8.7 (commencing with Section 14520) of this part, the terms "Department of Health," "State Department of Health," "Department of Benefit Payments," and "State Department of Benefit Payments" shall be construed to refer to and mean the State Department of Health Services.

SEC. 245. Section 14065 of the Welfare and Institutions Code is amended to read:

14065. As used in this chapter, Chapter 8 (commencing with Section 14200), Chapter 8.5 (commencing with Section 14500), and Chapter 8.7 (commencing with Section 14520) of this part, the terms "Director of Health" and "Director of Benefit Payments" shall be construed to refer to and mean the State Director of Health Services.

SEC. 245.5. Section 14100.1 of the Welfare and Institutions Code is amended to read:

14100.1. For purposes of administering this chapter and Chapter 8 (commencing with Section 14200) of this part, the director shall have those powers and duties necessary to conform to requirements for securing approval of a state plan under the provisions of the applicable federal law, and the department shall be the single state agency for purposes of Title XIX of the federal Social Security Act.

SEC. 246. Section 14101 of the Welfare and Institutions Code is amended to read:

14101. The director may contract with other state agencies for services in connection with the administration of this chapter, Chapter 8 (commencing with Section 14200), Chapter 8.5 (commencing with Section 14500), and Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 246.5. Section 14104.5 of the Welfare and Institutions Code is amended to read:

14104.5. Notwithstanding any other provision of law, the director shall by regulation adopt such procedures as are necessary for the review of a grievance or complaint concerning the processing or payment of money alleged by a provider of services to be payable by reason of any of the provisions of this chapter. After complying with such procedures if the provider is not satisfied with the director's decision on his claim, he may not later than one year after receiving notice of such decision, present a claim for money against the state in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of the Government Code and proceed in the manner provided in Part 3 (commencing with Section 900), Part 4 (commencing with Section 940) and Part 5 (commencing with Section 965) of Division 3.6 of the Government Code. The provisions of this section shall be the exclusive remedy available to the provider of services for moneys alleged to be payable by reason of the provisions of this chapter.

This section shall not apply to those grievances or complaints

arising from the findings of an audit or examination made by or on behalf of the director pursuant to Sections 14102 and 14170. Article 5.3 (commencing with Section 14170) of this chapter shall govern such grievances or complaints.

SEC. 247. Section 14110.5 of the Welfare and Institutions Code is amended to read:

14110.5. Effective January 1, 1977, no payment for any prescription ophthalmic device shall be made under Medi-Cal if that device does not meet the standards promulgated by the department, the State Board of Optometry or the Division of Allied Health Professions and Division of Medical Quality of the Board of Medical Quality Assurance under Section 2541.3 of the Business and Professions Code.

SEC. 248. Section 14120 of the Welfare and Institutions Code is amended to read:

14120. (a) At the beginning of each fiscal year, for the current fiscal year, the director shall establish a monthly schedule of anticipated total payments and anticipated payments for categories of services, according to the categories established in the Governor's Budget. The schedule will be revised quarterly.

(b) The director shall report actual total payments and payments for categories of services, as set forth in subdivision (a), monthly to the Director of Finance and to the Joint Legislative Budget Committee.

(c) At any time during the fiscal year, if the director has reason to believe that the total cost of the program will exceed available funds, the director may, first modify the method or amount of payment for services provided that no amount shall be reduced more than 10 percent and no modification will conflict with federal law. If such modification is not sufficient to bring the program within available funds, the director may postpone elective services in the schedule of benefits. Such postponement of elective services shall be accomplished by changing the standards for approval of requests for prior authorizations. Such changes shall be designed to insure that those recipients most in need of elective services receive them first within the funds available, but that no particular service is completely eliminated.

(d) At any time during the fiscal year, if the total amounts paid since the beginning of the fiscal year exceed by 10 percent the amounts scheduled, the director shall immediately institute the action set forth in subdivision (c) above.

(e) At any time during the fiscal year, if the total amounts paid for any category of service exceeds by 10 percent the amounts scheduled (other than services for which the method or amount of payment is prescribed by the United States Secretary of Health, Education, and Welfare pursuant to Title XIX of the federal Social Security Act), the director shall modify the method or amount of payment for such category of service to assure that the total amount paid for such category of service in the fiscal year shall be less than 10 percent in

excess of the total amount scheduled provided the total cost of the program to the State General Fund will not exceed appropriated state general funds.

(f) Before any of the above actions are taken by the director, he shall consult with representatives of concerned provider groups.

SEC. 248.05. Section 14124.5 of the Welfare and Institutions Code is amended to read:

14124.5. (a) The director may, in accordance with the provisions of Section 10725, adopt, amend or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code, such reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state.

(b) All regulations heretofore adopted by the State Department of Health or any predecessor department pursuant to this chapter and in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director in accordance with the provisions of Section 10725.

SEC. 248.1. Section 14170 of the Welfare and Institutions Code is amended to read:

14170. Amounts paid for services provided to Medi-Cal beneficiaries shall be audited by the department in the manner and form prescribed by it. The department shall maintain adequate controls to insure responsibility and accountability for the expenditure of federal and state funds. Cost reports and other data submitted by providers to a state agency for the purpose of determining reasonable costs for services or establishing rates of payment shall be considered true and correct unless audited or reviewed by the department within 18 months after July 1, 1969, the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later; provided, however, that cost reports and other data for cost reporting periods beginning on January 1, 1972, and thereafter shall be considered true and correct unless audited or reviewed within three years after the close of the period covered by the report, or after the date of submission of the original or amended report by the provider, whichever is later.

Nothing in this section shall be construed to limit the correction of cost reports or rates of payment when inaccuracies are determined to be the result of intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the provider or inability to reach agreement on the terms of final settlement.

SEC. 248.2. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall adopt regulations establishing an administrative appeal process to review grievances or complaints

arising from the findings of an audit or examination made pursuant to Sections 14102 and 14170.

(b) The administrative appeal process established by the director shall guarantee a provider the right to present any grievances or complaints arising from the findings of an audit or examination made by or on behalf of the department pursuant to Sections 14102 and 14105 at an impartial hearing which shall include the procedural requirements of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The impartial hearing shall be conducted by a hearing officer appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(c) Notwithstanding subdivision (b) of this section, the administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the department and the hearing officer. The hearing officer, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (b).

(d) The final decision of the director shall be reviewable in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

SEC. 248.3. Section 14172 of the Welfare and Institutions Code is amended to read:

14172. (a) Except as provided in subdivision (b), if any amount is due and payable and unpaid as the result of an overpayment to a provider for health care services identified through an audit or examination conducted by or on behalf of the director, and the director has issued a final decision on the appeal pursuant to Section 14171, and 90 days has elapsed from the issuance of such final decision, the director may, not later than three years after the payment became due and owing, file in the office of the County Clerk of Sacramento County, and with the county clerk of the county in which the provider has his principal place of business, a certificate containing the following:

(1) The amount due and owing and unpaid plus interest at the rate of 7 percent per annum commencing 30 days after the service of notice of an overpayment arising from the finding of an audit or examination made pursuant to Sections 14102 and 14170.

(2) A statement that the director has complied with all the provisions of this article prior to the filing of such certificate.

(3) A request that judgment be entered against the provider in the amount set forth in the certificate.

The county clerk immediately upon the filing of the certificate shall enter a judgment for the State of California against the provider in the amount set forth in the certificate. Such judgment may be filed by the county clerk in a looseleaf book entitled "Health Care Overpayment Recovery Judgments."

(b) If the provider seeks judicial review of the final decision of the director pursuant to subdivision (d) of Section 14171 and notice of such action is properly served on the director within 90 days of the issuance of the final decision of the director, the director shall not file any certificate as provided in subdivision (a).

If the provider does not seek judicial review of the final decision of the director pursuant to subdivision (d) of Section 14171 and does not properly serve notice within 90 days from the date of the final decision of the director, the director may file the certificate provided in subdivision (a); provided, however, if the provider seeks judicial review of the final decision of the director more than 90 days from the date of such decision in accordance with subdivision (d) of Section 14171, the director shall within 10 days after receiving notice of such action release any lien imposed pursuant to this article and any judgment entered pursuant to subdivision (a) shall be considered for all purposes null and void.

(c) No certificate shall be filed or judgment entered pursuant to the provisions of this section or Section 14173 against a provider which meets the following criteria:

(1) The provider is an unincorporated individual practitioner, and

(2) The provider was not certified to participate under the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part, on the date of issuance of the final decision of the director establishing an overpayment.

Nothing in this subdivision shall prevent the director from using any other means available at law to recover amounts due and owing and unpaid from such providers.

SEC. 248.4. Section 14173 of the Welfare and Institutions Code is amended to read:

14173. An abstract of a judgment obtained pursuant to subdivision (a) of Section 14172 or a copy thereof may be recorded with the county recorder of any county. From the time of recording, the judgment shall constitute a lien upon all real property of the provider in that county owned by the provider at the time, or which the provider may afterwards but before the lien expires, acquire. The lien shall have the force, effect and priority of a judgment lien and shall continue for 10 years from the time of recording of the abstract of judgment obtained pursuant to subdivision (a) of Section 14172 unless sooner released or otherwise discharged.

The lien may, within 10 years from the date of recording of the abstract of judgment 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 abstract in the office of the county recorder of any county. From the date of such recording the lien shall be extended

for 10 years unless sooner released or otherwise discharged.

Execution shall issue upon such a judgment upon request of the director in the same manner as execution may issue upon other judgments. Sale shall be held under such execution as prescribed in the Code of Civil Procedure. In all proceedings under this section, the director or his authorized agents may act on behalf of the state.

SEC. 248.5. Section 14174 of the Welfare and Institutions Code is amended to read:

14174. The right of the director to use the summary judgment procedure contained in this article shall be in addition to any other collection procedure available to him. No action taken by the director shall be construed to be an election to pursue the summary judgment procedure to the exclusion of any other collection procedure.

SEC. 248.6. Section 14175 of the Welfare and Institutions Code is amended to read:

14175. The director may release any lien imposed pursuant to subdivision (a) of Section 14172 if he finds that the liability represented by the lien, including any interest accrued thereon, has been paid or is legally unenforceable.

SEC. 248.7. Section 14176 of the Welfare and Institutions Code is amended to read:

14176. The director may recover a due and payable overpayment made to a provider which is or has been participating under the provisions of this chapter by means of a repayment agreement executed between such provider and the director, and by any other means available at law.

SEC. 249. Section 14251 of the Welfare and Institutions Code is amended to read:

14251. "Prepaid health plan" is any health care service plan which meets all of the following criteria:

(a) Licensed as a health care service plan by the Commissioner of Corporations pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340), Division 2, Health and Safety Code), or has an application for licensure pending and was registered under the Knox-Mills Health Plan Act prior to its repeal (Chapter 941, Statutes of 1975).

(b) Meets the requirements for participation in the Medicaid Program (Title XIX of the Social Security Act) on an at risk basis.

(c) Agrees with the State Department of Health Services to furnish directly or indirectly health services to Medi-Cal beneficiaries on a predetermined periodic rate basis.

SEC. 249.5. Section 14312 of the Welfare and Institutions Code is amended to read:

14312. The director shall adopt all necessary rules and regulations to carry out the provisions of this chapter. In adopting such rules and regulations, the director shall be guided by the needs of eligible persons as well as prevailing practices in the delivery of health care.

All regulations heretofore adopted by the State Department of

Health or its predecessors pursuant to this chapter, and which are in effect on the operative date of the amendment of this section enacted during the 1977–78 Regular Session of the Legislature, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

SEC. 250. Section 14477 of the Welfare and Institutions Code is amended to read:

14477. (a) For purposes of this article, "state officer" means a United States Senator or Member of Congress representing California, the Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, State Superintendent of Public Instruction, a Member of the Legislature, or a secretary of a state agency.

(b) For purposes of this article, "state employee" means any staff member of a state agency secretary who holds a policymaking position, any member of the Governor's staff who holds a policymaking position, or any administrative aide or committee consultant of the Legislature. "State employee" includes the appointive or civil service employee of the highest class or grade in each department, system, program, section, or other administrative subdivision of the State Department of Health Services as defined in regulations adopted by the department.

SEC. 251. The heading of Chapter 8.5 (commencing with Section 14520) of Part 3 of Division 9 of the Welfare and Institutions Code is amended and renumbered to read:

CHAPTER 8.7. ADULT DAY HEALTH CARE PROGRAMS

SEC. 252. Section 14551 of the Welfare and Institutions Code is amended to read:

14551. The following additional services may also be provided:

(a) Podiatric services provided or arranged for, or under direction of, the supervising physician.

(b) Optometric screening and advice for low-vision cases by a licensed ophthalmologist or optometrist.

(c) Dental screening for the purpose of apprising the participant of the necessity of regular or emergency dental care.

(d) Such other services within the concept and objectives of adult day health care as may be approved by the department.

SEC. 253. Section 14570 of the Welfare and Institutions Code is amended to read:

14570. (a) The department shall adopt all necessary rules and regulations providing for quality of care and payment for services rendered under this chapter pursuant to Chapter 7 (commencing with Section 14000) of this part. All regulations heretofore adopted by the State Department of Health pursuant to this chapter and which are in effect immediately preceding the operative date of the amendment of this section enacted by the Legislature during the 1977–78 Regular Session, shall remain in effect and shall be fully

enforceable unless and until readopted, amended, or repealed by the director.

(b) The director shall establish a distinct organizational entity within the department which shall have primary responsibility for the Adult Day Health Care Medi-Cal program. Such entity shall coordinate and direct all departmental activities required by this chapter.

SEC. 254. Section 14577 of the Welfare and Institutions Code is amended to read:

14577. All subcontracts for services reimbursable under this chapter shall be entered into pursuant to regulations of the department. All subcontracts shall be in writing, and a copy shall be transmitted to the department for approval prior to taking effect. Each subcontract submitted by the department for approval shall contain the amount of compensation or other consideration which the subcontractor will receive under the terms of the subcontract with the adult day health care provider. However, this section shall not apply to employment contracts of salaried employees of an adult day health care provider.

All subcontracts to provide health care benefits, including emergency services, shall include specification of the time and days reserved for services to be provided to participants and specification of the service to be provided. All subcontracts to provide any of the basic services specified in Section 14550 through subcontractors, shall meet all of the qualifications required by, or pursuant to, this chapter as appropriate for the services which the subcontractors are required to perform.

Each subcontract shall require that the subcontractor make all of its books and records pertaining to the goods or services furnished under the terms of the subcontract available for inspection, examination, or copying by the department during normal working hours at the subcontractor's principal place of business, or at such other place in the state as the department shall designate. Subcontracts between an adult day health care provider and a subcontractor shall be public records and shall be kept on file with the department. The names of the officers and stockholders of the subcontractor shall also be kept on file as public records by the department.

SEC. 255. Section 14585 of the Welfare and Institutions Code is amended to read:

14585. For purposes of this article, "state officer or employee" means a Member of Congress representing the State of California; a Member of the Legislature; a secretary of a state agency and those members of the secretary's staff who hold policymaking positions; those members of the Governor's staff who hold policymaking positions; an administrative aide or committee consultant of the Legislature; the appointive or civil service employee of the highest class or grade in each department, system, program, section, or other administrative subdivision of the State Department of Health

Services, as defined in regulations adopted by the department; any other employee in the State Department of Health Services who has any responsibility for the negotiation and development, or management of Medi-Cal contracts of an adult day health care center certified under the provisions of this chapter. The director shall adopt regulations further delineating the class of employees covered by this section.

SEC. 255.5. The heading of Part 4 (commencing with Section 16100) of Division 9 of the Welfare and Institutions Code is amended to read:

PART 4. SERVICES FOR THE CARE OF CHILDREN

SEC. 256. Section 16552 of the Welfare and Institutions Code is amended to read:

16552. (a) A "voluntary placement agreement" is a binding written agreement between the county welfare department of a demonstration county and the parents or guardians of a minor which specifies the legal status of the minor and the rights and obligations of the parents or guardians.

(b) Voluntary placement shall not affect a parent's or guardian's rights:

(1) To consent to medical care for the minor; or

(2) To reasonable visitation privileges; or

(3) To consultation with regard to the type of out-of-home placement, location of the placement, and any change in placement; or

(4) To consent before the minor is taken out of the state.

(c) The parents or guardians shall have the right to have the minor returned to their physical custody within 14 days after written notice has been given to the county welfare department of a demonstration county. Notwithstanding the foregoing, the parents or guardians shall have the right to have the minor returned to their physical custody within 24 hours if at any time during the first three days after placement of the minor they notify the county welfare department that they wish to have the minor returned to their physical custody within such 24-hour period.

(d) In addition to other reasonable conditions for voluntary placement imposed by the county welfare department of a demonstration county to protect the interests of the minor, the parents or guardians shall agree pursuant to the voluntary placement agreement to do the following:

(1) Except as provided in subdivision (c), to give 14 days written notice for termination of the placement agreement,

(2) To contribute an amount specified pursuant to guidelines established by the State Department of Social Services for support of the minor, or, if eligible, apply for public assistance or other benefits which will contribute toward the minor's board and maintenance,

(3) To inform the county welfare department of a demonstration

county of any change in their address or whereabouts,

(4) To meet with the social worker on a prearranged schedule to carry out agreed-upon casework planning for return of the minor to their physical custody,

(5) To meet with the social worker to discuss what services would be appropriate to help reunify the family.

(e) The voluntary placement agreement shall state that:

(1) Such placement shall not exceed six months, except as provided for in Section 16557; and

(2) The minor may remain out of their physical custody for a longer period only pursuant to Sections 300, 302, and 361.5 and if a petition is filed under such sections, the parents or guardians may be entitled to counsel appointed by the court if they are unable to afford counsel; and

(3) The minor may be declared permanently free from their custody and control pursuant to Section 232.1 of the Civil Code if the minor remains out of their physical custody for 18 consecutive months and if an action is brought under Section 2.5 of the act which enacted this section, the parents or guardians shall have the right to counsel appointed by the court if they are unable to afford counsel.

The State Department of Social Services, in consultation with county welfare departments, shall develop a form for voluntary placement agreements pursuant to the conditions set forth in this chapter to be used by all counties which accept such placements.

SEC. 257. Section 16557 of the Welfare and Institutions Code is amended to read:

16557. Notwithstanding the six-month time limitation set forth in Section 16556, voluntary placement of the minor may be extended for a period not to exceed six months, provided, that:

(a) The county administrative review board of a demonstration county which meets the requirements of this section shall hold an administrative review within 30 days prior to the expiration of the initial six-month period;

(b) The board finds that it is probable that the minor will be reunited with his parents or guardians prior to the end of the extension period;

(c) The parents or guardians sign a voluntary placement agreement for the extension period; and

(d) The board makes written findings concerning what services have been offered to the parents or guardians, the effectiveness of such services, the need for further assistance, whether the parents or guardians have been afforded an opportunity and encouraged to have a program of regular visitation with the minor, and the number and duration of such visits.

The county administrative review board shall be comprised of at least three persons, not more than two of whom may be employees of the county welfare department.

The minor's parents or guardians shall be given reasonable notice of the time of the review and shall have the right to be present.

The board may order that the county welfare department apply for a petition pursuant to Section 332.5 and file such petition with the juvenile court to have the minor declared a dependent of the juvenile court under Section 300 or 302.

The State Department of Social Services shall establish uniform procedures to be followed by each county for such administrative reviews.

SEC. 257.1. Section 18276 of the Welfare and Institutions Code is amended to read:

18276. The State Department of Health Services, upon the advice of the review committee established pursuant to Section 18279, shall contract with the county selected pursuant to Section 18279 for the administration and operation of a child sexual abuse prevention demonstration center.

SEC. 257.2. Section 18279 of the Welfare and Institutions Code is amended to read:

18279. (a) The State Director of Health Services shall appoint a review committee of seven members, one to represent the State Department of Health Services, two physicians and surgeons, two persons with an extensive background in social or behavioral science, one representing law enforcement, and one member to represent the public. The members of the review committee shall serve for a two-year period and may be reappointed. They shall serve without compensation, but shall receive their necessary travel expenses.

(b) The committee shall establish standards for the expenditure of state funds which are provided for the establishment and support of the center to assure the availability of specialized personnel, resources, and equipment necessary to enable the center to carry out the purposes of this chapter. The State Director of Health Services shall select the county which shall receive state funds to establish and continue such center from a list of eligible counties which shall be submitted to him by the review committee. In making such selection the State Director of Health Services and the review committee shall give priority to such counties as may have existing programs relating to the prevention of the sexual abuse of children. Upon establishment of such center the review committee shall periodically appraise its performance and recommend to the State Director of Health Services whether it shall receive continuation grants.

SEC. 257.3. Section 18281 of the Welfare and Institutions Code is amended to read:

18281. The State Director of Health Services shall submit periodic reports to the Legislature concerning his findings regarding the degree of achievement of the goals of this chapter by the center. One such report shall be submitted no later than six months after the beginning of operation of the center, another no later than one year after the beginning of such operation, and another no later than 18 months after the beginning of such operation.

SEC. 258. Section 18376 of the Welfare and Institutions Code is amended to read:

18376. The State Department of Health Services may authorize the payment of state funds to defray in part the cost of projects or the continuation of projects under which the city or county health agency provides a program of scheduled visits by public health nurses to senior citizen housing and center facilities for health consultant services.

The state share of any such project shall not exceed 50 percent of funds expended in connection with that project. City or county matching funds may be in the form of cash, facilities or services on the basis of a local project plan submitted to and approved by the department.

SEC. 259. Section 18377 of the Welfare and Institutions Code is amended to read:

18377. The State Department of Health Services shall develop and establish guidelines for submission and approval of the city and county project plans. The department shall give priority to those cities and counties which have demonstrated the ability to provide public health nursing services to the aged.

SEC. 259.5. Article 5 (commencing with Section 19975.01) of Chapter 1 of Division 11 of the Welfare and Institutions Code is repealed.

SEC. 259.6. Section 2 of Chapter 297 of the Statutes of 1976 is amended to read:

Sec. 2. The sum of four hundred thousand dollars ($400,000) is hereby appropriated from the General Fund to the State Department of Health Services for expenditure pursuant to grants or contracts with facilities having research experience for programs by such facilities for basic research on lupus erythematous. The state department may enter into such grants or contracts.

Such grants or contracts are to be approved and such programs are to be monitored by a committee composed of a person appointed by the Secretary of the Health and Welfare Agency, a person appointed by the Speaker of the Assembly, and a person appointed by the President pro Tempore of the Senate.

SEC. 260. Section 29 of Chapter 977 of the Statutes of 1976 is amended to read:

Sec. 29. The State Department of Social Services shall collect the information concerning foster care described in Section 303 of the Welfare and Institutions Code in the demonstration counties and in other similar nondemonstration counties in order to compare such counties and determine the effectiveness of the program compared to the programs in other counties. The State Department of Social Services shall also determine the savings accrued by the federal, state, and local government due to the implementation of this act.

The department shall make an annual report to the Legislature commencing January 6, 1979, and each year thereafter through and including January 6, 1981, concerning implementation of this act.

SEC. 260.5. Section 5 of Chapter 890 of the Statutes of 1977 is amended to read:

Sec. 5. The State Department of Alcohol and Drug Abuse and the Department of Motor Vehicles jointly shall submit a report to the Legislature on December 1, 1978, regarding the implementation of this act. The report shall include, but not be limited to, an evaluation of the four-county demonstration program established pursuant to Chapter 1133 of the Statutes of 1975, the relationship of first offender programs to the program authorized under this act, and any relevant recommendations.

SEC. 261. Section 6 of Chapter 1066 of the Statutes of 1977 is amended to read:

Sec. 6. The State Department of Health Services shall submit to the Legislature and the Governor an initial report by March 1, 1980, and a second report by March 1, 1982, on the administration of Chapter 3.5 (commencing with Section 1570) of Division 2 of the Health and Safety Code and Chapter 8.5 (commencing with Section 14520) of Part 3 of Division 9 of the Welfare and Institutions Code. The initial report shall include a description of the progress made in implementing the program, including the number of centers established, characteristics and number of persons served, costs of the services and administration, and recommendations for administrative and legislative changes.

The second report shall include an evaluation of the program, which shall measure the effectiveness and efficiency of the adult day health care program. The evaluation shall include the following:

(a) Number of the persons diverted from long-term institutional care through the adult day health care program.

(b) The costs of the adult day health care program as compared to costs for long-term institutional care.

(c) A description of the social, health, and functional characteristics of the persons served, the range of services provided them and the outcome of the services.

(d) Recommendations for legislative and administrative changes.

SEC. 261.5. Any regulation heretofore adopted by the Department of Benefit Payments, the State Department of Health, or any predecessor department which is in effect immediately preceding the effective date of this act shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director of the department that succeeds on the effective date of this act to the authority by which the regulation was adopted.

SEC. 261.6. The change in the name of the State Benefits and Services Advisory Board to the State Social Services Advisory Board by Chapter 1252 of the Statutes of 1977 shall be deemed a change in name only and shall not otherwise affect the appointment, term, status, or authority of members of the board which they retained immediately preceding the effective date of this act.

SEC. 262. Except for any act relating to the maintenance of the codes, any section of any act enacted by the Legislature during the 1978 portion of the 1977–78 Regular Session, which takes effect on or

before January 1, 1979, and which amends, amends and renumbers, adds, 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.

SEC. 262.5. Any section of the Governor's Reorganization Plan No. 1 of 1978, which amends a section amended by this act, shall prevail over this act, whether such plan goes into effect prior or subsequent to this act, unless either house of the Legislature adopts a resolution not favoring such plan.

SEC. 263. 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 reorganization of the Health and Welfare Agency made by Chapter 1252 of the Statutes of 1977 will become operative July 1, 1978. In order to facilitate the implementation of that reorganization, it is necessary that this act go into effect immediately.

SEC. 264. This act shall become operative on July 1, 1978, except that Sections 170 and 172 of this act, which amend Sections 2627.5 and 3265 of the Unemployment Insurance Code, respectively, shall become operative with respect to periods of disability commencing on or after January 1, 1979, in accordance with Section 15 of Chapter 1143 of the Statutes of 1977.

CHAPTER 430

An act to amend Sections 3791.5, 3797, 3802, 3803, 3806, 3807.3, 3807.5, 4102, 4217, 4222, 4672, 4672.1, and 4920 of, to add Sections 3793.5, 3808, 4114, 4115, and 4116 to, and to repeal Sections 3793.5, 3807, 3808, 3814, and 4114 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 3791.5 of the Revenue and Taxation Code is amended to read:

3791.5. Any agreement under this chapter may include a provision for payment to the county treasurer while the property is in public ownership and rented, leased, or sold on contract by the taxing agency of an amount agreed upon by the board of supervisors and the taxing agency in lieu of taxes on such property.

Any payment in lieu of taxes, required by an agreement under this chapter, shall be received by the county tax collector and shall be distributed among the county and revenue districts of the county in the same manner as provided for the distribution of taxes in Section

4656.2.

SEC. 2. Section 3793.5 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 3793.5 is added to the Revenue and Taxation Code, to read:

3793.5. (a) The terms of any agreement under this chapter may provide that no payment is to be made by the purchasing taxing agency at the time the property is acquired from the state but that the proceeds of a resale of the property by the purchasing taxing agency shall, after the deduction by the taxing agency of its expenses of purchase and sale, be distributed by the county under Chapter 1.3 (commencing with Section 4670) of Part 8 of this division.

(b) If the terms provided for in subdivision (a) are included in an agreement under this chapter, the agreement shall require the purchasing taxing agency to sell the property to a private purchaser within two years after the date of recordation of the deed to the taxing agency, which period may be extended by resolution of the board of supervisors for a reasonable length of time. Upon the granting of an extension, notice thereof shall be given by the clerk of the board of supervisors to the tax collector and the Controller.

SEC. 4. Section 3797 of the Revenue and Taxation Code is amended to read:

3797. The notice of agreement shall state:

(a) A description of the property substantially as described in the agreement.

(b) The name of the last assessee of the property. To ascertain the name of the last assessee of the tax-deeded property an examination shall be made of the assessment of this property on the last equalized roll, or if this property does not appear thereon, the last previous roll on which it was assessed.

(c) That an agreement for the sale of the property or for an option to purchase it, or both, as the case may be, has been made by the board of supervisors of the county with the taxing agency or nonprofit organization named in the agreement and has been approved by the Controller.

(d) That a copy of the agreement is on file in the office of the board of supervisors.

(e) If the right to redeem the property has not already been terminated, there shall also be a statement that unless the property is redeemed before the agreement becomes effective, the right of redemption will cease.

(f) The date and time that the agreement will become effective.

SEC. 5. Section 3802 of the Revenue and Taxation Code is amended to read:

3802. The agreement shall become effective at 5:01 p.m. on the 21st day after the first publication or the mailing of the notice of agreement, whichever is later.

SEC. 6. Section 3803 of the Revenue and Taxation Code is amended to read:

3803. If not previously terminated, all rights to redeem the property shall terminate on the date and at the time the agreement becomes effective. If all or any portion of the property is redeemed before the agreement becomes effective, the agreement is null as to the property redeemed.

SEC. 7. Section 3806 of the Revenue and Taxation Code is amended to read:

3806. Except as against actual fraud, the deed is conclusive evidence of compliance with this article and otherwise has the same effect as evidence and as a conveyance as a deed to a private purchaser after sale of tax-deeded property under Chapter 7 (commencing with Section 3691) of this part. When the property is sold under an agreement providing for the resale of the property by the purchasing agent the deed given upon resale shall have the same effect.

SEC. 8. Section 3807 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 3807.3 of the Revenue and Taxation Code is amended to read:

3807.3. If the agreement under this chapter contains provisions authorized by Section 3793.5 upon resale of the property the governing board of the taxing agency shall deduct its expenses of purchase and resale and shall within 30 days following the date of resale transmit the net proceeds received from the resale and report the following to the tax collector:

(a) The name and address of the purchaser.

(b) The date of sale and, if executed, of the deed to the purchaser.

(c) The amount for which the property was sold and the amount of the deductible expenses.

(d) The description of the property conveyed.

SEC. 10. Section 3807.5 of the Revenue and Taxation Code is amended to read:

3807.5. If the agreement contained provisions and the property is not resold by the taxing agency or rehabilitated by the nonprofit organization purchasing the property within two years after the date of recordation of the deed to the taxing agency or nonprofit agency, and not within any extension of such period approved by the board of supervisors, the taxing agency or nonprofit organization shall execute a deed to the state reconveying to the state all the right, title and interest of the state in the property which such taxing agency or nonprofit organization obtained by the deed of the tax collector under the provisions of this chapter. Such deed shall be delivered to the county tax collector. Thereafter, such property shall be held as tax-deeded property by the state and the privilege of redemption is thereby restored.

The Controller shall provide uniform blanks on which such reconveyances shall be made. There shall be the same number of duplicates as is required for deeds to the state for taxes, and the same procedure shall be followed in recording such deeds as is provided

by law for the recording of deeds to the state for taxes.

SEC. 11. Section 3808 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 3808 is added to the Revenue and Taxation Code, to read:

3808. Any payment required by an agreement under this chapter shall be made to the county tax collector and, except as provided for in Section 3791.5, shall be deposited, like tax collections, in the delinquent tax sale trust fund and shall be distributed under Chapter 1.3 (commencing with Section 4670) of Part 8 of this division.

SEC. 13. Section 3814 of the Revenue and Taxation Code is repealed.

SEC. 14. Section 4102 of the Revenue and Taxation Code is amended to read:

4102. The amount necessary to redeem shall be paid in lawful money of the United States and is the sum of the following:

(a) The amount of sold taxes.

(b) Delinquent penalties and costs.

(c) Redemption penalties.

(d) A redemption fee of one dollar and fifty cents ($1.50) on each separately valued parcel sold to the state after June 13, 1947, and prior to June 13, 1969. A redemption fee of two dollars ($2) on each separately valued parcel sold to the state after June 12, 1969, and prior to January 1, 1979, which fee shall be five dollars ($5) on and after such date. On property sold to the state prior to June 13, 1947, there shall be no redemption fee collected.

SEC. 15. Section 4114 of the Revenue and Taxation Code is repealed.

SEC. 16. Section 4114 is added to the Revenue and Taxation Code, to read:

4114. When it can be determined from an inspection of the tax records that the tax collector has erroneously computed the amount necessary to redeem a parcel of property as to which a redemption certificate has been issued, and such error has resulted in an underpayment of the amount required to redeem such property, the amount of redemption deficiency may be collected by the tax collector, if within four years after the date of the underpayment, the tax collector sends notice of or a bill for the underpayment by registered or certified mail to the assessee of the property for the year in which the underpayment was made, at his last known address. The notice shall show:

(1) That the tax collector made an unintended error in computing the amount required to redeem the property.

(2) That as a result of the error, the payment made to redeem such property was insufficient to pay the amount required to redeem as specified in Section 4102.

(3) In detail, the balance due.

(4) A statement that if payment of the amount due is not made within 30 days following the date of this notice, the amount due will

be transferred to the secured roll prepared or being prepared and will be collected like other taxes on such roll.

SEC. 17. Section 4115 is added to the Revenue and Taxation Code, to read:

4115. If payment of the redemption deficiency is not made within 30 days following the mailing of the notice or bill required by Section 4114, the deficiency shall be transferred to the secured roll prepared or being prepared for the assessment year in which such notice or bill is mailed to the assessee, and shall thereafter be treated and collected like other taxes on such roll; provided, however, that if prior to the date of transfer to the secured roll, with the date of entry specified thereon, the real property on which such redemption deficiency constitutes a lien has been transferred or conveyed to a bona fide purchaser for value or becomes subject to a bona fide encumbrance for value, such redemption deficiency shall not create, impose or constitute a lien on such real property but shall be transferred to the unsecured roll in the name of the assessee at the time the original insufficient payment was made and shall thereafter be treated and collected like other taxes on said roll.

The entry on the roll shall be followed with "Deficiency in Redemption of Parcel Number _____ on _____, 19 _____." The foregoing entry may be made on a document separate from the roll if reference is made on the roll to the document wherein the entry is made. The delinquent tax abstract from which the redemption deficiency is transferred may, at the option of the county, serve as the separate document.

SEC 18. Section 4116 is added to the Revenue and Taxation Code, to read:

4116. Any redemption deficiency on account of which the notice or bill required by Section 4114 is not mailed within 4 years after the date of the original insufficient payment shall not be collectible and shall, on order of the board of supervisors and with the written consent of the county legal advisor, be cancelled.

SEC. 19. Section 4217 of the Revenue and Taxation Code is amended to read:

4217. Any person may elect to pay delinquent taxes in installments under this article at any time prior to 5 p.m. on June 30th of the fifth year after the property was sold to the state and prior to the deeding to the state, except that if payment of delinquent taxes in installments is started under this article and the amount required to be paid in any fiscal year is not paid as required by this article, payments on property subject to deed during the current calendar year may not again be started under this article. All other payments may be started on or after July 1 of the fiscal year commencing after the fiscal year in which default occurred.

SEC. 20. Section 4222 of the Revenue and Taxation Code is amended to read:

4222. If all payments are not made on or before the dates prescribed, the property may be deeded to the state or the right of

redemption may be terminated in the same manner as if no election to pay delinquent taxes in installments had been made. In the event that the default occurs at the time the second or subsequent installment is due and the assessee or agent of the assessee can, by substantial evidence, convince the tax collector that the payment was not made through any fault of the assessee the tax collector may reinstate the account upon receipt of a payment in an amount reflecting the installment due plus interest under Section 4221 to the date of reinstatement, provided the payment is made prior to the time the property is deeded to the state or prior to June 30 of the current fiscal year, whichever occurs earlier.

SEC. 21. 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 an agreement requiring that the taxing agency resell the property, 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. 22. Section 4672.1 of the Revenue and Taxation Code is amended to read:

4672.1. There shall be distributed to the county general fund to reimburse the county for the cost of conducting the sale one hundred fifty dollars ($150) 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 an agreement requiring that the taxing agency resell the property it shall not be deemed "sold" until resold by the taxing agency to a private party.

One hundred fifty dollars ($150) for property sold shall be paid from the total amount to be distributed, after satisfaction of the amount specified in Section 4672. If such amount is insufficient, the one hundred fifty dollars ($150) shall be reduced accordingly.

SEC. 23. Section 4920 of the Revenue and Taxation Code is amended to read:

4920. This article shall be applicable only if all of the following requirements in either subdivision (a) or subdivision (b) are true:

(a) (1) By substantial evidence a redemptioner convinces the tax collector that money paid by him in redemption of any property or for the use of any property pursuant to Chapter 3 (commencing with Section 4186) of Part 7 of this division was intended by him to be paid in connection with any other property or that such payment was, without his fault, credited to unintended property.

(2) The right of redemption has not terminated on the property in connection with which the payment was intended.

(3) Two years have not elapsed since the date of the payment.

(4) A guarantee or certificate of title has not been issued on the property in connection with which the payment was credited.

When all of the foregoing are true, the tax collector shall transfer the payment to the property in connection with which the payment was intended, and in case the payment caused the redemption of the property in connection with which the payment was not intended, cancel the redemption of that property.

(b) (1) By substantial evidence a redemptioner convinces the tax collector that money paid by him in redemption of any property or for the use of any property pursuant to Chapter 3 (commencing with Section 4186) of Part 7 of this division was, without his fault, credited to unintended property.

(2) The right of redemption has not terminated on the property in connection with which the payment was intended.

(3) Two years have not elapsed since the date of the payment.

(4) A guarantee or certificate of title has been issued on the property in connection with which the payment was credited.

When all of the foregoing are true, the tax collector shall transfer the payment to the property in connection with which the payment was intended to be made, and shall cancel the credit on the unintended property. In the event such a transfer is made, the person owning the unintended property immediately before issuance of the guaranty or certificate shall be personally liable for the amount so transferred which shall be collected in the manner specified for the collection of taxes on the unsecured roll.

SEC. 24. 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 431

An act to add Section 1985.2 to the Code of Civil Procedure, relating to subpoenas.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 1985.2 is added to the Code of Civil Procedure, to read:

1985.2. Any subpoena which requires the attendance of a witness at any civil trial shall contain the following notice in a type face designed to call attention to the notice:

Contact the attorney requesting this subpoena, listed above, before the date on which you are required to be in court, if you have any question about the time or date for you to appear, or if you want to be certain that your presence in court is required.

SEC. 2. This act shall become operative on July 1, 1979.

CHAPTER 432

An act to amend Sections 1322, 11200, 11550.5, 11552, 12803, and 12803.5, of, to add Section 12850.7 to, and to repeal Section 12803.5 of, the Government Code, to amend Sections 101, 1770, and 1771 of, to add Sections 446.9 and 11861 to, and to repeal Section 11861 of, the Health and Safety Code, and to amend Sections 727, 4005, 4015, 4405, 4422, 4521, 4530, 5328, 10552, 10722, 10805, 10813.1, 10851, and 19003 of, to amend and renumber Sections 10053.2, 10053.20, 10053.3, 10053.5, 10053.6, and 10053.7 of, and to repeal Section 10552.5 of, the Welfare and Institutions Code, relating to welfare, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 17, 1978 Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 11200 of the Government Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

11200. The Governor, upon recommendation of the director of the following state departments, may appoint not to exceed two chief deputies for the Directors of the Departments of Finance, Transportation, and General Services, and not to exceed one chief deputy for the Directors of the Departments of Employment Development, Food and Agriculture, Insurance, Motor Vehicles, Consumer Affairs, Water Resources, and Parks and Recreation.

The deputies provided for in this section shall be in addition to those authorized by any other law.

SEC. 2. Section 11550.5 of the Government Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

11550.5. An annual salary of thirty-two thousand five hundred dollars ($32,500) shall be paid to each of the following:

(a) State Director of Health Services.

(b) Director of Mental Health.

(c) Director of Developmental Services.

SEC. 3. Section 11552 of the Government Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

11552. An annual salary of thirty thousand dollars ($30,000) shall be paid to each of the following:

(a) Superintendent of Banks

(b) Commissioner of Corporations
(c) Insurance Commissioner
(d) Director of Transportation
(e) Real Estate Commissioner
(f) Savings and Loan Commissioner
(g) Director of Social Services
(h) Director of Water Resources
(i) Director of Food and Agriculture
(j) Director of Corrections
(k) Director of General Services
(*l*) Director of Industrial Relations
(m) Director of Motor Vehicles
(n) Director of the Youth Authority
(o) Commissioner, California Highway Patrol
(p) Members of the Public Utilities Commission
(q) Director of Employment Development
(r) Director of Alcoholic Beverage Control
(s) Director of Housing and Community Development
(t) Director of Alcohol and Drug Abuse
(u) Director of the Office of Statewide Health Planning and Development

SEC. 4. Section 12803 of the Government Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

12803. The Health and Welfare Agency consists of the following departments: Health Services; Mental Health; Developmental Services; Social Services; Alcohol and Drug Abuse; Aging; Employment Development; Rehabilitation; the Youth Authority; and Corrections.

The agency also includes the Office of Statewide Health Planning and Development and the State Council on Developmental Disabilities. Effective July 1, 1979, the Departments of Corrections and the Youth Authority shall no longer be included within the Health and Welfare Agency.

SEC. 4.5. Section 12803.5 of the Government Code is amended to read:

12803.5. The Governor, upon recommendation of the Secretary of the Health and Welfare Agency, may appoint not to exceed two deputies for the secretary.

SEC. 5. Section 12850.7 is added to the Government Code, to read:

12850.7. The Secretary of the Health and Welfare Agency shall review and evaluate the systems within the agency for the payment and computation of benefits, insurance, and subvention moneys. The secretary shall determine the adequacy and effectiveness of the payment systems, whether the payment systems are consistent and compatible, and whether adequate fiscal accountability exists.

SEC. 5.4. Section 101 of the Health and Safety Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

101. The State Department of Health Services is under the

control of an executive officer known as the Director of Health Services, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. He shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

Upon recommendation of the director, the Governor may appoint not to exceed two chief deputies of the department who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

SEC. 6. Section 446.9 is added to the Health and Safety Code, to read:

446.9. The Office of Statewide Health Planning and Development may enter into such agreements and contracts with any person, department, agency, corporation, or legal entity as are necessary to carry out the functions vested in the office by this part.

SEC. 7. Section 1770 of the Health and Safety Code, as added by Chapter 1252 of the Statutes of 1977, is amended to read:

1770. Any organization or person may receive transfers of property from an aged person, conditioned upon an agreement to furnish life care or care for a period of more than one year, which agreement may include the cash payment of personal and incidental expenses to the transferor or his nominee; provided, such organization or person has received a written license pursuant to Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) of this division, and such organization or person has been granted a certificate of authority by the State Department of Social Services.

Organizations or persons who furnish care exclusively under agreements, which may be canceled by either party without cause, are required to obtain a certificate of authority from the state department for all agreements issued after October 1, 1957, if payment or transfer of property is made in advance to cover cost of care for one year or more; provided, however, that, if any such organization or person is a nonprofit benevolent organization, which accepts property in an amount less than the cost of care, the amount of reserve required of it under Section 1775 shall be reduced in the same proportion as the estimated cost of care bears to the value of the property transferred.

SEC. 8. Section 1771 of the Health and Safety Code, as added by Chapter 1252 of the Statutes of 1977, is amended to read:

1771. As used in this chapter, "state department" means State Department of Social Services and "contracts" or "agreements" means both life care contracts and continuing care agreements.

SEC. 8.5. Section 11861 is added to the Health and Safety Code, to read:

11861. There is in state government an Advisory Council on Drug Abuse consisting of the Attorney General, the Superintendent of Public Instruction, the Secretary of the Health and Welfare Agency,

the Director of Finance, and three public members appointed by the Governor.

The Governor shall designate the chairman of the council.

The council shall have the following functions:

(a) Review and evaluate the effectiveness of state drug abuse enforcement, prevention, and treatment policies.

(b) Encourage the development of integrated and cooperative state drug abuse policies involving drug abuse law enforcement and drug abuse prevention and treatment.

(c) Review the priorities and allocation of funds and other resources of state agencies with responsibilities for drug abuse enforcement, prevention, and treatment.

(d) Report annually to the Governor and the Legislature concerning its activities during the previous year, its assessment and the effectiveness of state policies and programs and any recommendations it deems necessary to promote the development of a more effective statewide drug abuse enforcement, prevention and treatment strategy.

This section shall remain in effect only until July 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1979, deletes or extends such date.

SEC. 8.7. 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 300, 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 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code; provided, however, that pending action by the State Department of Social Services, 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 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.

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. 8.9. Section 4005 of the Welfare and Institutions Code, as added by Chapter 1252 of the Statutes of 1977, is amended to read:

4005. With the consent of the Senate, the Governor shall appoint, to serve at his pleasure, the Director of Mental Health. He shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150), Part 1, Division 3, Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550), Part 1, Division 3, Title 2 of the Government Code.

Upon recommendation of the director, the Governor may appoint a chief deputy director of the department who shall hold office at the pleasure of the Governor. The salary of the chief deputy director shall be fixed in accordance with law.

SEC. 9. Section 4015 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

4015. The department may examine all public and private hospitals, boarding homes or other establishments whether or not licensed by the department, receiving or caring for the mentally disordered, and may inquire into their methods of government, and the treatment of all patients thereof.

It may examine the condition of all buildings, grounds, or other property connected with such institutions, and may inquire into all matters relating to their management. For the purposes specified in this paragraph the department shall have free access to the grounds, buildings, and books and papers of any such institution, and every

person connected therewith shall give such information and afford such facilities for examination or inquiry as the department requires.

Any evidence found of suspected licensing violations shall be reported immediately to the State Department of Health Services or the State Department of Social Services, whichever has jurisdiction.

SEC. 9.5. Section 4405 of the Welfare and Institutions Code, as added by Chapter 1252 of the Statutes of 1977, is amended to read:

4405. With the consent of the Senate, the Governor shall appoint to serve at his pleasure, the Director of Developmental Services. He 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, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Upon recommendation of the director, the Governor may appoint a chief deputy director of the department who shall hold office at the pleasure of the Governor. The salary of the chief deputy director shall be fixed in accordance with law.

SEC. 10. Section 4422 of the Welfare and Institutions Code, as added by Chapter 1252 of the Statutes of 1977, is amended to read:

4422. The department may examine all public and private hospitals, boarding homes or other establishments whether or not licensed by the department, receiving or caring for developmentally disabled persons and may inquire into their methods of government, and the treatment of all patients thereof.

It may examine the condition of all buildings, grounds, or other property connected with such institutions, and may inquire into all matters relating to their management. For the purposes specified in this paragraph the department shall have free access to the grounds, buildings, and books and papers of any such institution, and every person connected therewith shall give such information and afford such facilities for examination or inquiry as the department requires.

Any evidence found of suspected licensing violations shall be reported immediately to the State Department of Health Services or the State Department of Social Services, whichever has jurisdiction.

SEC. 10.5. Section 4521 of the Welfare and Institutions Code, as added by Chapter 1252 of the Statutes of 1977, is amended to read:

4521. All references to "state council" in this part shall be references to the State Council on Developmental Disabilities.

(a) The state council shall consist of 12 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 12 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 Secretary of the Health and Welfare Agency, the Superintendent of Public Instruction, and the Director of Developmental Services shall serve as voting ex officio 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 4570) of this part.

(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.

SEC. 11. Section 4530 of the Welfare and Institutions Code, as added by Chapter 1252 of the Statutes of 1977, is amended to read:

4530. For administrative purposes only, the state council shall be attached to the Health and Welfare Agency. The agency secretary shall ensure the state council is provided 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 Health and Welfare Agency 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 4540) of this chapter.

The administrative attachment of the state council to the Health and Welfare Agency shall not be construed to interfere in any way with the provisions of Section 4552 requiring all personnel employed by the council to be solely responsible, organizationally and

administratively, to the council.

SEC. 12. Section 5328 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

5328. All information and records obtained in the course of providing services under Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed only:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his guardian or conservator must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical responsibility for the patient's care;

(b) When the patient, with the approval of the psychiatrist or licensed psychologist in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled;

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

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research. Such rules shall include, but need not be limited to, the requirement that all researchers must sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received

services is identifiable.

I recognize that unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of said attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

The amendment of subdivision (d) of this section enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 13. Section 10053.2 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended and renumbered to read:

14503. Family planning services shall be offered to all former, current or potential recipients of childbearing age (as provided by Public Law 92-603) and provided to all such eligible individuals who voluntarily request such services. Such services shall be offered and provided without regard to marital status, age, or parenthood. Notwithstanding any other provisions of law, the furnishing of these family planning services shall not require the consent of anyone other than the person who is to receive them. Within the meaning of this section, the term "former, current or potential recipient" shall mean all persons eligible for Medi-Cal benefits under Chapter 7 (commencing with Section 14000) of this part and all persons eligible for public social services for which federal reimbursement is available under the federal Social Security Act, except that the term "potential recipients" shall in all cases include all persons in a family where current social, economic and health conditions of the family indicate that the family would likely become a recipient of financial assistance within the next five years.

Family planning services shall include, but not be limited to:

(a) Medical treatment and procedures defined as family planning services under the published Medi-Cal scope of benefits.

(b) Medical contraceptive services such as diagnosis, treatment, supplies, and followup.

(c) Informational and educational services.

(d) Facilitating services such as transportation and child care services needed to attend clinic or other appointments.

To the extent the services under this section are not available under the Medi-Cal program, they shall be provided by contracts between authorized public or private agencies offering family planning services and the State Department of Health Services. Such contracts shall include to the maximum extent possible, cooperative funding and other financial arrangements which permit maximum use of available federal funds. Information and referral services only shall be available to all other families and children.

As the single state agency responsible for the state plan under Title XX of the federal Social Security Act, the State Department of Social Services may provide family planning services pursuant to a purchase of services agreement with the State Department of Health Services from funds appropriated for such services.

SEC. 13.5. Section 10053.20 of the Welfare and Institutions Code is amended and renumbered to read:

14508. It is the intent of the Legislature that all persons eligible for family planning services under Title IV-A of the Social Security Act and Title X of the U.S. Public Health Service Act on January 1, 1974, shall continue to be provided services notwithstanding changes in federal regulations.

SEC. 14. Section 10053.3 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended and renumbered to read:

14504. The county welfare departments shall develop and submit

to the Health and Welfare Agency a quarterly statistical report on the operation of Section 14503 to document the effectiveness of this program. Such report shall include, but not be limited to:

(a) A description of the procedures used to inform former, current, and potential recipients of childbearing age of their eligibility for and the availability of family planning services.

(b) The number of current recipients of childbearing age offered family planning services during the quarter.

(c) The number of referrals to family planning clinics by the county welfare departments.

The State Department of Health Services shall prepare a report setting forth such information by counties and submit its report to the Legislature no later than 60 days after the end of each quarter. Such report shall also include, but not be limited to the following:

(a) The number of visits to family planning clinics and Medi-Cal providers, the medical contraceptive and other services provided at those visits, categorized according to former, current, or potential recipients.

(b) The number of live births per 1,000 current female recipients of childbearing age during the quarter.

(c) The number of live births per 1,000 females of childbearing age resident in the county during the quarter.

SEC. 15. Section 10053.5 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended and renumbered to read:

14505. The State Department of Health Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the Department of Benefit Payments with respect to the processing, audit, and payment of claims for family planning services under this part to the extent they are performed pursuant to the state plan under Title XIX of the federal Social Security Act (Medi-Cal). The State Department of Social Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the Department of Benefit Payments with respect to the processing, audit, and payment of claims for family planning services under this part to the extent they are performed pursuant to the state plan under Title XX of the federal Social Security Act. Moneys, funds, and appropriations available to the Department of Benefit Payments for the purposes of this section shall be made available to the State Department of Health Services and to the State Department of Social Services by the Director of Benefit Payments for the purposes of this section after such moneys, funds, and appropriations have been appropriated to or received by the Department of Benefit Payments.

SEC. 16. Section 10053.6 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended and renumbered to read:

14506. The State Department of Health Services shall have the possession and control of all records, papers, equipment, and supplies

held for the benefit or use of the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Health Services by Section 14505. The State Department of Social Services shall have possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Social Services by Section 14505.

SEC. 17. Section 10053.7 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended and renumbered to read:

14507. All officers and employees of the Director of Benefit Payments who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Health Services by Section 14505 shall be transferred to the State Department of Health Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Health Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 18. Section 10552 of the Welfare and Institutions Code is amended to read:

10552. With the consent of the Senate, the Governor shall appoint, to serve at his pleasure, an executive officer who shall be director of the department. The director shall be appointed wholly on the basis of training, demonstrated ability, experience, and leadership in organized social welfare administration. He shall receive the salary provided for by Chapter 6 (commencing with Section 11550), Part 1, Division 3, Title 2 of the Government Code.

The Governor also may appoint, to serve at his pleasure, not to exceed two chief deputy directors of the department, and one deputy director of the department who shall be the deputy director for the social services division. The salaries of the chief deputy directors and the deputy director shall be fixed in accordance with law.

SEC. 19. Section 10552.5 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is repealed.

SEC. 19.5. Section 10722 of the Welfare and Institutions Code, as added by Chapter 1252 of the Statutes of 1977, is amended to read:

10722. The State Department of Health Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Department of Health or the State Department of Benefit Payments pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), Chapter 8.5 (commencing with Section 14500), and Chapter 8.7 (commencing with Section 14520) of this part on the date immediately prior to the date this section becomes operative.

Functions transferred pursuant to this section include the management and administration of the Health Care Deposit Fund and the audit and recovery of amounts due as the result of payments made under the California Medical Assistance Program (Medi-Cal).

Transfer to the State Department of Health Services of the above functions shall not impair any contract between the State Department of Health or the State Department of Benefit Payments and any third party and such transfer shall neither create nor vest any right or obligation in either party. In no case shall the substitution of the State Department of Health Services for the State Department of Health or the State Department of Benefit Payments be considered a breach of contract or failure of performance, nor shall it disturb the legal relationships of the parties.

SEC. 20. Section 10805 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

10805. Each worker employed by the department or the State Department of Health Services whose responsibilities require making home visits shall be provided with an identification card, showing the name and position of the worker, and containing a recent picture. Upon calling at the home of any applicant for or recipient of public social services, the worker shall display the identification card to the applicant or recipient.

Should a worker terminate his employment with the agency, he shall return his identification card to the agency.

SEC. 21. Section 10813.1 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

10813.1. Each county shall submit to the department by December 31 of each year a comprehensive plan for the financing and delivery of social services for the next fiscal year to meet the purposes of Section 10053. Such plan shall specify a priority of services for adults and for families and children.

SEC. 22. Section 10851 of the Welfare and Institutions Code is amended to read:

10851. (a) Each county shall establish and maintain a case record for each public social services case and shall retain such record for a period of four years. The four-year retention period begins on the date on which public social services were last provided. The records shall be retained beyond the four-year retention period when the county is notified by the department or the State Department of Health Services, whichever has jurisdiction over the records, to retain records for a longer period of time. The department or the State Department of Health Services, whichever has jurisdiction over the records, shall instruct a county to retain records beyond the four-year period when such retention is necessary to a pending civil or criminal action.

(b) Notwithstanding subdivision (a), the board of supervisors of any county may authorize the destruction of the case narrative portions of the case record that are over four years old in any case file, active or inactive, only after audit by the department or the State

Department of Health Services, whichever has jurisdiction over the record. However, if a civil or criminal action is commenced before the expiration of the four-year period against a person based on alleged unlawful application for, or receipt of, public social services, no portion of the case record of such person shall be destroyed until such action is terminated.

(c) Each county shall maintain fiscal, statistical and other such records necessary for maintaining accountability and meeting reporting requirements relating to the administration of public social services. Such fiscal and reporting records shall be retained for a minimum period of four years from the date of submission of the final expenditure report and shall be retained beyond the four-year period when audit findings have not been resolved.

(d) The retention requirements imposed by subdivisions (a) and (c) of this section are for public social services purposes only and are superseded to the extent another statute requires retention of the same records for a longer period for a different purpose.

SEC. 22.5. Section 19003 of the Welfare and Institutions Code is amended to read:

19003. The director is appointed by the Governor, subject to confirmation by the Senate, and holds office at the pleasure of the Governor. The annual salary of the director is provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Upon recommendation of the director, the Governor may appoint a chief deputy director of the department who shall hold office at the pleasure of the Governor. The salary of the chief deputy director shall be fixed in accordance with law.

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 reorganization of the Health and Welfare Agency made by Chapter 1252 of the Statutes of 1977 will become operative July 1, 1978. In order to facilitate the implementation of that reorganization, it is necessary that this act go into effect immediately.

SEC. 24. This act shall become operative on July 1, 1978.

CHAPTER 433

An act to add Sections 44039.5 and 87038.5 to the Education Code, relating to school employees.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 44039.5 is added to the Education Code, to read:

44039.5. No contract with any insurer or other employee welfare benefit provider shall be approved or renewed if an administrative employee of a school district, as defined pursuant to subdivision (d) of Section 33150, or any employee organization, as defined pursuant to subdivision (d) of Section 3540.1 of the Government Code, or any employee or agent thereof, has a direct financial interest in any plan or program which is being approved or renewed. The provisions of this section shall not apply to any employee welfare benefit fund jointly administered by one or more employers and one or more employee organizations or to any employee welfare benefit fund established by the school district for the purpose of self insuring.

As used in this section, "direct financial interest" means the receipt of or entitlement to a commission, fee, or other remuneration, including the payment of fees for administrative services rendered on behalf of such plans.

SEC. 2. Section 87038.5 is added to the Education Code, to read:

87038.5. No contract with any insurer or other employee welfare benefit provider shall be approved or renewed if an administrative employee of a community college district, or any employee organization, as defined pursuant to subdivision (d) of Section 3540.1 of the Government Code, or any employee or agent thereof, has a direct financial interest in any plan or program which is being approved or renewed. The provisions of this section shall not apply to any employee welfare benefit fund jointly administered by one or more employers and one or more employee organizations or to any employee welfare benefit fund established by the community college district for the purpose of self insuring.

As used in this section, "direct financial interest" means the receipt of or entitlement to a commission, fee, or other remuneration, including the payment of fees for administrative services rendered on behalf of such plans.

SEC. 3. This act shall become operative July 1, 1979.

CHAPTER 434

An act to amend Sections 42603 and 85203 of the Education Code, relating to school districts and community college districts.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 42603 of the Education Code is amended to read:

42603. The governing board of any school district may direct that moneys held in any fund or account may be temporarily transferred from one or more of these accounts or funds to another fund of the district to be used for the payment of obligations of the district. Such a transfer can be made not more than twice within a fiscal year from the same fund or account and only when the district will receive income sufficient to repay the amount transferred. The amount transferred shall be repaid either in the same fiscal year, or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. No more than 75 percent of the maximum of moneys held in any fund or account during a current fiscal year may be transferred pursuant to the provisions of this section during that fiscal year.

SEC. 2. Section 85203 of the Education Code is amended to read:

85203. The governing board of any district may direct that moneys held in any fund or account may be temporarily transferred from one or more of these accounts or funds to another fund of the district to be used for the payment of obligations of the district. Such a transfer can be made not more than twice within a fiscal year from the same fund or account and only when the district will receive income sufficient to repay the amount transferred. The amount transferred shall be repaid either in the same fiscal year or in the following fiscal year if the transfer takes place within the final 120 calendar days of a fiscal year. No more than 75 percent of the maximum of moneys held in any fund or account during a current fiscal year may be transferred pursuant to the provisions of this section during that fiscal year.

CHAPTER 435

An act to add Section 4364 to the Civil Code, relating to dissolution of marriage.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 4364 is added to the Civil Code, to read:

4364. Notwithstanding any other provision of law, in instances in which no demand for money, property, costs, or attorney's fees is contained in the petition and the decree of dissolution is entered by default, the filing of a financial declaration in connection therewith shall not be required.

CHAPTER 436

An act to amend Sections 13400 and 13411 of the Water Code, relating to water quality.

[Approved by Governor July 17, 1978 Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 13400 of the Water Code is amended to read:

13400. As used in this chapter, unless otherwise apparent from the context:

(a) "Fund" means the State Water Quality Control Fund.

(b) "Public agency" means any city, county, city and county, district, or other political subdivision of the state.

(c) "Facilities" means: (1) facilities for the collection, treatment, or export of waste when necessary to prevent water pollution, (2) facilities to reclaim waste waters and to convey reclaimed water, (3) facilities or devices to conserve water, or (4) any combination of the foregoing.

SEC. 2. Section 13411 of the Water Code is amended to read:

13411. Upon a determination by the state board, after consultation with the State Department of Health, that (a) the facilities proposed by an applicant are necessary to the health or welfare of the inhabitants of the state, (b) that the proposed facilities meet the needs of the applicant, (c) that funds of the public agency are not available for financing such facilities and that the sale of revenue or general obligation bonds through private financial institutions is impossible or would impose an unreasonable burden on the public agency, (d) that the proposed plan for repayment is feasible, (e) in the case of facilities proposed under Section 13400(c) (1) that such facilities are necessary to prevent water pollution, (f) in the case of facilities proposed under Section 13400(c) (2) that such facilities will produce reclaimed water and that the public agency has adopted a feasible program for use thereof, and (g) in the case of facilities proposed under Section 13400(c) (3) that such facilities are a cost effective means of conserving water, the state board, subject to approval by the Director of Finance, may loan to the applicant such sum as it determines is not otherwise available to the public agency to construct the proposed facilities.

SEC. 3. Sections 1 and 2 of this act shall not become operative unless the Clean Water and Water Conservation Bond Law of 1978 is approved by the voters at an election called and conducted as provided by Chapter 1160 of the Statutes of 1977.

CHAPTER 437

An act to amend Sections 16063 and 16343 of the Education Code, relating to state school building aid.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 16063 of the Education Code is amended to read:

16063. Whenever a conditional apportionment has, prior to January 1, 1979, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over such district has certified to the board and the State Controller that at an election called, held and conducted in the district for that purpose, two-thirds of the qualified electors of the district voting thereat authorized the governing board of the applicant school district to accept, expend and repay an apportionment under the provisions of this chapter, and whenever thereafter said county superintendent of schools has certified to the board and the State Controller that the amount of bonds, if any, required by the board, as a condition to the apportionment becoming final, have been issued and sold and the proceeds thereof made available for the purposes of the application and the board has certified to the State Controller that the apportionment to the applicant school district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

Notwithstanding any provision to the contrary, no funds authorized by any bond act for the purpose of this chapter shall be made available for expenditure without specific authority of the board or its delegated representative.

SEC. 2. Section 16343 of the Education Code is amended to read:

16343. Whenever a conditional apportionment has, prior to January 1, 1979, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over such district has certified to the board and the State Controller that at an election called, held and conducted in the district for that purpose, the qualified electors of the district voting thereat authorized the governing board of the applicant school district, by the same majority vote required at a district bond election, to accept, expend and repay an apportionment under the provisions of this chapter, and whenever thereafter said county superintendent of schools has certified to the board and the State Controller that the required contribution of the

district has been placed on deposit in the state school building fund of the district and the board has certified to the State Controller that the apportionment to the applicant school district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid Fund or the School Building Safety Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

Notwithstanding any provision to the contrary, no funds authorized by any bond act for the purpose of this chapter shall be made available for expenditure without specific authority of the board or its delegated representative.

CHAPTER 438

An act to repeal Section 380 of the Penal Code, relating to drugs.

[Approved by Governor July 17, 1978. Filed with Secretary of State July 17, 1978]

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

SECTION 1. Section 380 of the Penal Code is repealed.

CHAPTER 439

An act to amend Section 10176 of the Insurance Code, relating to disability insurance.

[Approved by Governor July 17, 1978 Filed with Secretary of State July 17, 1978.]

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

SECTION 1. Section 10176 of the Insurance Code is amended to read:

10176. In disability insurance the policy may provide for payment of medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses upon a reimbursement basis, or for the exclusion of any such services, and provision may be made therein for payment of all or a portion of the amount of charge for such services without requiring that the insured first pay such expenses. No such policy shall prohibit the insured from selecting any psychologist or other person who is the holder of a certificate or license under Section 1000, 1634, 2135, 2553, 2630, 2948, or 3055 of the Business and Professions Code to perform the particular services

covered under the terms of the policy, such certificate holder or licensee being expressly authorized by law to perform such services.

Nor shall any such policy prohibit the insured, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, from selecting any licensed clinical social worker who is the holder of a license issued under Section 9040 of the Business and Professions Code to perform the particular services covered under the terms of the policy, or from selecting any speech pathologist or audiologist licensed under Section 2530 of the Business and Professions Code to perform services deemed necessary by the referring physician, such certificate holder or licensee being expressly authorized by law to perform such services.

CHAPTER 440

An act to amend Section 20816 of the Government Code, relating to Public Employees' Retirement System.

[Became law without Governor's signature July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 20816 of the Government Code is amended to read:

20816. Notwithstanding any other provisions of this part, when the Governor determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the state would be served, a state member, other than a school member, shall be eligible to receive additional service credit if the following conditions exist:

(a) The member retires on or after July 1, 1975, and before December 31, 1975, or the member transferred to a different state department or agency in anticipation of layoff and retires on or after July 1, 1975, and before January 31, 1976.

(b) The appointing power, as defined in Government Code Section 18524, transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The appointing power shall certify that it is electing to exercise the provisions of this section, pursuant to the Governor's determination, because of impending mandatory transfers, demotions and layoffs, resulting from the curtailment of its services.

The amount of service credit shall be two years regardless of

credited service, but shall not exceed the number of years intervening between the date of his retirement and the date he would be required to be retired because of age.

An appointing power which elects to make the payment prescribed by subdivision (b) shall make such payment with respect to all eligible employees who retire on or after July 1, 1975, and before December 31, 1975, and with respect to all members who received a layoff notice after July 1, 1975, and before December 31, 1975, and who transferred to a different state department or agency in anticipation of layoff and who retired on and after July 1, 1975, and before January 31, 1976.

The retirement allowance of any eligible member who retires prior to the operative date of this section, or prior to the operative date of the amendments to this section enacted during the 1977–78 Regular Session of the Legislature, shall be recalculated by the board to include the service credit available under this section.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments during the period July 1, 1975, to December 31, 1975.

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

CHAPTER 441

An act to repeal, add, and repeal Section 22713.5 of the Education Code, relating to the State Teachers' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 22713.5 of the Education Code is repealed.

SEC. 2. Section 22713.5 is added to the Education Code, to read:

22713.5. A retirant who left a position requiring membership to serve in a federal position during World War II not covered by membership in this system within 13 months and 15 days prior to entering full-time paid service with the American Red Cross shall be eligible to receive credit for service covered by this section upon written application to the board made on or prior to December 31, 1978, and upon receipt of such application the retirant's allowance thereafter shall be recalculated to include such service.

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 on or before January 1, 1979, deletes or extends that date.

SEC. 3. The Legislature finds the situation of the retirants

described in this act deserving of a unique legislative remedy. It is not the intent of the Legislature to establish any precedent with regard to altering or extending service credit periods.

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 be certain that the provisions of this bill will be effective during calendar year 1978, as was intended by the terms of Senate Bill 699 (Chapter 1261 of the Statutes of 1977), it is necessary for this act to take effect immediately.

CHAPTER 442

An act to amend Sections 44215 and 44217 of the Education Code, relating to teacher preparation and licensing, and making an appropriation therefor.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 44215 of the Education Code is amended to read:

44215. Except as provided pursuant to Section 44217 with respect to private citizens, the members of the commission shall serve without compensation, but shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties.

SEC. 2. Section 44217 of the Education Code is amended to read:

44217. The compensation of the members of the commission who are public employees shall not be reduced by the agency or body by which they are regularly employed for any absence from service occasioned by attendance upon the business of the commission, its committees or subcommittees.

Each school district which employs a member of the commission and which is required to employ a person to replace such member during his attendance at meetings of the commission or any committee or subcommittee thereof, shall be reimbursed from the Teacher Credentials Fund for the cost incurred by employing a replacement.

A private citizen member may be provided from the Teacher Credentials Fund a stipend of up to fifty dollars ($50) per day, exclusive of per diem, for attendance at a meeting of the commission or any committee or subcommittee thereof, if such attendance results in loss of income.

CHAPTER 443

An act to amend, repeal, and add Sections 6481, 6651, 7852, 7890, 7921, 8042, 8044, 8045, and 8254 of, to amend Sections 1055 and 7920 of, and to amend the heading of Article 5 (commencing with Section 7920) of Chapter 1 of Part 3 of Division 6 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 1055 of the Fish and Game Code is amended to read:

1055. The department may issue and may authorize any person except a commissioner or a person employed in the department to sell licenses and license tags. It may deliver licenses and license tags to persons so authorized without receiving full payment therefor, upon application of such person, and upon the giving of a bond as provided in this article.

Such person shall be allowed as compensation 5 percent of the amount collected and accounted for by him on the sales of such licenses or tags; however, such compensation shall not exceed twenty cents ($0.20) per sport fishing or hunting license, fifty cents ($0.50) per commercial fishing license or commercial passenger fishing boat license, or fifteen cents ($0.15) per hunting license tag or permit, or hunting stamp or permit, or two dollars ($2.00) per certificate of boat registration. He may retain the compensation out of the fees received by him for sales of licenses or tags, and shall remit the balance of such fees to the department within 10 days following the last day of each calendar month.

The amendments to this section enacted at the 1977–78 Regular Session of the Legislature shall become operative April 1, 1979, for commercial passenger fishing boat licenses and certificates of boat registration, and July 1, 1979, for hunting permits.

SEC. 1.5. Section 6481 of the Fish and Game Code is amended to read:

6481. A license granting the privilege to cultivate marine life shall be issued upon application and the payment of a fee of thirty dollars ($30) to the department. The license shall be valid for a term of one year from July 1, or if issued thereafter for the remaining portion of the term.

The amendments to this section enacted at the 1977–78 Regular Session of the Legislature shall become operative on July 1, 1979.

This section shall remain in effect only until July 1, 1981, and as of such date is repealed.

SEC. 2. Section 6481 is added to the Fish and Game Code, to read:

6481. A license granting the privilege to cultivate marine life

shall be issued upon application and the payment of a fee of twenty-five dollars ($25) to the department. The license shall be valid for a term of one year from July 1, or if issued thereafter for the remaining portion of the term.

This section shall become operative on July 1, 1981.

SEC. 3. Section 6651 of the Fish and Game Code is amended to read:

6651. A license granting the privilege to harvest kelp or other aquatic plants shall be issued and delivered upon application and the payment of a fee of fifteen dollars ($15) to the department. The license shall be valid for a term of one year from the date of issuance.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed.

SEC. 4. Section 6651 is added to the Fish and Game Code, to read:

6651. A license granting the privilege to harvest kelp or other aquatic plants shall be issued and delivered upon application and the payment of a fee of ten dollars ($10) to the department. The license shall be valid for a term of one year from the date of issuance.

This section shall become operative on January 1, 1981.

SEC. 5. Section 7852 of the Fish and Game Code is amended to read:

7852. A commercial fishing license entitles the holder to take fish from April 1st to March 31st of the year following, or, if issued after the beginning of such term, for the remainder thereof. The license fee is forty dollars ($40).

The amendments to this section enacted at the 1977–78 Regular Session of the Legislature shall become operative on April 1, 1979.

This section shall remain in effect only until April 1, 1981, and as of such date is repealed.

SEC. 6. Section 7852 is added to the Fish and Game Code, to read:

7852. A commercial fishing license entitles the holder to take fish from April 1st to March 31st of the year following, or, if issued after the beginning of such term, for the remainder thereof. The license fee is thirty-five dollars ($35).

This section shall become operative on April 1, 1981.

SEC. 7. Section 7890 of the Fish and Game Code is amended to read:

7890. Upon payment of a fee of one hundred twenty-five dollars ($125) and filing of the required statement by the owner or operator of the vessel, the department shall issue a certificate of boat registration which is valid for the period April 1st to March 31st of the year following, or, if issued after the beginning of such term, for the remainder thereof. This certificate shall be carried aboard the vessel at all times posted in a conspicuous place.

The amendments to this section enacted at the 1977–78 Regular Session of the Legislature shall become operative April 1, 1979.

This section shall remain in effect only until April 1, 1981, and as of such date is repealed.

SEC. 8. Section 7890 is added to the Fish and Game Code, to read:

7890. Upon payment of a fee of one hundred dollars ($100) and filing of the required statement by the owner or operator of the vessel, the department shall issue a certificate of boat registration which is valid for the period April 1st to March 31st of the year following, or, if issued after the beginning of such term, for the remainder thereof. This certificate shall be carried aboard the vessel at all times posted in a conspicuous place.

This section shall become operative on April 1, 1981.

SEC. 9. The heading of Article 5 (commencing with Section 7920) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code is amended to read:

Article 5. Commercial Passenger Fishing Boat Licenses

SEC. 10. Section 7920 of the Fish and Game Code is amended to read:

7920. The owner of any boat or vessel who, for profit, permits any person to fish therefrom, shall procure a commercial passenger fishing boat license.

This article applies only to a boat or vessel whose owner or his employee or other representative is with it when it is used for fishing.

SEC. 11. Section 7921 of the Fish and Game Code is amended to read:

7921. The license shall be valid during the period from April 1st to March 31st of the year following, or, if issued after the beginning of such term, for the remainder thereof, and for a fee of forty dollars ($40) shall be issued to the holder of a certificate of boat registration issued pursuant to Section 7890.

The amendments to this section enacted at the 1977-78 Regular Session of the Legislature shall become operative April 1, 1979.

This section shall remain in effect only until April 1, 1981, and as of such date is repealed.

SEC. 12. Section 7921 is added to the Fish and Game Code, to read:

7921. The license shall be valid during the period from April 1st to March 31st of the year following, or, if issued after the beginning of such term, for the remainder thereof, and for a fee of thirty-five dollars ($35) shall be issued to the holder of a certificate of boat registration issued pursuant to Section 7890.

This section shall become operative on April 1, 1981.

SEC. 13. Section 8042 of the Fish and Game Code is amended to read:

8042. The annual fees for licenses issued pursuant to this article are:

(a) For a fish canners and processors license issued to any person engaged in canning fish, except frozen or coldpack crustaceans, or manufacturing fish scraps, fishmeal, fish oil, chickenfeed, fertilizer, or other products from fish or fish offal, one hundred ninety dollars ($190).

(b) For a wholesale fish dealers and preservers license issued to any person preserving fish by the common methods of freezing, coldpacking, drying, salting, pickling, or smoking, or dealing by wholesale in fish taken from the waters of this state or brought into this state in a fresh condition, sixty-five dollars ($65).

Any person engaged in activities covered by both subdivision (a) and subdivision (b) is required to hold only the license designated in subdivision (a).

The amendments to this section enacted at the 1977–78 Regular Session of the Legislature shall become operative on July 1, 1979.

This section shall remain in effect only until July 1, 1981, and as of such date is repealed.

SEC. 14. Section 8042 is added to the Fish and Game Code, to read:

8042. The annual fees for licenses issued pursuant to this article are:

(a) For a fish canners and processors license issued to any person engaged in canning fish, except frozen or coldpack crustaceans, or manufacturing fish scraps, fishmeal, fish oil, chickenfeed, fertilizer, or other products from fish or fish offal, one hundred fifty dollars ($150).

(b) For a wholesale fish dealers and preservers license issued to any person preserving fish by the common methods of freezing, coldpacking, drying, salting, pickling, or smoking, or dealing by wholesale in fish taken from the waters of this state or brought into this state in a fresh condition, fifty dollars ($50).

Any person engaged in activities covered by both subdivision (a) and subdivision (b) is required to hold only the license designated in subdivision (a).

This section shall become operative on July 1, 1981.

SEC. 15. Section 8044 of the Fish and Game Code is amended to read:

8044. Notwithstanding the other provisions of this article, every broker or importer of fish, mollusks or crustaceans who (a) sells to other brokers, importers or wholesalers only, (b) who buys from other brokers, importers or wholesalers only, (c) who does not receive fish from fishermen except fishermen who are also wholesalers, and (d) who is not required by Section 8045 or 8046 to pay a privilege tax, shall procure a fish broker and importer's license for each place of business.

Any person qualifying under the provisions of this section may procure a fish broker and importer's license in lieu of a license under Section 8040 and, upon doing so, shall not be required to comply with the provisions of Sections 8045 and 8046.

The annual fee for the license issued pursuant to this section is one hundred twenty-five dollars ($125). The license year shall be from July 1 to June 30 of the year following, or, if issued after the beginning of such term, for the remainder thereof.

The amendments to this section enacted at the 1977–78 Regular

Session of the Legislature shall become operative on July 1, 1979.

This section shall remain in effect only until July 1, 1981, and as of such date is repealed.

SEC. 16. Section 8044 is added to the Fish and Game Code, to read:

8044. Notwithstanding the other provisions of this article, every broker or importer of fish, mollusks or crustaceans who (a) sells to other brokers, importers or wholesalers only, (b) who buys from other brokers, importers or wholesalers only, (c) who does not receive fish from fishermen except fishermen who are also wholesalers, and (d) who is not required by Section 8045 or 8046 to pay a privilege tax, shall procure a fish broker and importer's license for each place of business.

Any person qualifying under the provisions of this section may procure a fish broker and importer's license in lieu of a license under Section 8040 and, upon doing so, shall not be required to comply with the provisions of Section 8045 and 8046.

The annual fee for the license issued pursuant to this section is one hundred dollars ($100). The license year shall be from July 1 to June 30 of the year following, or, if issued after the beginning of such term, for the remainder thereof.

This section shall become operative on July 1, 1981.

SEC. 17. Section 8045 of the Fish and Game Code is amended to read:

8045. Every person operating under a license issued pursuant to this article shall, in addition to the license fee, pay a privilege tax for each pound, or fraction thereof, of fish purchased, received, or taken by him in accordance with the following schedule:

	Rate per pound
(a) All fish, irrespective of use, except as otherwise specified in this section	$0.0013
(b) Mollusks and crustaceans irrespective of use, excluding squid, crab and abalone	0.0125
(c) Crab and squid, irrespective of use	0.0019
(d) Salmon, except imported salmon offal, based on the weight in the round, irrespective of use	0.0500
(e) Sardines and abalone, irrespective of use	0.0063
(f) The following fish when used for bait or human consumption, except canning	0.0125
(1) Albacore	
(2) Barracuda	
(3) Bluefin	
(4) Broadbill swordfish	
(5) Flying fish	
(6) Frogs	
(7) Giant seabass	
(8) Halibut	

(9) Saltwater worms
(10) White seabass
(11) Yellowtail

(g) Anchovy 0.0006

Provided, however, that when the price paid as stated on the fish receipt required in accordance with Section 8011 is in excess of fifty dollars ($50) per ton, the tax on anchovy shall be $0.0013 per pound.

All fish, except shrimp (Pandalus jordani) and crab (Cancer magister), imported into California from another state or country, and which are for human consumption and are not thereafter canned or cooked by a licensee, shall not be subject to such a privilege tax.

Shrimp (Pandalus jordani) and crab (Cancer magister) imported into California from another state or country, irrespective of use, shall not be subject to such privilege tax.

This section shall remain in effect only until January 1, 1981, and as of such date is repealed.

SEC. 18. Section 8045 is added to the Fish and Game Code, to read:

8045. Every person operating under a license issued pursuant to this article shall, in addition to the license fee, pay a privilege tax for each pound, or fraction thereof, of fish purchased, received, or taken by him in accordance with the following schedule:

	Rate per pound
(a) All fish, irrespective of use, except as otherwise specified in this section	$0.001
(b) Mollusks and crustaceans irrespective of use, excluding squid, crab and abalone	0.01
(c) Crab and squid, irrespective of use	0.0015
(d) Salmon, except imported salmon offal, based on the weight in the round, irrespective of use	0.04
(e) Sardines and abalone, irrespective of use	0.005
(f) The following fish when used for bait or human consumption, except canning	0.01
(1) Albacore	
(2) Barracuda	
(3) Bluefin	
(4) Broadbill swordfish	
(5) Flying fish	
(6) Frogs	
(7) Giant seabass	
(8) Halibut	
(9) Saltwater worms	
(10) White seabass	
(11) Yellowtail	
(g) Anchovy	0.0005

Provided, however, that when the price paid as stated on the fish receipt required in accordance with Section 8011 is in excess of fifty dollars ($50) per ton, the tax on anchovy shall be $0.001 per pound.

All fish, except shrimp (Pandalus jordani) and Crab (Cancer magister), imported into California from another state or country, and which are for human consumption and are not thereafter canned or cooked by a licensee, shall not be subject to such a privilege tax.

Shrimp (Pandalus jordani) and crab (Cancer magister) imported into California from another state or country, irrespective of use, shall not be subject to such privilege tax.

This section shall become operative on January 1, 1981.

SEC. 19. Section 8254 of the Fish and Game Code is amended to read:

8254. Lobsters may not be taken for commercial purposes except in Districts 18, 19, 20A and that part of District 20 southerly of Santa Catalina Island between Southeast Rock and China Point under a revocable, nontransferable permit subject to such regulations as the commission shall prescribe.

Every person who takes, assists in taking, possesses or transports lobsters while on any boat, barge or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line or other appliance to take lobsters, must have a valid lobster permit issued to him and must be in possession of said permit while engaged in any of such activities.

Such permits may be issued annually by the department and shall be for the period of the commercial lobster season. The permit fee is one hundred twenty-five dollars ($125). However, any person who has had such a permit revoked may be required by the commission to appear before it and no new permit may be issued to such person unless the commission finds that such issuance will be in the best interests of lobster fishing.

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 the provisions of this section.

The amendments to this section enacted at the 1977–78 Regular Session of the Legislature shall become operative on July 1, 1979.

This section shall remain in effect only until July 1, 1981, and as of such date is repealed.

SEC. 20. Section 8254 is added to the Fish and Game Code, to read:

8254. Lobsters may not be taken for commercial purposes except in Districts 18, 19, 20A and that part of District 20 southerly of Santa Catalina Island between Southeast Rock and China Point under a revocable, nontransferable permit subject to such regulations as the commission shall prescribe.

Every person who takes, assists in taking, possesses or transports

lobsters while on any boat, barge or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line or other appliance to take lobsters, must have a valid lobster permit issued to him and must be in possession of said permit while engaged in any of such activities.

Such permits may be issued annually by the department and shall be for the period of the commercial lobster season. The permit fee is one hundred dollars ($100). However, any person who has had such a permit revoked may be required by the commission to appear before it and no new permit may be issued to such person unless the commission finds that such issuance will be in the best interests of lobster fishing.

This section shall become operative on July 1, 1981.

CHAPTER 444

An act to amend Sections 5005 and 5008 of, to add Section 5002.8 to, and to repeal Sections 5006 and 5009 of, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 5002.8 is added to the Vehicle Code, to read:

5002.8. Any distinctive license plate issued for a motor vehicle owned by a current or retired Member of the California Legislature, which plate denotes that such person is, or was, a Member of the Legislature, and any distinctive license plate issued for a vehicle owned by a Member of the Congress of the United States, which plate denotes that such person is a Member of Congress, shall require fees.

In addition to the regular fees for an original registration or renewal of registration, the following special fees shall be paid:

(a) Twelve dollars ($12) for the initial issuance of such special plate.

(b) Ten dollars ($10) for the transfer of such plate to another motor vehicle.

SEC. 2. Section 5005 of the Vehicle Code is amended to read:

5005. (a) Any person holding an unexpired amateur radio station license, other than a novice station license, issued by the Federal Communications Commission may, after the requirements for the registration of the motor vehicle have been complied with, also apply directly to the department for special license plates, and the department may issue special plates in lieu of the regular license plates. The special license plates shall be affixed to the motor vehicle for which registration is sought, and, in lieu of the numbers otherwise

prescribed by law, shall display the official amateur radio station call letters of the applicant as assigned by the Federal Communications Commission.

The applicant shall by satisfactory proof show that he is the holder of an unexpired license.

(b) The department shall not issue more than one set of special plates for any licensed amateur radio station.

(c) In addition to the regular fees for an original registration or renewal of registration, the following special fees will be paid:

(1) Fifteen dollars ($15) for the initial issuance of such special plate.

(2) Seven dollars ($7) for the transfer of such special plate to another motor vehicle.

SEC. 3. Section 5006 of the Vehicle Code is repealed.

SEC. 4. Section 5008 of the Vehicle Code is amended to read:

5008. (a) Any person who is regularly employed or engaged as a bona fide newspaper, newsreel, or television photographer or cameraman, may, after the requirements for the registration of the motor vehicle have been complied with, also apply for special license plates, and the department shall issue special license plates in lieu of the regular license plates. The special license plates shall be affixed to the vehicle for which registration is sought, and, shall display the letters "PP" enclosed by a shield.

The applicant shall by satisfactory proof show that he is a bona fide newspaper, newsreel, or television photographer or cameraman.

(b) The department shall not issue more than one set of such special plates to any person.

(c) In addition to the regular fees for an original registration or renewal of registration, the following special fees shall be paid:

(1) Twelve dollars ($12) for the initial issuance of such special plate.

(2) Seven dollars ($7) for the transfer of such special plate to another motor vehicle.

SEC. 5. Section 5009 of the Vehicle Code is repealed.

CHAPTER 445

An act to amend Sections 6951, 6959, 6965, 6966, 6968, 6973, 6976, 6977, 6979, and 6981 of, and to add Sections 6952.5, 6955.1, 6974, and 6974.5 to, the Health and Safety Code, relating to on-site wastewater disposal zones.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 6951 of the Health and Safety Code is amended to read:

6951. "Public agency" means a city, a county, a special district, or any other political subdivision of the state which is otherwise authorized to acquire, construct, maintain, or operate sanitary sewers or sewage systems.

"Public agency" does not mean an improvement district organized pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000), Streets and Highways Code), or the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000), Streets and Highways Code) or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500), Streets and Highways Code), or a county maintenance district.

SEC. 2. Section 6952.5 is added to the Health and Safety Code, to read:

6952.5. "Owner of real property" means any public agency owning land and any person shown as the owner of land on the last equalized assessment roll; provided that where such person is no longer the owner, the term means any person entitled to be shown as owner on the next assessment roll and where land is subject to a recorded written agreement of sale, the term means any person shown therein as purchaser.

SEC. 3. Section 6955.1 is added to the Health and Safety Code, to read:

6955.1. A proposed zone shall contain at least 12 voters, as defined in Section 18 of the Elections Code; provided that where there are fewer than 12 registered voters within a proposed zone, the public agency may form a zone if the county health officer determines that an existing or potential public health hazard exists. The board of supervisors shall receive a notice of such determination.

SEC. 4. Section 6959 of the Health and Safety Code is amended to read:

6959. The hearing by the board on the question of the formation of the proposed zone shall be commenced no less than 45 days nor more than 60 days from adoption of a resolution of intention or the receipt of a petition containing a sufficient number of signatures and shall be completed no more than 90 days after the first day of the hearing.

SEC. 5. Section 6965 of the Health and Safety Code is amended to read:

6965. If the number of written protests filed and not withdrawn is the number described in subdivision (a) of Section 6963, the board shall find and declare by resolution all of the following:

(a) A description of the exterior boundaries of the zone as proposed or modified.

(b) The number of on-site wastewater disposal systems which the

public agency proposes to acquire, operate, maintain, or monitor.

(c) That the operation of the proposed zone will not result in land uses that are not consistent with applicable general plans, zoning ordinances, or other land use regulations.

(d) The method of financing the operations of the zone.

SEC. 6. Section 6966 of the Health and Safety Code is amended to read:

6966. The board may order the formation of the zone either without election or subject to confirmation by the voters within the zone upon the question of such formation. However, the board shall not order any such formation without an election if the number of written protests filed and not withdrawn is a number described in subdivision (b) of Section 6963.

SEC. 7. Section 6968 of the Health and Safety Code is amended to read:

6968. Any election conducted pursuant to the provisions of this chapter shall be conducted pursuant to the provisions of law pertaining to regular or special elections held in the public agency.

SEC. 8. Section 6973 of the Health and Safety Code is amended to read:

6973. If the board does not form a zone after the close of a hearing in accordance with Section 6967 and no petition is filed pursuant to Section 6967, or if the board abandons proceedings on the proposal to form a zone, or if the formation of a zone is not confirmed by the voters, no further proceeding shall be taken thereon. No application for a subsequent proposal involving substantially the same territory and undertaken pursuant to the provisions of this chapter shall be considered or acted upon by the public agency for at least one year after the date of disapproval of, abandonment of, or election on the proceedings.

SEC. 9. Section 6974 is added to the Health and Safety Code, to read:

6974. Territory within the public agency may be annexed to a zone, provided that such territory is not part of another zone. The requirements and proceedings for the annexation of territory shall be the same as the requirements and proceedings for formation of a zone.

SEC. 10. Section 6974.5 is added to the Health and Safety Code, to read:

6974.5. Land already a part of a zone may be detached if the board finds and determines, following notice and hearing in the same manner provided for formation of the zone, that the land will not be benefitted by its continued inclusion in the zone.

SEC. 11. Section 6976 of the Health and Safety Code is amended to read:

6976. An on-site waste water disposal zone shall have the following powers:

(a) To collect, treat, reclaim, or dispose of waste water without the use of communitywide sanitary sewers or sewage systems and

without degrading water quality within or outside the zone.

(b) To acquire, design, own, construct, install, operate, monitor, inspect, and maintain on-site wastewater disposal systems, not to exceed the number of systems specified pursuant to either Section 6960 or Section 6960.1, within the zone in a manner which will promote water quality, prevent the pollution, waste, and contamination of water, and abate nuisances.

(c) To conduct investigations, make analyses, and monitor conditions with regard to water quality within the zone.

(d) To adopt and enforce reasonable rules and regulations necessary to implement the purposes of the zone. Such rules and regulations may be adopted only after the board conducts a public hearing after giving public notice pursuant to Section 6066 of the Government Code.

SEC. 12. Section 6977 of the Health and Safety Code is amended to read:

6977. The public agency shall do all such acts as are reasonably necessary to secure compliance with any federal, state, regional, or local law, order, regulation, or rule relating to water pollution or the discharge of pollutants, waste, or any other material within the zone. For such purpose, any authorized representative of the public agency, 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 on which a water pollution, waste, or contamination source, including, but not limited to, septic tanks, is located for the purpose of inspecting such source, including securing samples of discharges therefrom, or any records required to be maintained in connection therewith by federal, state, or local law, order, regulation, or rule.

SEC. 13. Section 6979 of the Health and Safety Code is amended to read:

6979. (a) The owner of any real property upon which is located an on-site wastewater disposal system, which system is subject to abatement as a public nuisance by the public agency, may request the public agency to replace or repair, as necessary, such system. If replacement or repair is feasible, the board may provide for the necessary replacement or repair work.

(b) The person or persons employed by the board to do the work shall have a lien, subject to the provisions of subdivision (b) of Section 6978, for work done and materials furnished, and the work done and materials furnished shall be deemed to have been done and furnished at the request of the owner. The zone, in the discretion of the board, may pay all, or any part, of the cost or price of the work done and materials furnished; and, to the extent that the zone pays the cost or price of the work done and materials furnished, the zone shall succeed to and have all the rights, including, but not limited to, the lien, of such person or persons employed to do the work against the real property and the owner.

SEC. 14. Section 6981 of the Health and Safety Code is amended to read:

6981. Notwithstanding any other provision of law, a public agency may levy an assessment reasonably proportional to the benefits derived from the zone, as determined by the board, and subject to the approval of the voters pursuant to the provisions of Article 6 (commencing with Section 2285) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code. Such benefit assessment shall be in addition to any other charges, assessments, or taxes otherwise levied by the public agency upon the property in the zone.

CHAPTER 446

An act to amend Section 56161.5 of the Education Code, relating to school programs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 56161.5 of the Education Code is amended to read:

56161.5. The governing board of any school district or a county superintendent of schools, with the approval of the county board of education and the Superintendent of Public Instruction, may establish and maintain a program for deaf or severely hard-of-hearing children. Not more than five such programs shall be established pursuant to this section. Program approval shall be given to such school district or county superintendent of schools which is presently operating such a program or which is otherwise prepared to undertake the type of program authorized by this section.

With the approval of the Superintendent of Public Instruction, these programs shall be permitted to operate differently from regular class programs. The Superintendent of Public Instruction may, upon application of the governing board or county superintendent of schools, as the case may be, waive such provisions of this code as he deems necessary in order to provide the necessary flexibility for these programs.

It is the intent of the Legislature that, in connection with these programs, proper recognition be given to the needs of parents, through provision of parents' home training and parent counseling, the audiological needs of the child, and the purchase of necessary supplies and equipment. The Legislature also intends that proper recognition be given to the need for the promotion and initiation of early identification activities. However, for the purposes of these

programs, it is not intended that actual identification activities be undertaken of the infant population at large.

The Superintendent of Public Instruction shall prepare and submit to the Legislature 24 months after initiation of such a program, but no later than March 1, 1980, an evaluation report of the results of the programs. Authorization to conduct such programs shall continue until the Master Plan for Special Education becomes operational and authorizes the inclusion of these programs.

SEC. 1.5. There is hereby appropriated from the General Fund in the State Treasury for transfer to Section A of the State School Fund for support of programs authorized by Section 56161.5, the sum of one hundred twenty-five thousand dollars ($125,000).

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:

Authorization to conduct experimental programs for deaf or severely hard-of-hearing children expires on July 30, 1978. Thus, in order to permit existing experimental programs to continue without interruption, thus avoiding harm to presently functioning successful programs, it is necessary that this act take effect immediately.

CHAPTER 447

An act making an appropriation for the support of the Department of the California Highway Patrol, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978 Filed with Secretary of State July 18, 1978]

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

SECTION 1. In order to partially reimburse the Abandoned Vehicle Trust Fund for amounts appropriated therefrom by Chapter 1229 of the Statutes of 1976, the sum of three million dollars ($3,000,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund for transfer, in two equal annual installments commencing with the 1978–79 fiscal year, to the Abandoned Vehicle Trust Fund, as follows:

(a) $1,500,000 for the 1978–79 fiscal year.

(b) $1,500,000 for the 1979–80 fiscal year.

SEC. 2. It is the intent of the Legislature that the appropriation made in Section 1 of this act is being made solely to provide emergency funding necessary to keep the Abandoned Vehicle Trust Fund solvent through the 1979–80 fiscal year and that any further funding to augment the Abandoned Vehicle Trust Fund be provided through either the budgetary process that will thereafter provide the

necessary augmentation biannually, or by special legislation.

SEC. 3. The Legislative Analyst, in cooperation with the Department of the California Highway Patrol and impacted local governments, shall monitor this program and prepare a report to the Legislature on January 1, 1980. The report shall fully analyze the costs and benefits of the program and make recommendations as to whether the program should be continued. In this evaluation the Legislative Analyst shall pay particular attention to the levels of reimbursements provided to local agencies and the equity of such reimbursements. If continuation of the program is recommended, the report shall specify the conditions under which the program is to be continued.

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 Abandoned Vehicle Trust Fund will be completely depleted during the 1977–78 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 448

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

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978]

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

SECTION 1. The State of California shall transfer to the County of Placer all of its right, title, and interest in and to the real property described in subdivision (a), which is a part of the Kings Beach State Recreation Area under the jurisdiction of the Department of Parks and Recreation, in exchange for a transfer to the state from the County of Placer of all of the county's right, title, and interest in and to the real property described in subdivision (b), such property to be transferred to the state as an addition to the Kings Beach State Recreation Area:

(a) All that real property situate in the County of Placer, State of California, described as follows:

A portion of Section 19, Township 16 North, Range 18 East, M.D.B. & M., more particularly described as follows:

All that portion of Lots 9, 10, 11, 12, 13, 75, 76, 77, 78, 79, and 80 of Block b of the 'Map of Brockway Vista Subdivision' as per map filed in Book D of Maps, Page 16, Official Records of Placer County, owned by the State of California and described as follows:

That parcel of land occupied by the old bowling alley building, including a three-foot strip around the building and adjoining the building, excepting any portion not owned by the State of California.

Together with access over that portion of said lots lying between the bowling alley and State Highway 28 and bounded by the side lines of the above described parcel extended Northerly to State Highway 28.

(b) (1) The parcel of land shown as "Public Playground" on Sheet 1 of 4 sheets, Map of Brockway Vista Subdivision in Section 19, T16N-R18E, M.D.B. & M. State of California filed April 6, 1926 in Book D of Maps, Page 16, Placer County Records.

The parcel is shown on said map bounded on the North by Brockway Vista Ave., on the West by Lot 66, on the East by Lot 67 of Block A, and bounded on the South by a meander line along the shore of Lake Tahoe. The metes of the parcel as shown on said map are: beginning at the NE corner of said described property thence along the East, South, West and North lines of said parcel the following five (5) courses: (1) South 20° 44' West, 109.76 feet, (2) North 61° 36' 30" West, 100.91 feet, (3) North 20° 44' East, 102.88 feet, (4) South 65° 33' East, 98.91 feet, (5) South 69° 16' East, 1.30 feet to the point of beginning.

(2) All that real property situate in the County of Placer, State of California, described as follows:

A portion of Section 19, Township 16 North, Range 18 East, M.D.B. & M., more particularly described as follows:

Bounded on the North by Block A of "Brockway Vista Subdivision," as per map filed April 18, 1926 in Book d of Maps at Page 16, Official Records of Placer County; on the South by the State lands of Lake Tahoe; on the West by the Southerly extension of the West line of Lot 32 of said Block A, and; on the East by the Southwesterly extension of the East line of Lot 67 of said Block A.

SEC. 2. The real property transferred to the County of Placer pursuant to Section 1 of this act is granted upon the express condition that such property shall be used only for park purposes and if at any time such property shall cease to be used for such purposes, fee title to the property shall revert to and rest in the state.

SEC. 3 The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the Bagley Conservation Fund to the Department of Parks and Recreation for expenditure, without regard to fiscal years, for planning and development of Kings Beach State Recreation Area; provided, that such moneys shall not be available for expenditure unless and until there is in force an operating agreement between the Department of Parks and Recreation and the County of Placer under which Kings Beach State Recreation Area, including the real property added to the unit pursuant to Section 1 of this act, is operated by the county.

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 that the state may, in its best interests, enter into an exchange of real property with the County of Placer to the benefit of Kings Beach State Recreation Area and effect greatly needed development of such unit of the state park system, it is necessary that this act take effect immediately.

CHAPTER 449

An act to add Section 71726 to the Water Code, relating to municipal water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 71726 is added to the Water Code, to read:

71726. Any proposed contract approved by the voters of the Rainbow Municipal Water District, as provided in this article, at a special election held prior to January 1, 1978, shall be an approved contract notwithstanding that the maximum interest rate on such indebtedness was not known at the time of the special election and was not included in the proposition submitted to the voters of the district at the special election.

The provisions of this section are necessary because of special circumstances within the Rainbow Municipal Water District. A special election was held in the Rainbow Municipal Water District at which there was submitted to the voters of the district the proposition to approve a contract with the United States for a loan for the acquisition and construction of water facilities. At the time the proposed contract was submitted to the voters of the district the maximum interest rate on the indebtedness was not known and was not included in the proposition, although the voters were informed of the approximate rate of interest on the indebtedness. The proposed contract was approved by the voters and the district must enter into the contract in order to provide needed water to the inhabitants of the district. 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 Rainbow Municipal Water District.

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:

A special election was held in the Rainbow Municipal Water District on November 29, 1977, at which there was submitted to the

voters of the district the proposition to approve a contract with the United States of America, Department of Interior, Bureau of Reclamation, for a loan for the acquisition and construction of water facilities. At the time the proposed contract was submitted to the voters of the district the maximum interest rate on the indebtedness was not known and was not included in the proposition, although the voters were informed of the approximate rate of interest on the indebtedness. The proposed contract was approved by the voters and the district must enter into the contract in 1978 in order to provide needed water to the inhabitants of the district. It is necessary, therefore, that this act go into immediate effect.

CHAPTER 450

An act to add Section 384 to the Insurance Code, relating to insurance.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 384 is added to the Insurance Code, to read:

384. A certificate of insurance or verification of insurance provided as evidence of insurance in lieu of an actual copy of the insurance policy shall contain the following statements or words to the effect of:

This certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

CHAPTER 451

An act making an appropriation to pay the judgment in favor of the plaintiffs against the State of California in the action entitled Estefana Moran, et al. v. County of Los Angeles, et al., and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. The sum of three hundred twenty-seven thousand two hundred thirty-one dollars and fourteen cents ($327,231.14), plus interest thereon at the rate of 7 percent per annum, calculated from January 20, 1978, to date of payment, is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the State Department of Justice to pay the judgment of three hundred twenty-five thousand dollars ($325,000) after jury verdict plus costs of two thousand two hundred thirty-one dollars and fourteen cents ($2,231.14) in favor of plaintiffs against the State of California in the action entitled Estefana Moran, et al. v. County of Los Angeles, et al., Number C 91264, brought in the Superior Court of the State of California for the County of Los Angeles.

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

In order to pay the judgment recovered against the state arising out of an action brought by the plaintiffs and ending a hardship to such persons as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 452

An act making an appropriation to pay the settlement of the claims of Aubrey McNeely, et al., and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the State Department of Justice to pay the settlement of the claims of the plaintiffs against the State of California in the action entitled Aubrey McNeely, et al. v. State of California, et al., Number C 132907, brought in the Superior Court of the State of California for the County of Los Angeles.

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

In order to pay the settlement arising out of an action brought by the plaintiffs and ending a hardship to such persons as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 453

An act to amend and renumber the heading of Article 2 (commencing with Section 760) of Chapter 5 of Division 3 of, to add Article 2 (commencing with Section 700) to Chapter 5 of Division 3 of, and to repeal Article 5 (commencing with Section 76) of Chapter 2 of Division 1 of, the Harbors and Navigation Code, relating to yachts and ships, and making an appropriation therefor.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Article 5 (commencing with Section 76) of Chapter 2 of Division 1 of the Harbors and Navigation Code is repealed.

SEC. 2. The heading of Article 2 (commencing with Section 760) of Chapter 5 of Division 3 of the Harbors and Navigation Code is amended and renumbered to read:

Article 3. For-Hire Vessel Operators' Licenses

SEC. 3 . Article 2 (commencing with Section 700) is added to Chapter 5 of Division 3 of the Harbors and Navigation Code, to read:

Article 2. Yacht and Ship Brokers

700. This article shall be known and may be cited as the Yacht and Ship Brokers Act.

701. Unless the context otherwise requires, the following definitions shall govern the construction of this article:

(a) "Broker" refers to a person who, except as otherwise excluded by Section 710, for a compensation or in expectation of a compensation, does, or negotiates to do, one or more of the following acts for another or others: sells or offers to sell, buys or offers to buy, solicits or obtains listings of, or negotiates the purchase, sale, or exchange of yachts, and who does not own such yachts.

(b) "Salesman" refers to a natural person who, except as otherwise excluded by Section 710, for a compensation or in expectation of a compensation, is employed by a licensed broker to do one or more of the acts set forth in subdivision (a). The term includes "saleswoman" and "salesperson."

(c) "Yacht" or "ship" refers to any vessel 16 feet or more in length and under 300 gross tons used for navigating in water and designed to be propelled by machinery or sail.

702. Except as otherwise provided by law, all records of the department relating to yacht brokers and yacht salesmen shall be open to inspection by the public during regular office hours.

703. (a) The director may, in accordance with the State Civil

Service Act (commencing with Section 18500 of the Government Code), select, employ, and fix the compensation of such employees as may be necessary properly to administer this article, provided that no employee of the department shall have an interest for financial or other personal gain in the business of a licensed broker as director, stockholder, officer, member, agent, salesman, or employee.

(b) The director may prescribe the duties of all employees.

(c) The director may regulate and control the issuance, denial, suspension, and revocation, both temporary and permanent, of the licenses issued under this article.

(d) The director may perform all other acts and duties necessary for the proper enforcement of this article.

(e) The director may institute proceedings in any court of competent jurisdiction to enforce the provisions of this article by injunction or otherwise.

(f) The director or any member of the department may administer oaths for the purpose of executing this article.

(g) The director may prescribe rules and regulations to carry this article into effect in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and may authorize the department to establish branch offices in such other cities as may be necessary for the proper administration of this article.

704. In accordance with the provisions of Section 82 of this code, the commission shall advise the department with respect to all matters relating to the administration of this act. The department shall submit any proposed regulations or changes in regulations pertaining to this act for review and comment by the commission prior to enactment.

705. (a) The director may adopt a seal and such other device for use by the department as it may desire, which may be used to authenticate all papers and documents required by this article which are under the control of the department.

(b) Copies of all records and papers required by this article which are in the department's office shall be received in evidence in all cases, when certified under the hand and seal of the department, equally and with like effect as the originals.

706. The Attorney General shall act as the attorney for the department in all actions and proceedings pursuant to this article and shall render to the department opinions upon all questions of law arising under this article or in its administration.

707. (a) The department shall publish or cause to be published on or before July 1st of each year a directory of licensed brokers and salesmen and may publish such additional information as it deems expedient.

The department may also issue a periodical bulletin concerning affairs arising under the administration of this article.

(b) The department shall submit to the Governor a full and true report of its activities under this article, including a complete

statement of receipts and expenditures during the preceding two years. This report shall be a part of the biennial report of the department.

708. (a) No person shall engage in the business, act in the capacity of, advertise or assume to act as a broker or salesman within this state without first obtaining a license under this article to do so.

(b) Only the person to whom a license is issued may perform or offer to perform any act subject to the provisions of this article.

(c) No fictitious name shall be used by a broker in the conduct of any business for which a license is required under this article, unless a license bearing such fictitious name has been issued to such broker.

709. No licensed broker or licensed salesman shall practice any fraud or deceit or make any fraudulent or willfully negligent representation with respect to any act for which a license is required under the provisions of this article.

710. The definitions of a broker or salesman as set forth in Section 701 shall not include the following:

(a) Anyone who directly performs any of the acts within the scope of this article with reference to his own yacht or yachts or in cases of a corporation which, through its regular officers receiving no special compensation therefor, performs any of the acts with reference to the corporation's own yacht or yachts.

(b) Services rendered by an attorney at law in performing his duties as such attorney at law.

(c) Any receiver, trustee in bankruptcy, or other person acting under the order of any court.

(d) Any transaction involving the foreclosure of a security interest in a yacht.

(e) Any transaction involving the sale of a yacht in excess of 300 gross tons or tenders thereof sold at the same time.

711. No person engaged in the business or acting in the capacity of a licensed broker or salesman within this state shall bring or maintain any action in the courts of this state for the collection of compensation for the performance of any of the acts mentioned in this article without alleging and proving that he was a duly licensed broker or licensed salesman at the time the alleged cause of action arose.

712. (a) No licensed broker shall employ or compensate, directly or indirectly, any person for performing any of the acts within the scope of this article who is not a licensed broker or salesman licensed under the broker employing or compensating him, except that a licensed broker may pay a commission to a broker of another state or country.

(b) No salesman shall accept compensation for performing any of the acts within the scope of this article from any person other than the broker under whom the salesman is at the time licensed.

(c) No licensed salesman shall pay any compensation for performing any of the acts within the scope of this article to any broker licensed under this article, except through the licensed

broker under whom the salesman is at the time licensed.

(d) For a violation of any of the provisions of this article, the department may temporarily suspend or permanently revoke the license of the broker in accordance with the provisions of this article.

713. Nothing contained in this article shall preclude a partnership from performing acts for which a broker's license is required, provided every partner through whom the partnership so acts is a licensed broker.

714. A licensed broker who accepts funds from others in connection with any transaction subject to this article who does not as soon as possible 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 the broker in some bank or recognized depository and shall retain all such funds in the account until such time as such broker has made a disbursement of the funds in accordance with instructions from the principal or principals in the transaction. A separate record shall be maintained of all moneys received subject to this section and shall further indicate the disposition thereof. Any such funds received by a licensed salesman shall be delivered by the salesman to the broker under whom the salesman is at the time licensed.

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) or (c) of Section 17006 of the Financial Code.

715. Within one month after the closing of a transaction in which title to a yacht is conveyed from a seller to a purchaser through a licensed broker, such licensee shall inform, or cause the information to be given to, the seller and purchaser in writing of the selling price thereof, including all charges and credits which shall be itemized, and in the event an exchange of yachts is involved, such information shall include a description of such yachts and amount of added money consideration, if any. If the transaction is closed through escrow and the escrow holder renders a closing statement which reveals such information, that shall be deemed compliance with this section on the part of the licensed broker.

716. (a) Before any broker shall engage in any transaction for which a license is required under this article, the broker shall obtain a written authorization executed by his principal to so act. The written authorization shall contain a description of the yacht including the undocumented vessel's registration number if the yacht is registered in accordance with the Vehicle Code and the name, official number, and home port of the vessel if documented with a federal agency. Such written authorization shall also state the type of listing, the gross listing price, and the rate of the agreed commission or other compensation accruing to the broker. Such written authorization shall set forth the terms under which a deposit made by the purchaser of the yacht will or will not be refunded in the event of a sale being consummated but not completed, and in the

event such a sale is not completed, such written authorization shall provide that any deposit made on account of the purchase price of such yacht which is then in the hands of the broker shall be returned to the person who made the offer to purchase the yacht in conformity with the offer to purchase.

(b) When a broker prepares, or there is prepared on behalf of a broker, such written authorization, such broker shall deliver a copy of such written authorization to the person executing it. Receipt of such copy shall be made on the face of the original written authorization.

717. Application for a license as a broker shall be made on forms prescribed by the department and shall be signed by the applicant. The application shall be accompanied by the broker license examination fee.

718. Application for a license as a salesman shall be made on forms prescribed by the department and shall be signed by the applicant and by the employing broker. The application shall be accompanied by the salesman license examination fee.

719. (a) A person shall be deemed qualified to make application for a broker's license if, as shown on the department's records, such person has been employed, within five years preceding his application, as a licensed salesman for at least one year, or has been licensed as a broker within five years preceding his application.

(b) If the applicant is a partnership, then one of the partners of the applicant shall have the foregoing qualifications.

(c) If the applicant is a corporation, then the officer or officers of the corporation to be designated for a license as provided in this article shall have the foregoing qualifications.

(d) If the applicant is an individual, the applicant shall be at least 18 years of age.

720. The department may require such other proof as it may deem advisable concerning the honesty, truthfulness, and good reputation of the applicant for a broker's license or of the officers of any corporation making such application before the issuance of a broker's license. For this purpose, the director may call a hearing in accordance with the provisions of this article, and at the request of the applicant shall call such a hearing.

721. In addition to any proof of honesty, truthfulness, and good reputation required of any applicant for a broker's license, the department shall ascertain by written examination that the applicant, and in case of a partnership or corporation applicant for a broker's license that an officer or partner thereof through whom it proposes to act as a yacht broker, has:

(a) Appropriate knowledge of the English language, including reading, writing, and spelling and of arithmetical computations common to the yacht brokerage business.

(b) An understanding of the principles of the yacht brokerage business and profession, including an understanding of a certificate of ownership, certificate of number, security agreement, bill of sale

and other documents required to register and number and to transfer title of an undocumented vessel pursuant to the provisions of the Vehicle Code.

(c) An understanding that transfer of title of a documented vessel shall be performed in accordance with federal law as administered by the United States Coast Guard.

(d) An understanding of maritime and admiralty liens with respect to vessels, and the requirements of the Department of Transportation or other federal agency and the United States Coast Guard with respect to documentation, mortgaging, and transferring of title of documented vessels.

(e) An understanding of agency contracts, types and kinds of listings and deposit receipts with respect to vessels.

(f) A general knowledge of equipment legally required on a yacht.

(g) A general understanding of the obligations between principal and agent and of the fiduciary relationship between them and of business ethics pertaining to the business and profession of yacht brokers and yacht salesmen.

(h) A general knowledge of yachts.

In the event of failure to pass the required examination, the department shall notify the applicant, may suggest further study, and upon payment of the required fee, shall schedule a reexamination.

722. The license first issued to a broker shall be for a period of one year. Such license may be renewed for periods of two years upon filing of the required application and payment of the required fee.

723. The license first issued to a salesman shall be for a period of one year. Such license may be renewed for periods of two years. Applicants for renewal of such licenses shall submit a recommendation of the broker who is to be his employer certifying that the applicant is honest, truthful, and of good reputation. The license of a salesman may be renewed upon filing the required application and payment of the renewal fee.

724. (a) An application on the form prescribed by the department for the renewal of a broker or salesman license shall be filed with the department 60 days prior to the last day of the period for which a previous license was issued accompanied by the applicable renewal fee.

(b) Every license not renewed in accordance with subdivision (a) shall expire at midnight of the last day of the period for which it was issued and shall forthwith be returned to the department. Such license may thereafter be reinstated only upon the filing of an application therefor accompanied by the payment of the renewal fee required by this article together with a penalty equal to 50 percent of the renewal fee. No examination shall be required for the reinstatement of a license which has expired solely for nonpayment of the renewal fee as required by this subdivision, subject to the provisions of Section 726.

(c) An application for reinstatement of a license which has expired pursuant to subdivision (b) shall be affirmed or sworn to before a

notary public or other person authorized by law to administer oaths and affirmations, and shall be executed under penalty of perjury. The department may refuse to grant reinstatement if the applicant after the expiration of the license has performed any act or participated in any transaction for which a license is required by this article or during such period has committed any offense or performed any act which would be cause for the suspension or revocation of a license under this article, provided that the department shall not refuse to grant reinstatement unless written notice of the grounds of such refusal is mailed or delivered to such applicant.

(d) A salesman's license which expires other than pursuant to subdivision (b) and under conditions beyond the control of the salesman may be reinstated with another broker on payment of the transfer fee and the renewal fee if applicable and without penalty.

(e) All fees charged and collected under this article shall be paid by the department at least once a month accompanied by detailed statement into the State Treasury to the credit of the Harbors and Watercraft Revolving Fund.

(f) All fees charged and collected under this article and paid into the State Treasury are continuously appropriated to carry out the provisions of this article and shall be paid in the manner provided by law.

(g) The department may establish a revolving fund in such an amount as it may determine subject to the approval of the director.

725. Temporary licenses may be issued to salesmen under the following conditions:

(a) Such licenses shall be issued for a period not to exceed 60 days and only one license shall be issued to each applicant.

(b) An application shall be filed for a temporary license and for a permanent license and at the same time the applicant shall pay all the prescribed fees.

(c) Such application shall be in such form and upon such conditions as are required by the department as provided in this article with respect to a permanent salesman's license.

(d) On or before the expiration date of the temporary license, such licensee shall take a written examination for a permanent license. If without a valid excuse the licensee fails to appear for the examination at the time prescribed, the examination fee shall be forfeited. In the event of failure to pass the required examination, the department shall notify the applicant, may suggest further study, and upon payment of fees shall schedule a reexamination.

726. (a) A person who fails to renew his license within two years after its expiration may not renew it pursuant to Section 724. Such person may apply and obtain a new license, in which case all of the provisions hereof shall apply as if such person were applying for a license for the first time.

(b) In the event a salesman's license expires only because that salesman procured a broker's license or a broker's license expires only because that broker procured a salesman's license, either

former license may be reinstated under the provisions of Section 724 within two years of the expiration of the latter license.

727. The department may issue a certificate of convenience to the executor or administrator of the estate of a deceased broker, or if no executor or administrator has been appointed, and until a certified copy of an order making such 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 act as a broker in the conduct of the business of the estate for a period of 90 days from and after the date of death pending, but not later than, disposal of the business unless such person qualifies by examination for and obtains a permanent broker's license. The department may extend the certificate of convenience beyond the 90 days on the showing of a just and reasonable cause.

728. (a) Every license issued to a corporation entitles one officer thereof on behalf of the corporation to engage in the business of broker without the payment of any further fee and such officer shall be designated in the application of the corporation for a license. When a broker's license is issued to a corporation, if it desires any of its officers other than the officer designated by it in the application as provided in this section to act under its license as a broker, it shall procure an additional broker's license to so employ each of such additional officers. For each officer other than the officer so designated through whom the corporation engages in the business of broker, the appropriate original or renewal fee shall be paid in addition to the fee paid by the corporation.

(b) Each officer of a corporation through whom it is licensed to act as a broker is, while so employed under such license, a licensed yacht broker, but licensed only to act as such for and on behalf of the corporation as an officer.

(c) An officer of a corporation licensed to act as a broker on behalf of the corporation who desires also to act as a broker or salesman under this article on his own behalf shall procure a separate license in accordance with the provisions of this article.

(d) The department may deny, suspend, or revoke the broker's license of a corporation as to any officer acting under its license without revoking the license of the corporation. Every corporation making application for a license under this article shall furnish the department with a resolution of its board of directors giving the name of the officer or officers who shall act for and on behalf of the corporation.

(e) Every corporation licensed under the provisions of this article may by resolution of its board of directors substitute another officer for the one named in the corporation license, provided the person to be substituted qualifies as provided for in this article for a broker's license and the corporation pays the appropriate original, renewal, or transfer fee as set forth in this article.

729. (a) Every license issued to a partnership entitles one partner thereof on behalf of the partnership to engage in the business of

yacht broker without the payment of any further fee and such partner shall be designated in the application of the partnership for a license.

(b) When a broker's license is issued to a partnership, if the partnership desires any partner or partners other than the partner designated by it as provided in this section to act under its license as a broker, the partnership shall procure an additional broker's license for each of such additional partner or partners. For each partner other than the partner designated through whom the partnership engages in the business of yacht broker, the appropriate original or renewal fee shall be paid in addition to the fee paid by the partnership.

(c) Each partner of a partnership is licensed to act as a broker while such a partner under such license is a licensed broker, but is licensed only to act as such for and on behalf of the partnership.

(d) A partner of a partnership licensed to act as a broker on behalf of the partnership who desires also to act as a broker or salesman under this article on the partner's own behalf shall procure a separate license in accordance with the provisions of this article.

(e) The department may deny, suspend, or revoke the broker's license of a partnership as to any partner acting under its license without revoking the license of the partnership.

(f) Every partnership making an application for a license under this article shall set forth in the application the name of the partner who is to act under the license for and on behalf of the partnership.

(g) Every partnership licensed under the provisions of this article may substitute another partner for the one named in the partnership license provided the person to be substituted qualifies as provided for in this article for a broker's license and the partnership pays the appropriate original, renewal, or transfer fee as set forth in this article.

730. (a) Before any broker's license shall be issued or renewed by the department to any applicant therefor, the applicant shall procure, file, and maintain with the department a good and sufficient bond in the amount of ten thousand dollars ($10,000) with corporate surety thereon duly licensed to do business within the State of California, and conditioned that the applicant shall not practice any fraud or deceit or make any fraudulent or willfully negligent representations which will cause a monetary loss to any person for whom the broker acts under this article.

(b) If any person shall suffer any loss or damage by reason of any fraud or deceit practiced on him or any fraudulent or willfully negligent representation made to him by a licensed broker or such broker's salesman or salesmen acting for such broker on his behalf or within the scope of the employment of such salesman or salesmen, which fraud, deceit, or fraudulent or willfully negligent representation is practiced or made with respect to any act of such broker or such salesman or salesmen for which a license is required under the provisions of this article, such person shall have a right of

action against such broker, such salesman or salesmen, and the surety upon the broker's bond. Should any such action be commenced upon such bond, the surety thereunder and the licensed yacht broker with respect to whom the bond has been issued shall immediately notify the department of such action.

(c) When an action is commenced on the bond of a licensed broker, the department may require the filing of a new bond, and immediately upon the recovery in any action on the bond, the broker described therein shall file a new bond. Failure to file a new bond within 15 days after notification that a new bond is required by reason of action against the bond or notification of the cancellation of a previous bond by the surety or after recovery on a bond constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled or on whose bond recovery has been made may be suspended and revoked after a hearing as provided in this article.

731. (a) In lieu of filing and maintaining a surety bond as provided in Section 730, subject to the same conditions as required for by such surety bond, the applicant for a broker's license or a licensed broker may deposit with the department a cash bond in the sum of ten thousand dollars ($10,000), with an assignment to the director, together with the evidence of the deposit of such sum in a savings account in banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or investment certificates or share accounts in the amount of ten thousand dollars ($10,000), with an assignment to the director, issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation. Such cash bond shall be held by the department during the life of the license and for a period of four years subsequent to the expiration of the license unless replaced by a surety bond as provided in subdivision (b). Any interest on such sum of ten thousand dollars ($10,000) so deposited shall be paid, when earned in accordance with the terms of such savings account, investment certificate, or share account, to such licensed broker, provided no action is then pending against such broker, such salesman, or such salesmen acting on his behalf or such cash bond.

(b) Should any applicant or licensed broker deposit with the department such cash bond in the sum of ten thousand dollars ($10,000), the department shall reassign the same to such licensed broker upon such licensed broker procuring and filing with the department a good and sufficient surety bond as provided in this article, provided that a surety bond covers the actions for which the cash bond would have been liable.

732. The department may deny an application or temporarily suspend or permanently revoke the license of a broker or a salesman at any time where the licensee, while a broker or salesman, in performing or attempting to perform any of the acts within the scope of this article, has committed any of the following acts:

(a) Makes any substantial misrepresentation, including a false advertisement or an omission of relevant facts upon which any person has relied.

(b) Makes a false warranty of a character likely to influence, persuade, or induce any person with whom business is transacted under this article.

(c) Engages in a continued and flagrant course of misrepresentation or makes false warranties whether or not relied upon by another person.

(d) Acts for the buyer and seller in a transaction without the knowledge and consent of both parties, except in the case where the selling broker is not the listing broker.

(e) Commingles the money or other property of his principal with that of his own, when the yacht involved in the transaction is not his own.

(f) Uses coercive or oppressive methods for the purpose of obtaining business or of procuring a listing or participating in a transaction.

(g) Quotes prices different than the gross listing prices without the consent of the seller.

(h) Engages in any other conduct constituting fraud or dishonest dealings, either with respect to his principal or other persons.

(i) Permits his name to be used for the purpose of assisting any person who is not a licensed broker or salesman to evade the provisions of this article.

(j) Violates any provisions of Sections 714, 715, 716, 730, and 731.

733. The department may deny an application or may suspend or revoke the license of a yacht broker or yacht salesman who within four years immediately preceding has committed any of the following acts:

(a) Has procured a license under this article for himself or another by fraud, misrepresentation or deceit.

(b) Has been convicted of a felony or any crime involving moral turpitude.

(c) Has withheld information from the department that he at any time has been convicted of a felony or any crime involving moral turpitude.

(d) Knowingly authorizes, directs, connives or aids in the publication, advertisement, distribution, or circulation of any material false statements or misrepresentation concerning his business or any transaction under this article.

734. (a) The department shall not deny, suspend, or revoke a license granted under this article without a hearing.

(b) The department may upon its own motion and shall upon the verified written complaint of any person which sets forth facts which could be grounds for the denial, suspension, or revocation of a license pursuant to the provisions of this article, investigate the actions of any broker or salesman whether or not licensed.

735. (a) Every broker shall maintain a definite place of business

in this state as his principal office and may establish other branch offices throughout the state. Every broker maintaining more than one place of business within this state shall procure an additional license for every branch office maintained by him. Every broker shall keep the department informed at all times of the address of his principal and branch offices and any changes of address.

(b) Every broker's license shall be prominently displayed in the broker's principal office. The license for each branch office, if any, of such broker shall be prominently displayed in such branch office. Every salesman's license shall be prominently displayed in the principal office or branch office of the broker in which the business of such salesman is transacted.

(c) Every salesman's license shall remain in the control of the broker by whom the salesman is employed until the license is canceled or until he leaves the employment of the broker. Immediately upon the salesman's withdrawal from the employment of the broker, such broker shall return such salesman's license to the department for cancellation and shall notify the department of the exact date of termination.

(d) Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the department may be issued without charge to such licensee, which card shall be evidence that the licensee is duly licensed pursuant to this article. When any broker to whom a card is issued ceases for any reason to be licensed as a broker, the card issued to such broker shall be mailed or delivered by the broker to the department for cancellation. When any salesman to whom a card is issued ceases to be a salesman for any reason, the card issued to him shall be mailed or delivered to the department for cancellation.

736. The department shall charge and collect the fees prescribed by this article in accordance with the following schedule:

(a) One hundred dollars ($100) for each original broker's license.

(b) Fifty dollars ($50) per year for the renewal of an original broker's license.

(c) Fifty dollars ($50) for each original salesman's license.

(d) Twenty-five dollars ($25) per year for the renewal of an original salesman's license.

(e) Ten dollars ($10) for a salesman's temporary license.

(f) Twenty-five dollars ($25) for each license obtained by a broker for a branch office and for each renewal thereof.

(g) Ten dollars ($10) for changing the name or address of a broker on the records of the department.

(h) Ten dollars ($10) for each transfer of a salesman's license for each change of employment.

(i) Ten dollars ($10) for each duplicate license.

(j) Ten dollars ($10) for each substitution of a name in the license of a corporation or a partnership.

(k) Ten dollars ($10) for the granting of each certificate of convenience under Section 727.

(*l*) Twenty-five dollars ($25) for each examination.

737. The proceedings and hearings 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, including the right of judicial review as provided for in Section 11523 of the Government Code.

738. (a) Each violation of any section or subdivision of any section of this article, excepting Section 709, is a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000), provided that a violation committed willfully and with knowledge of the provisions of the violated section or subdivision 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 such imprisonment.

(b) Each violation of Section 709 is a misdemeanor 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 such imprisonment.

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.

CHAPTER 454

An act to add Sections 24013.1 and 24013.2 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 24013.1 is added to the Business and Professions Code, to read:

24013.1. If an application for a license is voluntarily withdrawn as a result of any protest being filed opposing the issuance of such license, such applicant may not refile an application for the same location for a period of one year from the date of such withdrawal.

SEC. 2. Section 24013.2 is added to the Business and Professions Code, to read:

24013.2. If an application for issuance of a license at a premises is withdrawn pursuant to Section 24013.1, all verified protests filed against the issuance of the license at the premises in such application

shall remain valid against any subsequent applications filed for that premises for a period of one year from the date of withdrawal.

CHAPTER 455

An act to amend Section 16048 of the Education Code, relating to school building aid.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 16048 of the Education Code is amended to read:

16048. The area of any building constructed by a school district after September 11, 1957 with any funds other than state or federal funds given or bequeathed to the district after such effective date, and the area of any building given, devised or bequeathed to a school district by any entity other than the state or federal government after such effective date, including any building given to a district by any city, county or political subdivision of this state, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

For the purposes of this section, any building leased to a school district for a term exceeding 24 years and for an annual rental of not exceeding five dollars ($5), shall be construed as constituting a gift to the district.

CHAPTER 456

An act to amend Section 148.4 of the Penal Code, relating to fire protection.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 148.4 of the Penal Code is amended to read:

148.4. (a) Any person who willfully and maliciously tampers with, molests, injures, or breaks any fire protection equipment, fire protection installation, fire alarm apparatus, wire, or signal, or willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any 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.

(b) Any person who willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any 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. 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 457

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

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 22511.5 of the Vehicle Code is repealed.

SEC. 2. Section 22511.5 is added to the Vehicle Code, to read:

22511.5. (a) A disabled person is:

(1) Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device.

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

(3) Any person 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 (pO_2) is less than 60 mm/Hg on room air at rest.

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

(b) Disabled persons 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.

(c) 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 the disabled person, but which is used primarily to transport a disabled person and which would otherwise qualify for a 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 the department.

(d) Any disabled person, or vehicle owner as provided in subdivision (c) of this section, may also apply to the Department of Motor Vehicles for issuance of a distinguishing placard for parking purposes when displayed on the driver's side dashboard of a vehicle. The placard shall be at least six inches by twelve inches in size and blue in color.

The Department of Motor Vehicles may establish procedures for the issuance of such placards. The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to the department for issuance of placards.

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

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

CHAPTER 458

An act to add Section 23356.2 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 23356.2 is added to the Business and Professions Code, to read:

23356.2. No license or permit shall be required for the manufacture of beer for personal or family use, and not for sale, by a person over the age of 21 years. The aggregate amount of beer with respect to any household shall not exceed (a) 200 gallons per calendar year if there are two or more adults in such household, or (b) 100 gallons per calendar year if there is only one adult in such household.

CHAPTER 459

An act relating to the submission of constitutional amendments to the people at the 1978 General Election, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

I am deleting the two million dollar appropriation contained in Section 7 of Senate Bill No. 2230.

Adequate funds are already available to fully comply with the requirements of this bill.

With this deletion, I approve Senate Bill No. 2230.

EDMUND G. BROWN JR., Governor

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

SECTION 1. Notwithstanding any other provision of the law, Senate Constitutional Amendment Number 42, or any other amendment relating to state or local expenditure limits passed by the Legislature prior to August 16, 1978, shall be placed on the ballot and submitted to the electors at the 1978 General Election.

SEC. 2. Upon the effective date of this act, the author of the constitutional amendment and one member of the opposite house who voted with the majority on the amendment, shall be appointed by the presiding officers of the respective houses to draft the argument for the adoption of the measure. If the constitutional amendment was not adopted unanimously by the house in which it was introduced, one member of that house, who voted against it, shall be appointed by the presiding officer of that house to write an argument against the measure. If there was no negative vote on the measure in the house in which it was introduced, the presiding officer of that house shall appoint some qualified person to draft an

argument against the measure. No argument shall exceed 500 words. All initial arguments shall be filed with the Secretary of State by August 16, 1978.

SEC. 3. In no event shall initial arguments be submitted to the Secretary of State under this act later than the time limitations imposed pursuant to this act. The selection and exchange of arguments shall occur on August 17, 1978 and in no event shall rebuttal arguments be submitted to the Secretary of State later than August 22, 1978.

SEC. 4. Notwithstanding Section 10218 of the Elections Code, the constitutional amendments proposed and adopted by the Legislature after June 29, 1978 and before August 16, 1978 shall be numbered and placed on the ballot in the order that they are submitted and received by the Secretary of State.

SEC. 5. Upon the effective date of this act, the Secretary of State shall request the Attorney General to prepare a ballot title for the measure submitted pursuant to this section and shall also request the Legislative Analyst to prepare an analysis of said measure in accordance with Section 88003 of the Government Code. Senate Constitutional Amendment Number 42 shall be designated on the ballot at the General Election by its ballot title.

SEC. 6. Senate Constitutional Amendment Number 42 or any other amendment to go before the voters shall be adopted by the Legislature between June 30, 1978 and August 15, 1978. This amendment shall not be included in the regular state ballot pamphlet prepared for the November 1978 General Election. A separate ballot pamphlet shall be prepared and distributed in accordance with law unless the Secretary of State shall determine that a separate pamphlet is not necessary; provided, however, that such ballot pamphlet shall be delivered to the county clerks by the 26th day prior to the election.

SEC. 7. The amount of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Secretary of State for the administration of the provisions of this act. Counties shall be reimbursed for any costs incurred by them pursuant to this act upon application to the Secretary of State. All money not used by the Secretary of State pursuant to this act shall revert back into the General Fund.

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 these amendments may be submitted to the voters at the November 1978 General Election, it is necessary that this act take effect immediately.

CHAPTER 460

An act relating to transportation facilities, and making an appropriation therefor.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

I am reducing the appropriation contained in Section 1 of Senate Bill No 1750 from $9,918,800 to $5,918,800 by deleting the $4 million appropriation contained in subsection (b).

Public transportation projects funded with state tax revenues should be selected on the basis of objective criteria and statewide priorities, and not by a blanket authorization for as yet undeveloped projects I have asked the Department of Transportation to begin an evaluation identifying new or revised projects which would meet such criteria and which could be funded next year.

With this reduction, I approve Senate Bill No. 1750.

EDMUND G. BROWN JR., Governor

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

SECTION 1. The sum of nine million nine hundred eighteen thousand eight hundred dollars ($9,918,800) is hereby appropriated from the Transportation Planning and Research Account in the State Transportation Fund for the purposes of Section 99315 of the Public Utilities Code as follows:

(a) To the Department of Transportation for allocation as follows:

Schedule of projects Applicant and project	Amount of funds (dollars)
(1) City of San Diego Multimodal transit terminal	$1,060,000
Provided, no funds shall be made available for this multimodal transit terminal, unless an exclusive public mass transit guideway project to serve the terminal is approved by the San Diego Metropolitan Transit Development Board not later than December 31, 1978.	
(2) City of Sacramento Transportation center	$1,000,000
(3) BART Bus terminal at Concord	$130,000
(4) BART Bus terminal at Richmond	$200,000
(5) Santa Clara County	

	Transit District	
	Palo Alto SP depot improvement	$80,000
(6)	City of Palo Alto	
	Bike lockers	$5,000
(7)	BART	
	Concord bus transfer facility	$175,500
(8)	BART	
	Fremont bus transfer facility	$154,300
(9)	San Francisco Municipal Railway	
	Extend "Muni Metro" light rail to SP depot	$1,000,000
(10)	Riverside Transit Authority	
	Multimodal transportation center	$408,000
(11)	City of Compton	
	Regional bus terminal	$310,000
(12)	City of Oceanside	
	Multimodal transit terminal	$50,000
(13)	San Francisco Bay Area Transportation Terminal Authority	
	Transbay terminal	$375,000
(14)	Santa Cruz Metro	
	Bus terminal	$40,000
(15)	City of Davis	
	Multimodal transit terminal	$62,000
(16)	County of San Diego	
	Multimodal transit center	$133,000
(17)	San Francisco Municipal Railway and Golden Gate Bridge, Highway, and Transportation District	
	Bus-ferry interface	$50,000
(18)	Solano County Transportation Council	
	Amtrak bus depot interface	$36,000

(b) To the California Transportation Commission for allocation for public transportation demonstration projects in County Group No. 2, as defined in Section 187 of the Streets and Highways Code, except the County of San Diego $4,000,000

(c) To the Department of Transportation for

administering this act $150,000

(d) To the Department of Transportation as a contingency fund for allocation to applicants where inflationary or other estimate changes are made..... $500,000

(e) The allocation for each project shall be subject to the terms and conditions set forth in an allocation agreement to be entered into between the department or the commission, as the case may be, and each responsible entity. All such agreements shall be exempt from the review provisions of Section 14780 of the Government Code. With respect to the funds to be allocated by the departments, the department may reallocate funds designated for any applicant who is not a party to an allocation agreement by January 1, 1981, or for any applicant upon receipt of a written waiver of funds to other projects described in the schedule of projects contained herein.

CHAPTER 461

An act to amend Sections 885, 888, and 1825 of, to repeal Sections 887, 888.5, and 891 of, to add Article 7 (commencing with Section 1805) to Chapter 1 of Division 2.5 of, and to repeal Article 7 (commencing with Section 1820) of Chapter 1 of Division 2.5 of, the Welfare and Institutions Code, relating to juvenile court law, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 885 of the Welfare and Institutions Code is amended to read:

885. (a) The Youth Authority shall adopt and prescribe the minimum standards of construction, operation, programs of education, and training and qualifications of personnel for such juvenile homes, ranches, camps, or forestry camps.

(b) The Youth Authority shall conduct an annual inspection of each juvenile home, ranch, camp, or forestry camp situated in this state which, during the preceding calendar year, was used for confinement of any minor for more than 24 hours. If the Youth Authority, after such inspection, finds that the juvenile home, ranch, camp, or forestry camp is not in compliance with the standards adopted pursuant to subdivision (a) of this section, the Youth

Authority shall give notice of its findings to all persons having authority to confine minors in such facilities and commencing 60 days thereafter such juvenile home, ranch, camp, or forestry camp shall not be used for confinement of any minor until such time as the department finds, after reinspection of the facility, that the conditions which rendered the facility unsuitable have been remedied, and such facility is a suitable place for the confinement of minors.

(c) The custodian of each juvenile home, ranch, camp, or forestry camp shall make such reports as may be required by the Youth Authority to effectuate the purposes of this section.

SEC. 2. Section 887 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 888 of the Welfare and Institutions Code is amended to read:

888. Any county establishing such juvenile home, ranch, or camp under the provisions of this article may, by mutual agreement, accept children committed to such home, ranch, or camp by the juvenile court of another county in the state. Two or more counties may, by mutual agreement, establish such juvenile homes or camps, and the rights granted and duties imposed by this article shall devolve upon such counties acting jointly. The provisions of this article shall not apply to any juvenile hall.

SEC. 4. Section 888.5 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 891 of the Welfare and Institutions Code is repealed.

SEC. 6. Article 7 (commencing with Section 1820) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code is repealed.

SEC. 7. Article 7 (commencing with the Section 1805) is added to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, to read:

Article 7. County Justice System Subvention Program

1805. It is the intent of the Legislature in enacting this article to protect society from crime and delinquency by assisting counties in maintaining and improving local criminal justice systems, by encouraging greater selectivity in the kinds of juvenile and adult offenders retained in the community, and by assisting the counties in reducing the number of offenders reentering the local criminal justice systems; and to protect and care for children and youth who are in need of services as a result of truancy, running away, and being beyond the control of their parents by assisting counties in providing appropriate services and facilities for such children and youth.

1806. (a) From any state moneys made available to it for such purpose, the Department of the Youth Authority shall, commencing with the 1978–79 fiscal year, and in accordance with this article, administer subventions to counties for all of the following:

(1) Improving local justice system offender-centered services offered by probation departments, county and city law enforcement agencies, the courts, and public and private agencies.

(2) Establishing and maintaining public and private adult correctional programs and facilities, including, but not limited to, county jail programs, correctional rehabilitation centers, work furlough programs, vocational training programs, job placement services, prerelease planning services, and part-way houses.

(3) Operating local crime and delinquency prevention programs, including, but not limited to, the establishment and maintenance of youth service bureaus.

(4) Providing public education and information regarding crime and delinquency prevention.

(5) Operating nonsecure facilities, sheltered care facilities, crisis resolution homes, counseling and education centers, and home supervision programs for juveniles.

(6) Establishing and maintaining juvenile homes, ranches, camps, forestry camps, schools, day care centers, and group homes for wards of the juvenile court.

(7) Funding those services and programs required to implement the provisions of Chapter 1071 of the Statutes of 1976, including, but not limited to, services and programs provided by courts, district attorneys, probation officers, and public defenders.

(b) The amount of funds obtained pursuant to this article by any county which may be utilized or encumbered for capital construction may not exceed 10 percent of the maximum amount which a county may obtain pursuant to Section 1813.

Funds obtained under this article shall not be used to supplant local funds that would otherwise be expended in support of the local criminal justice activities referred to in subdivision (a).

1807. The Director of the Department of the Youth Authority shall prescribe the policies and procedures to be followed in the administration of this article, including, but not limited to, program monitoring, program evaluation, and methods of accounting for and certifying the proper use of funds received under this article. Such policies and procedures shall be for the purposes of carrying out, and not inconsistent with, the provisions of this article.

1808. Application by individual counties for funding under this article shall be made in the manner and form prescribed by the director.

1809. (a) Funds received shall be spent pursuant to the purposes set forth in subdivision (a) of Section 1806.

(b) No county shall be entitled to receive funds under this article until the Department of the Youth Authority has certified to the State Controller that the county's application for funding establishes that such funds will be spent pursuant to the purposes set forth in subdivision (a) of Section 1806.

1810. The Department of the Youth Authority shall provide technical assistance and consultation to the counties in the

development of the applications and the implementation of programs.

1811. (a) Each county which intends to apply for funding under this article shall establish a county justice system advisory group, or may elect to substitute for the county justice system advisory group an existing governmental entity, provided that the existing entity includes or is expanded to include the officials and representatives listed in subdivision (b). Such advisory group shall be responsible for preparing and forwarding to the board of supervisors a recommended application for funding.

(b) The county justice system advisory group shall be composed of the county chief probation officer, the county sheriff, the presiding judge of the superior court, the chairperson of the juvenile justice commission or the delinquency prevention commission, the district attorney, the public defender, the county superintendent of schools, the county administrative officer or the equivalent thereof, two chiefs of police selected on the basis of city population, one of whom shall represent a city above the median population range and one below the median population range of cities in the county, one representative of a private agency which provides services to juvenile offenders, one representative of a private agency which provides services to adult offenders, and one public member, who is neither employed by nor who has ever been employed by a law enforcement agency, selected by the board of supervisors.

(c) In a county lacking two chiefs of police, a substitute member who is a representative of city government shall be selected by the board of supervisors. In a county in which there are two chief probation officers, one of them shall be designated by the board of supervisors as a member of the advisory group. The representatives of the private agencies providing services to juvenile and adult offenders shall be selected by the board of supervisors. In a county in which there are chairpersons of both a juvenile justice commission and a delinquency prevention commission, one of them shall be selected by the board of supervisors. In a county in which a position designated in this section does not exist, the board of supervisors shall select, to the extent possible, an equivalent substitute.

(d) The chairperson of the county justice system advisory group shall be selected by its members. Reasonable and necessary expenses incurred by the advisory group and its members in the performance of its duties may be paid by the county, and any application for funding under this article may include provision for payment of such expenses.

(e) The county justice system advisory group shall assess community justice system needs, evaluate alternative programs for meeting the needs, and make written recommendations to the board of supervisors.

The board of supervisors shall review and consider the county justice system advisory group's recommendations in their determination of the allocation of the county's subvention.

(f) Any application for funding under this article shall be approved by the board of supervisors prior to submission to the Department of the Youth Authority.

1812. (a) The receipt of funds under this article shall be contingent upon the county maintaining its funding year commitment rate of juvenile and criminal offenders to the Department of the Youth Authority and the Department of Corrections within a base commitment rate of such commitments, except that no county shall be excluded from funds under this article which does not commit more than three people to the Department of the Youth Authority and the Department of Corrections during the funding year. For purposes of this article, "funding year" is the fiscal year for which the subvention is made.

(b) The Youth Authority shall calculate the base commitment rate for each county by computing the ratio of new commitments by county population, expressed in a commitment rate per 100,000 population for each of the fiscal years 1973–74, 1974–75, 1975–76, and 1976–77. The average of these four rates shall be the base commitment rate for the county. The number of new commitments for each of the above fiscal years shall be the total of the new commitments to the Department of the Youth Authority and to the Department of Corrections, as certified by the respective departments, on the basis provided in Article 7 (commencing with Section 1820) of Chapter 1 of Division 2.5, in effect during such fiscal years, excluding persons within any of the categories listed below:

(1) Persons committed to the Department of the Youth Authority or the Department of Corrections who are subsequently recalled or discharged pursuant to Section 1737 of this code or Section 1168 of the Penal Code.

(2) Persons committed to the Department of the Youth Authority or the Department of Corrections for diagnostic study pursuant to Section 704, 707.2, 1731.6, or 1752.1 of this code or Section 1203.03 of the Penal Code.

(c) The Youth Authority shall calculate the funding year commitment rate for each participating county by computing the ratio of new commitments to county population, expressed in a commitment rate per 100,000 population, for the funding year, excluding persons placed in or committed to state institutions for the offenses specified below:

(1) Persons committed to the Department of the Youth Authority who are subsequently recalled pursuant to Section 1737, or subsequently recalled within 120 days of the date of such commitment, pursuant to Section 779, and persons committed to the Department of Corrections who are subsequently recalled pursuant to subdivision (d) or (f) of Section 1170 of the Penal Code.

(2) Persons committed to the Department of the Youth Authority or the Department of Corrections for diagnostic study pursuant to Section 704, 707.2, 1731.6, or 1752.1 of this code or Section 1203.03 of the Penal Code.

(3) Persons committed to the Department of the Youth Authority or the Department of Corrections as a result of having been found to have committed any of the following specified violent offenses:

(A) Murder in the first and second degree, as defined in Sections 187 and 189 of the Penal Code.

(B) Attempted murder, as defined in Sections 187, 189, and 664 of the Penal Code.

(C) Arson, as defined in Section 447a of the Penal Code.

(D) Robbery, as defined in Section 211 of the Penal Code, where one or more enhancements have been imposed pursuant to Section 12022, 12022.5, or 12022.7 of the Penal Code.

(E) Rape, as defined in subdivision 1, 2, or 3 of Section 261 of the Penal Code, or attempted rape.

(F) Kidnapping, as defined in Section 209 of the Penal Code.

(G) Assault with intent to commit murder, as defined in Section 217 of the Penal Code.

(H) Assault with a deadly weapon or instrument or by force, as defined in Section 245 of the Penal Code.

(I) Assault with chemicals, as defined in Section 244 of the Penal Code.

(J) Trainwrecking, as defined in Section 219 of the Penal Code.

(K) Any offense listed in Section 1203.06, 1203.07, or 1203.11 of the Penal Code.

(L) Any offense for which probation or suspension of sentence is prohibited by law.

(d) The county population for purposes of calculating the base commitment rate and the funding year commitment rate shall be that certified by the Department of Finance to the State Controller on July 1 of each fiscal year.

(e) The Department of the Youth Authority will annually compute the statewide average commitment rate for informational purposes.

(f) The use of commitment rates for fiscal years 1973–74, 1974–75 1975–76, and 1976–77 for the calculation of the base commitment rate pursuant to subdivision (b) reflects the judgment of the Legislature that the present capacity of the state correctional system is insufficient to accommodate significant increase in the numbers of people committed to the Department of Corrections and the Department of the Youth Authority. It is the intent of the Legislature to reconsider the method of calculation of the base commitment rate at such time as the Department of Corrections or the Department of the Youth Authority develop the capacity to accommodate a significant increase in the number of people who may be committed to such departments.

1813. (a) The amount that may be paid to any county receiving funding under this article may not exceed two dollars and fifty-five cents ($2.55) per capita in such county. The county population shall be that certified by the Department of Finance to the State Controller of July 1 of the funding year; except that, for the purposes

of this section, no county shall be considered to have a population of less than 20,000 persons.

(b) In lieu of the per capita funding limitation set forth in subdivision (a), a county may elect, as its maximum funding limitation, an amount equal to the total of funds received by such county for fiscal year 1977–78 under former Article 7 (commencing with Section 1820) of Chapter 1 of Division 2.5, and for maintenance of juvenile homes, ranches, and camps pursuant to Section 887, as such programs were in effect during fiscal year 1977–78, and for reimbursement of costs imposed for fiscal year 1977–78 by Chapter 1071 of the Statutes of 1976, as claimed and reimbursed pursuant to Chapter 1241 of the Statutes of 1977. Such election shall be made on or before September 15 of the funding year and shall apply retroactively for the entire funding year. In the absence of an election by any county by September 15 of the funding year, any such county shall be deemed to have elected the per capita funding limitation set forth in subdivision (a).

(c) The Director of the Department of Finance shall annually adjust both the per capita maximum dollar amount as set forth in subdivision (a), and the maximum amount which each county may elect as its maximum funding limitation pursuant to subdivision (b), beginning with the 1979–80 fiscal year, by the percentage increase or decrease in the Consumer Price Index established by the United States Department of Labor and given a weighted average for California by the California Department of Industrial Relations. The first adjustment shall use the December 1977 Consumer Price Index as the base.

(d) The Legislature hereby declares that a component portion of the per capita sum specified in subdivison (a) is based on the total amount of state-mandated costs pursuant to Chapter 1071 of the Statutes of 1976. The Legislature further declares its intent that, to the extent that the actual amount of such costs for the 1977–78 fiscal year are less than or in excess of eighteen million dollars ($18,000,000), such component portion of the per capita sum as eighteen million dollars ($18,000,000) bears to the total amount appropriated to the Department of the Youth Authority to carry out the purpose of this article during the 1978–79 fiscal year, be increased or decreased by a like percentage with the effect of a consequent increase or decrease in the total per capital capita sum. The actual amount of state-mandated costs pursuant to Chapter 1071 of the Statutes of 1976 shall be the reimbursements for such costs, as claimed and reimbursed pursuant to Chapter 1241 of the Statutes of 1977, plus such additional costs as the Department of Finance determines would have been approved for reimbursement pursuant to Chapter 1241 of the Statutes of 1977 had claims been submitted but for which the county secured alternative funding.

(e) On or before January 1, 1979, the per capita sum specified in subdivision (a) shall be further adjusted retroactive to July 1, 1978, using the following method:

(1) The total of the maximum amounts applicable to all those counties who have elected the method set forth in subdivision (b) shall be subtracted from the total amount appropriated to the Department of the Youth Authority to carry out the purposes of this article during the 1978–79 fiscal year.

(2) The remainder shall be divided by the sum of the populations of all counties, as determined for funding year 1978–79 pursuant to subdivision (a), which have not elected the method of maximum payment set forth in subdivision (b). The quotient of the above division shall be the adjusted per capita sum for the funding year 1978–79.

1814. (a) A county's per capita distribution shall be made quarterly by the state. Counties shall be required to file an annual summary program budget showing the county's intended distribution of its subvention in accordance with subdivision (a) of Section 1806.

(b) Any funds not used for actual expenditures for the funding year in accordance with this article shall revert to the state, except funds encumbered annually by the county for capital expenditures, subject to the limitations set forth in subdivision (b) of Section 1806.

1815. (a) The Director of the Department of the Youth Authority shall, on an annual or more frequent basis, determine if each county is maintaining its funding year commitment rate of juvenile and criminal offenders to the Department of the Youth Authority and the Department of Corrections within the base commitment rate of such commitments.

(b) If it appears to the director that a county either is or will be in violation of the provisions of this article, the director shall give notice of such actual or potential violation to the county. Within 60 days of such notification, the county shall submit a plan for correcting or avoiding such violations. Such plan shall be consistent with the intent of this article to maintain and improve local alternatives to state incarceration.

(c) If the plan for correcting or avoiding violations is not approved by the director, the Youth Authority may thereafter withhold from the county all or any portion of annual funds authorized to be paid to the county or may require repayment of funds previously paid; except that no county shall, by reason of the director's disapproval of such plan, have withheld or be required to repay the percentage amount of such county's total funding year maximum distribution, as determined pursuant to Section 1813, that is equal to the total of all counties' state-mandated costs for the fiscal year 1977–78 incurred pursuant to Chapter 1071 of the Statutes of 1976 divided by the total of all counties' maximum distributions, as determined pursuant to Section 1813, for fiscal year 1978–79, to the extent that such county actually expends such funds for costs mandated by Chapter 1071 of the Statutes of 1976.

(d) In the event a county's funding year commitment rate exceeds its base commitment rate as provided in subdivision (a)

because of extremely unusual circumstances, as defined by criteria established by the Director of the Youth Authority, with the advice of the Director of Corrections, the Director of the Youth Authority may certify to the State Controller authorization for payment of the per capita subvention to which the county would otherwise be certified.

(e) The Board of Corrections shall establish administrative procedures by which a county may request review of the director's finding of actual or potential violation prior to the withhold or ordered repayment of funds. The Board of Corrections shall have final authority to determine any actual or potential violation of the provisions of this article.

1816. (a) In order for the Legislature to determine the need to continue or modify the County Justice System Subvention Program, the Department of the Youth Authority shall, commencing on January 1, 1979, submit an annual report to the Legislature regarding the progress and effectiveness of the program. In addition, the Department of the Youth Authority shall contract with an independent public or private agency for an evaluation of the effectiveness of programs in all or a representative number of counties funded in whole or in part under this article. These evaluations shall be completed by June 30, 1982. The Department of the Youth Authority shall make a report thereon to the Legislature by January 1, 1983. The Legislature shall assess the impact of the effectiveness of the County Justice System Subvention Program by December 31, 1983.

(b) In the event of the termination of the program established by this article, counties shall thereafter be entitled to be reimbursed for costs mandated by Chapter 1071 of the Statutes of 1976, including, but not limited to, all costs required to provide alternative programs for minors alleged or found to be wards of the juvenile court pursuant to Section 601 who, but for Chapter 1071 of the Statutes of 1976, would have been placed in secure detention.

(c) The participating counties shall maintain records of all county justice system subvention expenditures and expenditures attributable to Chapter 1071 of the Statutes of 1976.

1817. No funds shall be paid by the state pursuant to the maintenance and operation subsidy program (Section 887), and the construction subsidy program (Section 891) as provided by statute during the 1977–78 fiscal year to those programs after June 30, 1978, without regard to whether a county participates in the County Justice System Subvention Program, except funds previously encumbered by the Youth Authority pursuant to such programs.

1818. From any state funds made available to it for such purpose, the State of California, through the Department of the Youth Authority shall reimburse each county participating in the State Aid for Probation Services Program prior to July 1, 1978, for previously unreimbursed costs incurred in the operation of special supervision programs during the 1977–78 fiscal year to the extent that they do not

exceed earnings pursuant to the State Aid for Probation Services Program as certified by the Director of the Department of the Youth Authority.

SEC. 7.5. Section 1825 of the Welfare and Institutions Code is amended to read:

1825. (a) No county shall be entitled to receive any state funds provided by this article until its application is approved and unless and until the minimum standards prescribed by the Department of the Youth Authority are complied with and then only on such terms as are set forth hereafter in this section.

(b) A commitment rate for each county and for the state as a whole shall be calculated by the Department of the Youth Authority by computing the ratio of new commitments to state and county population, expressed in a rate per 100,000 population, for each of the calendar years 1959 through 1963. The average of these rates for a county for the five-year period or the average of the last two years of the period, whichever is higher, shall be the base rate for that county, however, if the base rate is lower than 40 commitments per 100,000 population, the rate shall be established at 40, and if the rate is higher than 100, the rate shall be established at 100. The number of commitments shall be the total of the new commitments to the custody of the Director of the Youth Authority and the new criminal commitments to the custody of the Director of Corrections, as certified by the respective departments. The county and state population shall be that certified by the Department of Finance to the Controller as of July 1 of each year. Persons committed to the Department of Corrections and subsequently discharged under Section 1168 of the Penal Code and persons committed to the Department of Corrections or the Department of the Youth Authority for diagnostic study only pursuant to Section 1203.03 of the Penal Code or Section 704 or 1752.1 of the Welfare and Institutions Code, shall not be counted as having been committed for purposes of determining commitment rates under this subdivision or subdivision (c).

(c) An annual commitment rate shall be calculated at the end of each fiscal year for each participating county and for the state as a whole in a like manner to that described in subdivision (b) using the population figure of the July 1 included in the year, except that, in addition to the categories of persons excluded from being counted as having been committed under subdivision (b), persons committed to the Department of Corrections who are subsequently recalled at any time during the 1977–78 fiscal year pursuant to subdivision (d) or (f) of Section 1170 of the Penal Code shall not be counted as having been committed for purposes of determining commitment rates under this subdivision.

(d) The maximum amount that may be paid to a county pursuant to this article is determined by obtaining the interpolated dollar amount in the table in this subdivision for such county's base commitment rate and its percentage decrease, interpolated to the

nearest one-tenth of 1 percent, in rate of commitment and multiplying the appropriate dollar amount by the "commitment reduction number." The "commitment reduction number" is obtained by subtracting (1) the most recent annual commitment number from (2) the product of the base commitment rate and population of the county for the same year employed in (1). The Director of the Youth Authority, with approval of the Director of Finance may annually adjust the dollar amounts in the ensuing table, beginning with the 1973–1974 fiscal year, to reflect changes in the Consumer Price Index established by the U.S. Department of Labor and given a weighted average for California by the California Department of Industrial Relations. The first adjustment shall use the December 1971 index as the base. Payments per uncommitted case shall in any event not exceed the average annual per capita cost of maintaining wards in Department of the Youth Authority institutions.

Per Capita Subsidy in Relation to Percentage Decrease
Base Commitment Rates/100,000
(Adult and Juvenile)

Percent of decrease from base rate	40–49 100,000	50–59 100,000	60–69 100,000	70–79 100,000	80–89 100,000	90–100 100,000
0 percent	—	—	—	—	—	—
1 percent	$2,285	$2,180	$2,135	$2,105	$2,085	$2,080
2 percent	2,570	2,360	2,265	2,210	2,175	2,160
3 percent	2,855	2,545	2,400	2,315	2,260	2,240
4 percent	3,145	2,725	2,535	2,420	2,350	2,320
5 percent	3,430	2,910	2,665	2,525	2,435	2,400
6 percent	3,715	3,090	2,800	2,630	2,520	2,480
7 percent	4,000	3,275	2,935	2,735	2,610	2,560
8 percent	4,000	3,455	3,065	2,840	2,695	2,640
9 percent	4,000	3,635	3,200	2,945	2,785	2,720
10 percent	4,000	3,820	3,335	3,055	2,870	2,800
11 percent	4,000	4,000	3,465	3,160	2,955	2,880
12 percent	4,000	4,000	3,600	3,265	3,045	2,960
13 percent	4,000	4,000	3,735	3,370	3,130	3,040
14 percent	4,000	4,000	3,865	3,475	3,215	3,120
15 percent	4,000	4,000	4,000	3,580	3,305	3,200
16 percent	4,000	4,000	4,000	3,685	3,390	3,280
17 percent	4,000	4,000	4,000	3,790	3,480	3,360
18 percent	4,000	4,000	4,000	3,895	3,565	3,440
19 percent	4,000	4,000	4,000	4,000	3,650	3,520
20 percent	4,000	4,000	4,000	4,000	3,740	3,600
21 percent	4,000	4,000	4,000	4,000	3,825	3,680
22 percent	4,000	4,000	4,000	4,000	3,915	3,760
23 percent	4,000	4,000	4,000	4,000	4,000	3,840
24 percent	4,000	4,000	4,000	4,000	4,000	3,920

25 percent	4,000	4,000	4,000	4,000	4,000	4,000
Over						
25 percent	4,000	4,000	4,000	4,000	4,000	4,000

(e) The state will reimburse the county upon presentation of a valid claim based on actual performance in reducing the commitment rate from its base rate. Whenever a claim made by a county, pursuant to this article, covering a prior fiscal year, is found to be in error, adjustment may be made on a current claim without the necessity of applying the adjustment to the allocation for the prior year.

(f) If the amount received by a county in reimbursement of its expenditures in a fiscal year is less than the maximum amount computed under subdivision (d), the difference may be used in the next two succeeding fiscal years and may be paid to the county in quarterly installments during such fiscal years upon preparation of valid claims for reimbursement of its quarterly expenses.

(g) In the event a participating county earns less than the sum paid in the previous year because of extremely unusual circumstances claimed by the county and verified by the Director of the Youth Authority with the approval of the Director of Finance, the Director of the Youth Authority may pay to the county a sum equal to the prior year's payment, provided, however, that in subsequent years the county will be paid only the amount earned.

(h) Funds obtained under this article shall not be used to support existing programs or develop or expand new programs in juvenile homes, ranches, or camps established under Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of this code, except that funds obtained under this article may be used by a county that has not established a juvenile home, ranch or camp to pay for its juvenile home, ranch or camp placements in other counties.

(i) Counties where the average number of commitments in the base period as established by subdivision (b) is less than 30 may elect either to comply with the procedure set out above or, as an alternative, to receive from the state 90 percent of the salary of one full-time additional probation officer or, in the event there are fewer than 20 persons placed on probation annually otherwise eligible for commitment to state institutions, the county would be entitled to 90 percent of the salary of a half-time officer. In the event a county chooses the alternative proposal, it will be eligible for reimbursement only so long as the officer devotes all of his time in the performance of probation services to supervision of persons eligible for state commitment and persons participating in special supervision programs and (1) if its base rate is below the state average, it does not on an annual basis exceed the base state rate, or (2) if its base rate is above the state average, it does not in the year exceed by 5 percent its own base rate.

(j) As a supplement to earnings received by counties pursuant to subdivision (d), the Director of the Youth Authority may allocate from any moneys made available, to each participating county, an

amount not to exceed 10 percent of the county's earnings generated in the 1972–73 fiscal year. This special allocation may be used, notwithstanding the provisions of Section 1821 or any other section of the article, for the diagnosis, control, or treatment of offenders or alleged offenders by local law enforcement agencies in the county, subject to standards, rules, and regulations established by the Director of the Youth Authority.

A sum of two million dollars ($2,000,000) is hereby appropriated to the Department of the Youth Authority for the 1974–75 fiscal year to carry out the provisions of this act.

In addition, one hundred seventy-four thousand dollars ($174,000) is hereby appropriated to the Director of the Youth Authority. One hundred forty-five thousand dollars ($145,000) of the total appropriation shall be used to (a) reimburse each participating county for carrying out program evaluation studies specified by the Department of the Youth Authority and twenty-nine thousand dollars ($29,000) to be used to (b) defray the cost to the Department of the Youth Authority for processing the county evaluations to prepare a report to the 1975–76 Legislature on the effectiveness of state aid to probation services.

Each county participating in these studies shall be required to enter into a contractual agreement with the state. Such agreement shall specify the maximum amount each county shall be reimbursed.

No county shall share in any additional funds appropriated by this subdivision unless it enters into an agreement with the state to provide such evaluation or is granted an exemption by the Department of the Youth Authority.

The provisions of this subdivision shall be terminated on June 30, 1975.

(k) A review of this article shall be made by the Director of the Youth Authority and a report made to the 1975–76 Legislature by January 9, 1976.

This section shall be operative only until July 1, 1978, and as of such date is repealed.

SEC. 8. Sections 1, 2, 3, 4, 5, 6, and 7 of this act shall become operative July 1, 1978.

SEC. 9. The sum of fifty-five million dollars ($55,000,000) is hereby appropriated from the General Fund to the Department of the Youth Authority to carry out the purposes of Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code during fiscal year 1978-79.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, on and after July 1, 1978, there shall be no reimbursement pursuant to that section for counties, as a result of the enactments contained in Chapter 1071 of the Statutes of 1976, without regard to whether a county participates in the County Justice System Subvention Program.

SEC. 11. Notwithstanding Section 2231 of the Revenue and Taxation Code, on and after July 1, 1978, there shall be no

reimbursement pursuant to that section by this act, nor is there any obligation created thereby.

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 for the Department of the Youth Authority to carry out the purposes of the Article 7 (commencing with Section 1805) that will be added to Chapter 1 of Division 2.5 of the Welfare and Institutions Code by this act, it is necessary that this act take effect immediately.

CHAPTER 462

An act to add Section 10254 to the Health and Safety Code and to add Section 11114 to the Penal Code, relating to identification of dead bodies, and making an appropriation therefor.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 10254 is added to the Health and Safety Code, to read:

10254. In deaths investigated by the coroner or medical examiner where he is unable to establish the identity of the body or human remains by visual means, fingerprints, or other identifying data, the coroner or medical examiner shall have a qualified dentist, as determined by the coroner or medical examiner, carry out a dental examination of the body or human remains. If the coroner or medical examiner with the aid of the dental examination and other identifying findings is still unable to establish the identity of the body or human remains, he or she shall prepare and forward such dental examination records to the Department of Justice on forms supplied by the Department of Justice for such purpose.

The Department of Justice shall act as a repository or computer center, or both, with respect to such dental examination records. The Department of Justice shall compare such dental examination records with dental records filed with it pursuant to Section 11114 of the Penal Code, shall determine which scoring probabilities are the highest for purposes of identification, and shall submit such information to the coroner or medical examiner who prepared and forwarded the dental examination records.

Not later than three years following implementation of the dental identification program required by this section and Section 11114 of the Penal Code, the Department of Justice shall submit a report on such program to the Legislature.

SEC. 2. Section 11114 is added to the Penal Code, to read:

11114. (a) When a person reported missing has not been found within 30 days, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority initiating and conducting the investigation for the missing person shall request the family or next of kin of the missing person to give them written consent to contact and request from the dentist or dentists of the missing person the person's dental records.

(b) When a person reported missing has not been found within 30 days, the sheriff, chief of police, or other law enforcement authority initiating and conducting the investigation for the missing person shall confer with the coroner or medical examiner prior to the preparation of a missing person report. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement authority initiating and conducting the investigation for the missing person shall submit a missing person report and the dental records received pursuant to subdivision (a) to the Department of Justice on forms supplied by the department for such purpose.

(c) When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report such information to the Department of Justice. After receiving such a report, the department shall erase all records with respect to such person which are maintained pursuant to subdivision (d) of this section.

(d) The Department of Justice shall maintain a file of information concerning persons reported to it as missing and who have not been reported as found. The file shall contain the information referred to in subdivision (b) and such other information as the Department of Justice finds to be relevant to assisting in the location of a missing person.

The Department of Justice files may be made available to law enforcement agencies attempting to locate missing persons.

SEC. 3. The sum of thirty-seven thousand dollars ($37,000) is hereby appropriated from the General Fund to the State Controller for allocation in accordance with the following schedule:

Schedule:

(a) To the Department of Justice for maintaining a file of dental records of missing persons under Section 11114 of the Penal Code.....	$5,000
(b) 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.	$32,000

CHAPTER 463

An act to add Section 11656.7 to the Insurance Code, to amend Section 3351.5 of the Labor Code, to add Section 683 to the Unemployment Insurance Code, and to add Section 12302.2 to the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 11656.7 is added to the Insurance Code, to read:

11656.7. Upon request of the State Department of Social Services, the State Compensation Insurance Fund may issue one workers' compensation insurance policy insuring all recipients of in-home supportive services under Article 7 (commencing with Section 12300), Chapter 3, Part 3, Division 9 of the Welfare and Institutions Code for whom and to the extent that the State Department of Social Services has an obligation to perform or assure the performance of rights, duties and obligations relating to such services as specified in Section 12302.2 of the Welfare and Institutions Code.

SEC. 2. Section 3351.5 of the Labor Code is amended to read:

3351.5. "Employee" includes:

(a) Any person whose employment training is arranged by the State Department of Rehabilitation with any employer. Such person shall be deemed an employee of such employer for workers' compensation purposes; provided that, the department shall bear the full amount of any additional workers' compensation insurance premium expense incurred by the employer due to the provisions of this section.

(b) Any person defined in subdivision (d) of Section 3351 who performs domestic service comprising in-home supportive services under Article 7 (commencing with Section 12300), Chapter 3, Part 3, Division 9 of the Welfare and Institutions Code. For purposes of Section 3352, such person shall be deemed an employee of the recipient of such services for workers' compensation purposes if the state or county makes or provides for direct payment to such person or to the recipient of in-home supportive services for the purchase of services, subject to the provisions of Section 12302.2 of the Welfare and Institutions Code.

SEC. 3. Section 683 is added to the Unemployment Insurance Code, to read:

683. "Employer" also means any employing unit which employs individuals to perform domestic service comprising in-home supportive services under Article 7 (commencing with Section

12300), Chapter 3, Part 3, Division 9 of the Welfare and Institutions Code and pays wages in cash of one thousand dollars ($1,000) or more for such service during any calendar quarter in the calendar year or the preceding calendar year, and is one of the following:

(a) The recipient of such services, if the state or county makes or provides for direct payment to a provider chosen by the recipient or to the recipient of such services for the purchase of services, subject to the provisions of Section 12302.2 of the Welfare and Institutions Code.

(b) The individual or entity with whom a county contracts to provide in-home supportive services.

(c) Any county which hires and directs in-home supportive personnel in accordance with established county civil service requirements or merit system requirements for those counties not having civil service systems.

SEC. 4. Section 12302.2 is added to the Welfare and Institutions Code, to read:

12302.2. (a) If the state or a county makes or provides for direct payment to a provider chosen by a recipient or to the recipient for the purchase of in-home supportive services, the department shall perform or assure the performance of all rights, duties and obligations of the recipient relating to such services as required for purposes of unemployment compensation, unemployment compensation disability benefits, workers' compensation, federal and state income tax, and federal old-age survivors and disability insurance benefits. Such rights, duties, and obligations include, but are not limited to, registration and obtaining employer account numbers, providing information, notices, and reports, making applications and returns, and withholding in trust from the payments made to or on behalf of a recipient amounts to be withheld from the wages of the provider by the recipient as an employer and transmitting such amounts along with amounts required for all contributions, premiums, and taxes payable by the recipient as the employer to the appropriate person or state or federal agency. The department may assure the performance of any or all such rights, duties, and obligations by contract with any person, or any public or private agency.

Contributions, premiums, and taxes shall be paid or transmitted on the recipient's behalf as the employer for any period commencing on or after January 1, 1978, except that contributions, premiums, and taxes for federal and state income taxes and federal old-age, survivors and disability insurance contributions shall be paid or transmitted pursuant to this section commencing with the first full month which begins 90 days after the effective date of this section.

Contributions, premiums, and taxes paid or transmitted on the recipient's behalf for unemployment compensation, workers' compensation, and the employer's share of federal old-age survivors and disability insurance benefits shall be payable in addition to the maximum monthly amount established pursuant to Section 12303.5

or subdivision (a) of Section 12304 or other amount payable to or on behalf of a recipient. Contributions, premiums, or taxes resulting from liability incurred by the recipient as employer for unemployment compensation, workers' compensation, and federal old-age, survivors and disability insurance benefits with respect to any period commencing on or after January 1, 1978, and ending on or before the effective date of this section shall also be payable in addition to the maximum monthly amount established pursuant to Section 12303.5 or subdivision (a) of Section 12304 or other amount payable to or on behalf of the recipient. Nothing in this section shall be construed to permit any interference with the recipient's right to select the provider of services or to authorize a charge for administrative costs against any amount payable to or on behalf of a recipient.

(b) Funding for the costs of administering this section and for contributions, premiums, and taxes paid or transmitted on the recipient's behalf as an employer pursuant to this section shall qualify, where possible, for the maximum federal reimbursement. To the extent that federal funds are inadequate, notwithstanding Section 12306, the state shall provide funding for the purposes of this section.

SEC. 5. The sum of thirteen million dollars ($13,000,000) is hereby appropriated from the General Fund to the State Department of Social Services for the purposes 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 as follows:

Coverage of in-home supportive services for workers' compensation, unemployment and disability insurance has resulted in hardship to recipients of such services and confusion as to the status of recipients as employers. In order to provide for the welfare of recipients by establishing a system of assurances and delegation of performance of employer's duties, it is necessary that this act take effect immediately.

CHAPTER 464

An act to amend Sections 1811, 1812, and 1813 of, to amend and repeal Section 888 of, and to add Sections 887, 888.3, and 891 to, the Welfare and Institutions Code, and to amend Sections 11, 13, and 14 of Chapter 1241 of the Statutes of 1977, relating to juvenile court law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1978. Filed with Secretary of State July 18, 1978.]

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

SECTION 1. Section 887 is added to the Welfare and Institutions Code, to read:

887. Where any such juvenile home or camp is established or is to be established, and where the minimum standards and qualifications provided for in Section 885 have been complied with by the county, the State of California, through the Youth Authority, out of any money herein appropriated, shall reimburse the county to the amount of one-half the cost of maintaining each child in such home or camp, but in no event shall such county receive more than ninety-five dollars ($95) per month per child.

Whenever a claim made by a county pursuant to this section covering a prior fiscal year is found to have been in error, adjustment may be made on a current claim without necessity of applying the adjustment to the appropriation for the prior fiscal year.

SEC. 2. Section 888 of the Welfare and Institutions Code, as amended by Assembly Bill No. 90 of the 1977–78 Regular Session of the Legislature, is amended to read:

888. (a) Any county establishing such juvenile home, ranch, or camp under the provisions of this article may, by mutual agreement, accept children committed to such home, ranch, or camp by the juvenile court of another county in the state. Two or more counties may, by mutual agreement, establish such juvenile homes or camps, and the rights granted and duties imposed by this article shall devolve upon such counties acting jointly. The provisions of this article shall not apply to any juvenile hall.

(b) The provisions of this section shall be operative only until Article 7 (commencing with Section 1805) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code is repealed and on and after the effective date of such repeal shall be repealed.

SEC. 3. Section 888.3 is added to the Welfare and Institutions Code, to read:

888.3. Any county establishing such juvenile home, ranch, or camp under the provisions of this article may, by mutual agreement, accept children committed to such home, ranch, or camp by the juvenile court of another county in the state and the state shall reimburse the county maintaining the home, ranch, or camp to the amount of one-half of the cost of maintaining each child so committed. Payments received for the care of children from another county by a county operating a facility shall not be considered as a subvention to the county operating the facility for the purposes of determining the amount of state reimbursement. Two or more counties may, by mutual agreement, establish such juvenile homes or camps, and the rights granted and duties imposed by this article shall devolve upon such counties acting jointly. The provisions of this article shall not apply to any juvenile hall.

SEC. 4. Section 891 is added to the Welfare and Institutions Code, to read:

891. (a) From any state moneys made available to it for that purpose, the Youth Authority shall share in the cost pursuant to this article of the construction of juvenile homes, juvenile ranch camps, or forestry camps established after July 1, 1957, and for construction at existing juvenile homes, ranches, camps, or forestry camps, by counties which apply therefor.

(b) "Construction," as used in this section, includes construction of new buildings and acquisition of existing buildings and initial equipment of any such buildings; and, to the extent provided for in regulations adopted by the Department of the Youth Authority, remodeling of existing buildings owned by the county, to serve as a juvenile home or to serve the purposes of a juvenile ranch camp or forestry camp, and initial equipment thereof. "Construction" also includes payments made by a county under any lease-purchase agreement or similar arrangement authorized by law and payments for the necessary repair or improvements of property which is leased from the federal government or other public entity without cost to the county for a term of not less than 10 years. It does not include architects' fees or the cost of land acquisition.

(c) The amount of state assistance which shall be provided to any county shall not exceed 50 percent of the project cost approved by the Youth Authority, and, in no event shall it exceed three thousand dollars ($3,000) per bed unit of the new juvenile home, juvenile ranch, camp, or forestry camp or per bed unit added to an existing juvenile home, juvenile ranch camp, or forestry camp, as the case may be. The construction project shall be deemed to have as many bed units as the number of persons it is designed to accommodate, not exceeding 100 bed units for any one project.

(d) Application for state assistance for construction funds under this article shall be made to the Youth Authority in the manner and form prescribed by the Youth Authority. The Youth Authority shall prescribe the time and manner of payment of state assistance, if granted.

SEC. 5. Section 1811, as added to the Welfare and Institutions Code by Assembly Bill No. 90 of the 1977–1978 Regular Session, of the Legislature is amended to read:

1811. (a) Each county which intends to apply for funding under this article shall establish a County Justice System Advisory Group, or may elect to substitute for the County Justice System Advisory Group an existing governmental entity, provided that the existing entity includes or is expanded to include the officials and representatives listed in subdivision (b). Such advisory group shall be responsible for preparing and forwarding to the board of supervisors a recommended application for funding.

(b) The County Justice System Advisory Group shall be composed of the county chief probation officer, the county sheriff, the presiding judge of the superior court, the chairperson of the Juvenile Justice Commission or the Delinquency Prevention Commission, the district attorney, the public defender, the county superintendent of

schools, the county administrative officer or the equivalent thereof, two chiefs of police selected on the basis of city population, one of whom shall represent a city above the median population range and one below the median population range of cities in the county, one representative of a private agency which provides services to juvenile offenders, one representative of a private agency which provides services to adult offenders, and one public member, who is neither employed by nor who has ever been employed by a law enforcement agency, selected by the board of supervisors and one representative from each of three private community-based adult or juvenile assistance agencies involved in the prevention or treatment of delinquency or criminal activity, selected by the board of supervisors.

(c) In a county lacking two chiefs of police, a substitute member who is a representative of city government shall be selected by the board of supervisors. In a county in which there are two chief probation officers, one of them shall be designated by the board of supervisors as a member of the advisory group. The representatives of the private agencies providing services to juvenile and adult offenders shall be selected by the board of supervisors. In a county in which there are chairpersons of both a Juvenile Justice Commission and a Delinquency Prevention Commission, one of them shall be selected by the board of supervisors. In a county in which a position designated in this section does not exist, the board of supervisors shall select, to the extent possible, an equivalent substitute.

(d) The Chairperson of the County Justice System Advisory Group shall be selected by its members. Reasonable and necessary expenses incurred by the advisory group and its members in the performance of its duties may be paid by the county, and any application for funding under this article may include provision for payment of such expenses.

(e) The County Justice System Advisory Group shall assess community justice system needs, evaluate alternative programs for meeting the needs, and make written recommendations to the board of supervisors.

The board of supervisors shall review and consider the County Justice System Advisory Group's recommendations in their determination of the allocation of the county's subvention.

(f) Any application for funding under this article shall be approved by the board of supervisors prior to submission to the Department of the Youth Authority.

(g) In the case where the city and county are a single entity, the appointive members of the County Justice System Advisory Group shall be appointed by the mayor and subject to confirmation by the board of supervisors. The County Justice System Advisory Group shall submit its recommendations to the mayor and the board of supervisors, pursuant to subdivisions (a) and (e). Any application for funding pursuant to subdivision (f) shall be approved by the mayor

and subject to approval by the board of supervisors prior to submission to the Department of the Youth Authority.

SEC. 6. Section 1812, as added to the Welfare and Institutions Code by Assembly Bill No. 90 of the 1977–1978 Regular Session of the Legislature, is amended to read:

1812. (a) The receipt of funds under this article shall be contingent upon the county maintaining its funding year commitment rate of juvenile and criminal offenders to the Department of the Youth Authority and the Department of Corrections within a base commitment rate of such commitments, except that no county shall be excluded from funds under this article which does not commit more than three people to the Department of the Youth Authority and the Department of Corrections during the funding year. For purposes of this article, "funding year" is the fiscal year for which the subvention is made.

(b) The Youth Authority shall calculate the base commitment rate for each county by computing the ratio of new commitments by county population, expressed in a commitment rate per 100,000 population for each of the fiscal years 1973–74, 1974–75, 1975–76, and 1976–77. The average of these four rates shall be the base commitment rate for the county. The number of new commitments for each of the above fiscal years shall be the total of the new commitments to the Department of the Youth Authority and to the Department of Corrections, as certified by the respective departments, on the basis provided in Article 7 (commencing with Section 1820) of Chapter 1 of Division 2.5, in effect during such fiscal years, excluding persons within any of the categories listed below:

(1) Persons committed to the Department of the Youth Authority or the Department of Corrections who are subsequently recalled or discharged pursuant to Section 1737 of this code or Section 1168 of the Penal Code.

(2) Persons committed to the Department of the Youth Authority or the Department of Corrections for diagnostic study pursuant to Section 704, 707.2, 1731.6, or 1752.1 of this code or Section 1203.03 of the Penal Code.

(c) The Youth Authority shall calculate the funding year commitment rate for each participating county by computing the ratio of new commitments to county population, expressed in a commitment rate per 100,000 population, for the funding year, excluding persons placed in or committed to state institutions for the offenses specified below:

(1) Persons committed to the Department of the Youth Authority who are subsequently recalled pursuant to Section 1737, or subsequently recalled within 120 days of the date of such commitment, pursuant to Section 779, and persons committed to the Department of Corrections who are subsequently recalled pursuant to subdivision (d) or (f) of Section 1170 of the Penal Code.

(2) Persons committed to the Department of the Youth Authority or the Department of Corrections for diagnostic study pursuant to

Section 704, 707.2, 1731.6, or 1752.1 of this code or Section 1203.03 of the Penal Code.

(3) Persons committed to the Department of the Youth Authority or the Department of Corrections as a result of having been found to have committed any of the following specified violent offenses:

(A) Murder in the first and second degree, as defined in Sections 187 and 189 of the Penal Code.

(B) Attempted murder, as defined in Sections 187, 189, and 664 of the Penal Code.

(C) Arson, as defined in Section 447a of the Penal Code.

(D) Robbery, as defined in Section 211 of the Penal Code, where one or more enhancements have been imposed pursuant to Section 12022, 12022.5, or 12022.7 of the Penal Code.

(E) Rape, as defined in subdivision 1, 2, or 3 of Section 261 of the Penal Code, or attempted rape.

(F) Kidnapping, as defined in Section 209 of the Penal Code.

(G) Assault with intent to commit murder, as defined in Section 217 of the Penal Code.

(H) Assault with a deadly weapon or instrument or by force, as defined in Section 245 of the Penal Code.

(I) Assault with chemicals, as defined in Section 244 of the Penal Code.

(J) Trainwrecking, as defined in Section 219 of the Penal Code.

(K) Any offense listed in Section 1203.06 or 1203.07 of the Penal Code, or Section 1203.08 of the Penal Code as added thereto by Chapter 735 of the Statutes of 1977.

(L) Any offense for which probation or suspension of sentence is prohibited by law.

(d) The county population for purposes of calculating the base commitment rate and the funding year commitment rate shall be that certified by the Department of Finance to the State Controller on July 1 of each fiscal year.

(e) The Department of the Youth Authority will annually compute the statewide average commitment rate for informational purposes.

(f) The use of commitment rates for fiscal years 1973–74, 1974–75, 1975–76, and 1976–77 for the calculation of the base commitment rate pursuant to subdivision (b) reflects the judgment of the Legislature that the present capacity of the state correctional system is insufficient to accommodate significant increase in the numbers of people committed to the Department of Corrections and the Department of the Youth Authority. It is the intent of the Legislature to reconsider the method of calculation of the base commitment rate at such time as the Department of Corrections or the Department of the Youth Authority develop the capacity to accommodate a significant increase in the number of people who may be committed to such departments.

SEC. 6.5. Section 1813, as added to the Welfare and Institutions Code by Assembly Bill No. 90 of the 1977–1978 Regular Session of the

Legislature, is amended to read:

1813. (a) The amount that may be paid to any county receiving funding under this article may not exceed two dollars and fifty-five cents ($2.55) per capita in such county. The county population shall be that certified by the Department of Finance to the State Controller of July 1 of the funding year; except that, for the purposes of this section, no county shall be considered to have a population of less than 20,000 persons.

(b) In lieu of the per capita funding limitation set forth in subdivision (a), a county may elect, as its maximum funding limitation, an amount equal to the total of funds received by such county for fiscal year 1977–78 under former Article 7 (commencing with Section 1820) of Chapter 1 of Division 2.5, and for maintenance of juvenile homes, ranches, and camps pursuant to Section 887, as such programs were in effect during fiscal year 1977–78, and for reimbursement of costs imposed for fiscal year 1977–78 by Chapter 1071 of the Statutes of 1976, as claimed and reimbursed pursuant to Chapter 1241 of the Statutes of 1977. Such election shall be made on or before September 15 of the funding year and shall apply retroactively for the entire funding year. In the absence of an election by any county by September 15 of the funding year, any such county shall be deemed to have elected the per capita funding limitation set forth in subdivision (a).

(c) The Director of the Department of Finance shall adjust both the per capita maximum dollar amount as set forth in subdivision (a), and the maximum amount which each county may elect as its maximum funding limitation pursuant to subdivision (b), for the 1979–80 fiscal year, by the percentage increase or decrease in the Consumer Price Index established by the United States Department of Labor and given a weighted average for California by the California Department of Industrial Relations. The adjustment shall use the December 1977 Consumer Price Index as the base.

(d) The provisions of subdivision (c) shall apply only to those counties that meet the following requirements:

Net county costs for correctional services shall not be reduced disproportionately unless to do so will not be detrimental to the safety of the public or to the correctional needs of public offenders. As used in this subdivision, "net county costs for correctional services" means county expenditures for county correctional services, less revenues received for county correctional services, plus federal revenue sharing funds budgeted or expended for county correctional services. A reduction in net county costs for correctional services shall be deemed to be disproportionate when the ratio, determined by dividing net county costs for correctional services budgeted in the 1978–79 fiscal year by the net county costs for correctional services provided in the 1977–78 fiscal year, is less than the ratio determined by dividing the sum of (a) county property tax revenues for the 1978–79 fiscal year as calculated in paragraph (1) of subdivision (b) of Section 16172 of the Government Code; (b) the

dollar amount of a county's obligations relieved pursuant to Sections 33 and 34 of Chapter 292 of the Statutes of 1978 during the 1978–79 fiscal year; and (c) the dollar amount of funds allocated to the county by Chapter 292 of the Statutes of 1978 as calculated in subdivision (d) of Section 16260 of the Government Code and appropriated in Section 16100 of the Government Code, by the sum county revenues derived from property taxation during the 1977–78 fiscal year, including state reimbursements for homeowners' and business inventory exemptions.

As used in this section, "county correctional services" means:

(1) Juvenile homes, ranches, camps, forestry camps, schools, day care centers, and group homes, to the extent that such facilities are utilized for persons who have been declared wards of the juvenile court pursuant to a finding that they are persons described by Section 602 of the Welfare and Institutions Code.

(2) Adult correctional programs and facilities, including, but not limited to, county jail programs and correctional rehabilitation centers.

(3) Local justice system offender-centered services offered by probation departments.

(4) Any of the services defined in paragraphs (1) and (2) above where financed or purchased by the county through grants, contracts or agreements.

(e) The Legislature hereby declares that a component portion of the per capita sum specified in subdivision (a) is based on the total amount of state-mandated costs pursuant to Chapter 1071 of the Statutes of 1976. The Legislature further declares its intent that, to the extent that the actual amount of such costs for the 1977–78 fiscal year are less than or in excess of eighteen million dollars ($18,000,000), such component portion of the per capita sum as eighteen million dollars ($18,000,000) bears to the total amount appropriated to the Department of the Youth Authority to carry out the purpose of this article during the 1978–79 fiscal year, be increased or decreased by a like percentage with the effect of a consequent increase or decrease in the total per capital capita sum. The actual amount of state-mandated costs pursuant to Chapter 1071 of the Statutes of 1976 shall be the reimbursements for such costs, as claimed and reimbursed pursuant to Chapter 1241 of the Statutes of 1977, plus such additional costs as the Department of Finance determines would have been approved for reimbursement pursuant to Chapter 1241 of the Statutes of 1977 had claims been submitted but for which the county secured alternative funding.

(e) On or before January 1, 1979, the per capita sum specified in subdivision (a) shall be further adjusted retroactive to July 1, 1978, using the following method:

(1) The total of the maximum amounts applicable to all those counties who have elected the method set forth in subdivision (b) shall be subtracted from the total amount appropriated to the Department of the Youth Authority to carry out the purposes of this

article during the 1978–79 fiscal year.

(2) The remainder shall be divided by the sum of the populations of all counties, as determined for funding year 1978–79 pursuant to subdivision (a), which have not elected the method of maximum payment set forth in subdivision (b). The quotient of the above division shall be the adjusted per capita sum for the funding year 1978–79.

SEC. 7. Section 11 of Chapter 1241 of the Statutes of 1977 is amended to read:

Sec. 11. Notwithstanding Section 2253 of the Revenue and Taxation Code, counties shall submit to the State Board of Control claims for reimbursement for costs imposed by Chapter 1071 of the Statutes of 1976, which costs arise between January 1, 1977, and June 30, 1978, to the extent that costs exceed savings provided for by that act during that period. Any county utilizing programs and facilities of a type now required by Chapter 1071 of the Statutes of 1976 shall be reimbursed only the costs arising with respect to those programs and facilities on and after January 1, 1977, that are directly imposed on the county by Chapter 1071 of the Statutes of 1976. The State Board of Control shall consider the claims based on recommendations or evidence, or both, presented by the Department of the Youth Authority and the Department of Finance, Local Mandate Programs Unit, or other state departments as appropriate. Claims approved by the State Board of Control shall be forwarded to the State Controller for payment in accordance with Section 2231 of the Revenue and Taxation Code.

SEC. 8. Section 13 of Chapter 1241 of the Statutes of 1977 is amended to read:

Sec. 13. The sum of eighteen million dollars ($18,000,000) is hereby appropriated from the General Fund to the State Controller for disbursement to any county for reimbursement for costs incurred pursuant to Chapter 1071 of the Statutes of 1976, upon approval of claims for such reimbursement pursuant to Section 11 of this act and in accordance with the following schedule:

(1) Six million dollars ($6,000,000) for the 1976–77 fiscal year.

(2) Twelve million dollars ($12,000,000) for the 1977–78 fiscal year; provided, that if claims received in the 1976–77 fiscal year are over six million dollars ($6,000,000) the Department of Finance may allocate funds in this paragraph to paragraph (1). If the total county claims for reimbursement for costs incurred pursuant to Chapter 1071 of the Statutes of 1976 exceed the amount of funds appropriated herein, the Department of Finance shall request additional funds from the Legislature to meet the full amount of such claims.

SEC. 9. Section 14 of Chapter 1241 of the Statutes of 1977 is amended to read:

Sec. 14. Any cost incurred by a county during the period of January 1, 1977, to June 30, 1978, pursuant to Chapter 1071 of the Statutes of 1976, which is filed by a county, after approval of the State Board of Control, shall not be subject to paragraph (1) of subdivision

(d) of Section 2231 of the Revenue and Taxation Code for the period referred to in this section in order that counties may be reimbursed for all costs approved by the State Board of Control, without such costs being subject to a late filing penalty.

SEC. 10. Sections 1, 3, and 4 of this act shall be operative only when and if Article 7 (commencing with Section 1805) of Chapter 1 or Division 2.5 of the Welfare and Institutions Code is repealed.

SEC. 11. Sections 5, 6, and 6.5 of this act shall be operative only if this bill and Assembly Bill No. 90 of the 1977–1978 Regular Session of the Legislature are both chaptered and this bill is chaptered last.

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 to insure that the changes in the law made by this act shall be given maximum implementation, it is necessary that these provisions take effect at the earliest possible date.

CHAPTER 465

An act to amend Section 23344 of, and to add Section 23340.5 to, the Government Code, relating to county formation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature July 19, 1978. Filed with Secretary of State July 19, 1978.]

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

SECTION 1. Section 23340.5 is added to the Government Code, to read:

23340.5. Anything in a county or city and county charter to the contrary notwithstanding, the commission, in lieu of using the county counsel of the affected county, may appoint a counsel and fix and order paid such counsel's compensation to provide legal assistance to the commission in the performance of any functions requested by the commission and necessary for the performance of its duties.

SEC. 2. Section 23344 of the Government Code is amended to read:

23344. (a) The commission may borrow such moneys as may be necessary to meet its expenses until the costs of the commission have been determined pursuant to the provisions of Section 23343.

(b) As an alternative to the procedure authorized by subdivision (a), the commission may request the State Controller, and the State Controller shall loan from the County Formation Revolving Fund such moneys as the commission shall determine necessary to meet its expenses until the costs have been determined pursuant to the

provisions of Section 23343. Such loan shall be at an interest rate equal to that of the Pooled Money Investment Fund at the time the loan is made.

(c) Loans made pursuant to this section shall not exceed a total of one hundred thousand dollars ($100,000) for each commission, and shall be repaid within one year of the date on which the issue of county formation was voted on by the people.

(d) The sum of one hundred thousand dollars ($100,000) shall be transferred from the General Fund to the County Formation Revolving Fund, which is hereby created, and is hereby appropriated, without regard to fiscal years, for purposes of this section. An additional sum of three hundred thousand dollars ($300,000) shall be transferred from the General Fund to the County Formation Revolving Fund on the effective date of the act amending this section during the 1977–78 Regular Session, and is hereby appropriated without regard to fiscal years for purposes of this section. The additional sum thus appropriated may be expended for any obligation incurred by any commission at any time. Any repayments on loans, including interest, received by the State Controller shall be deposited in the County Formation Revolving Fund.

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

In order that the funds appropriated by this act may be available at the earliest opportunity for loans to three county formation review commissions which are currently studying proposals to form three new counties, it is necessary that this act take effect immediately.

CHAPTER 466

An act making an appropriation to the Rialto Unified School District.

[Became law without Governor's signature July 19, 1978. Filed with Secretary of State July 19, 1978.]

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

SECTION 1. The sum of fifty-four thousand five hundred dollars ($54,500) is hereby appropriated from the General Fund to the Rialto Unified School District in San Bernardino County as reimbursement for obligations incurred, or which may be incurred, by the district to pay back salary to Thomas R. Mann in satisfaction of a judgment, including attorney's fees and costs, as a consequence of the California Supreme Court's decision in Governing Bd. of Rialto Unified Sch. Dist. v. Mann, 18 Cal. 3d 819.

The district shall submit a claim, approved by the County Counsel of San Bernardino County, to the State Controller for reimbursement of amounts actually expended by the district, or which the district has become obligated to expend, in satisfaction of the judgment, including attorney's fees and costs.

CHAPTER 467

An act to add Section 6049 to the Food and Agricultural Code, relating to Hydrilla control.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978]

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

SECTION 1. Section 6049 is added to the Food and Agricultural Code, to read:

6049. The department, with the cooperation of the University of California, may develop and implement biological control methods to eradicate or control the plant pest Hydrilla (Hydrilla verticillata) in any area of the state, and may conduct studies for such purposes. When the development or implementation involves the use of fish, each individual program for development or implementation shall first be approved by the Department of Fish and Game.

CHAPTER 468

An act making an appropriation to the Department of Finance to pay the claim of Lynn Dana, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Department of Finance for the payment of the claim of Lynn Dana against the State of California in the action entitled Lynn Dana v. L. R. Hennig, et al., brought in the Superior Court in the County of San Luis Obispo.

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 settle an action against the state for wrongful death, thereby terminating a lengthy court procedure and ending a hardship to Lynn Dana as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 469

An act to add Section 6240.5 to the Harbors and Navigation Code, relating to port districts.

[Approved by Governor July 20, 1978 Filed with Secretary of State July 21, 1978]

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

SECTION 1. Section 6240.5 is added to the Harbors and Navigation Code, to read:

6240.5. The Santa Cruz Port District shall be governed by a board of port commissioners consisting of five members, elected by the district at large, each of whom shall be an elector of the district at the time of his nomination or appointment and during his entire term. The provisions of the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 12 of the Elections Code) shall govern all district elections for port commissioners.

All members of the board of port commissioners of the district shall be elected at the general district election to be held in 1979 and shall take office as provided in the Uniform District Election Law. The district shall continue to be governed by a board of port commissioners appointed in accordance with the provisions of this chapter until succeeded by the board of port commissioners elected at such general district election at noon on the last Friday in November next following the election. The term of office of each commissioner is four years, and as provided in the Uniform District Election Law, except that the commissioners elected at such first general district election shall classify themselves by lot so that the initial term of office of two commissioners shall be two years and the initial term of office of three commissioners shall be four years.

All vacancies occurring in the office of commissioner shall be filled by appointment by a majority of the remaining commissioners and as provided in Section 1780 of the Government Code.

At the first meeting of the board of port commissioners following the general district election, the board shall organize by electing one of its members chairman. The members of the board of port commissioners shall annually elect a chairman. A chairman shall not succeed himself in office.

SEC. 2. The Legislature hereby finds and declares that facts and circumstances exist in the County of Santa Cruz and the City of Santa Cruz which are peculiar to the county and to the city and which

warrant special consideration as provided by this act for the election of members of the Board of Port Commissioners of the Santa Cruz Port District, including, but not limited to, the general location of the port district, the composition of the port facilities therein, and the important role that the port district plays in the economic life of both the city and the county.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 470

An act to amend the heading of Chapter 5.5 (commencing with Section 32350) of Division 23 of, and to add Section 32359 to, the Health and Safety Code, relating to hospitals.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. The heading of Chapter 5.5 (commencing with Section 32350) of Division 23 of the Health and Safety Code is amended to read:

CHAPTER 5.5. STATE LOANS AND INSURANCE PROCUREMENT ASSISTANCE

SEC. 2. Section 32359 is added to the Health and Safety Code, to read:

32359. The Department of General Services shall, without cost or obligation to the state, assist the Chowchilla Memorial Hospital District, and to any other hospital district with a bed capacity of less than 100 beds which has entered into a joint powers agreement with the Chowchilla Memorial Hospital District, in procuring insurance for the purpose of paying medical injury tort judgments or settlements exceeding one million dollars ($1,000,000) in the aggregate. Any such procurement may, upon request of the hospital district concerned, be made by the Department of General Services on behalf of such hospital district.

SEC. 3. The Legislature finds and declares that the Chowchilla Memorial Hospital District has a unique record with respect to medical injury tort claims filed against the district and that because of the unique situation presented and existing provisions of law providing coverage for medical injury tort claims not exceeding one

million dollars ($1,000,000), special assistance in locating sources of aggregate excess insurance is needed. The Legislature finds, in enacting this act, that a special statute is needed and a general statute cannot be made applicable.

CHAPTER 471

An act to amend Section 4706.5 of the Labor Code, relating to workers' compensation.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. Section 4706.5 of the Labor Code is amended to read:

4706.5. (a) Whenever any fatal injury is suffered by an employee under such circumstances as to entitle the employee to compensation benefits, but for his or her death, and such employee does not leave surviving any person entitled to a dependency death benefit, the employer shall pay a sum to the Department of Industrial Relations equal to the total dependency death benefit that would be payable to a surviving spouse with no dependent minor children.

(b) Where the deceased employee leaves no surviving dependent, personal representative, heir, or other person entitled to the accrued and unpaid compensation referred to in Section 4700, such accrued and unpaid compensation shall be paid by the employer to the Department of Industrial Relations.

(c) The payments to be made to the Department of Industrial Relations, as required by subdivisions (a) and (b), shall be deposited in the General Fund and shall be credited, as a reimbursement, to any appropriation to the Department of Industrial Relations for payment of the additional compensation for subsequent injury provided in Article 5 (commencing with Section 4750) of this chapter, in the fiscal year in which the State Controller's receipt is issued.

(d) The payments to be made to the Department of Industrial Relations, as required by subdivision (a), shall be paid to the department in a lump sum in the manner provided in subdivision (b) of Section 5101.

(e) The Department of Industrial Relations shall keep a record of all payments due the state under this section, and shall take such steps as may be necessary to collect such amounts.

(f) Each employer, or the employer's insurance carrier, shall notify the administrative director, in such form as the administrative director may prescribe, of each employee death, except when the

employer has actual knowledge or notice that the deceased employee left a surviving dependent.

(g) When, after a reasonable search, the employer concludes that the deceased employee left no one surviving who is entitled to a dependency death benefit, and concludes that the death was under such circumstances as to entitle the employee to compensation benefits, such employer may voluntarily make the payment referred to in subdivision (a). Payments so made shall be construed as payments made pursuant to an appeals board findings and award. Thereafter, if the appeals board finds that the deceased employee did in fact leave a person surviving who is entitled to a dependency death benefit, upon such finding, all payments referred to in subdivision (a) which have been made shall be forthwith returned to the employer, or if insured, to the employer's workers' compensation carrier that indemnified the employer for the loss.

SEC. 2. Section 1 of the act shall become operative July 1, 1979.

CHAPTER 472

An act to add Section 12012.1 to the Government Code, relating to transfer of offenders.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. Section 12012.1 is added to the Government Code, to read:

12012.1. Whenever a treaty is in force providing for the transfer of offenders between the United States and a foreign country, the Governor or his designee is authorized to give the approval of the state to a transfer as provided in the treaty, upon the application of a person under the jurisdiction of the Department of Corrections, the Department of the Youth Authority, and the State Department of Health Services.

CHAPTER 473

An act to amend Sections 64691 and 64691.5 of the Food and Agricultural Code, relating to beef cattle, and making an appropriation therefor.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. Section 64691 of the Food and Agricultural Code is amended to read:

64691. In order to carry out the programs and administer the activities which are conducted pursuant to this chapter, except as specified in Section 64691.5, a fee of twenty-five cents ($0.25) per head on cattle and calves shall be charged and collected from the seller or from the seller's account and paid to the director as specified in Section 64691.7 by each operator of any stockyard, livestock auction market, slaughterhouse, packing plant, feedlot, or seller's agent, who shall deduct such an amount from the proceeds of sale or from other moneys owed to the seller. Such fee shall be charged on all cattle and calves except the following:

(a) Hides, skins, or reduction animals.

(b) Any cattle that are transported for purposes other than for sale or slaughter and without a change of ownership.

(c) Any animal which is less than three months of age.

(d) Any animal sold for milk or calf production.

Such fees shall not be charged or collected more than once from each owner upon the same animal.

SEC. 2. Section 64691.5 of the Food and Agricultural Code is amended to read:

64691.5. A fee greater than twenty-five cents ($0.25) per head on cattle and calves prescribed by Section 64691 shall not be charged pursuant to such section under a mandatory fee payment program unless and until such greater fee is approved by the producers in this state, by a referendum to be submitted to the producers by the director. The director shall find that the producers have approved any such fee, if he finds both of the following:

(a) That at least 40 percent of all producers, as determined from a list to be established by the director, have voted in the referendum.

(b) That at least 65 percent of total producers that produced not less than 51 percent of the volume of the commodity in the state or at least 51 percent of the total producers that produced not less than 65 percent of the volume of the commodity in the state voting in such referendum favor charging of such a greater fee.

In the event that a national promotion program for beef is approved by the producers, the fees charged under Section 64691 shall immediately revert to ten cents ($0.10) per head on cattle and calves.

CHAPTER 474

An act to amend Section 8621 of the Business and Professions Code, relating to structural pest control.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. Section 8621 of the Business and Professions Code is amended to read:

8621. All complaints against licensees shall be filed with the board within two years after the act or omission alleged as the ground for disciplinary action and the board shall file any accusation within one year after such complaint has been filed with the board, except that with respect to an accusation alleging a violation of Section 8637, the accusation may be filed within two years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by the section.

CHAPTER 475

An act to amend Sections 11105 and 13300 of the Penal Code, relating to criminal records.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978]

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

SECTION 1. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal

history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, subdivisions (a), (b), and (c), of Section 830.5, and Section 830.5a.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08 of the Penal Code.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 3110 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished pursuant to this section, the Department of Justice may

charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. Any state agency required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections when appropriated by the Legislature therefor.

(f) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

SEC. 2. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 of the Penal Code pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2, subdivisions (a), (b), and (j) of Section 830.3, subdivisions (a), (b), and (c) of Section 830.5, and Section 830.5a.

(3) District attorneys of the state.
(4) Prosecuting city attorneys of any city within the state.
(5) Probation officers of the state.
(6) Parole officers of the state.
(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.
(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.
(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.
(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.
(11) The subject of the local summary criminal history information.
(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the local summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.
(13) Any managing or supervising correctional officer of a county jail or other county correctional facility.
(c) The local agency may furnish local summary criminal history information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:
(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the local agency supplies such data, it shall

furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to local summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing such information, provided that no fee shall be charged to any public law enforcement agency for local summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer, or criminal investigator. Any state agency required to pay a fee to the local agency for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense.

(f) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act can be accomplished with no additional cost to local government.

CHAPTER 476

An act to amend Sections 5056.5, 5251, 5605, 5607, 5653, 6004, 6005, 6411, 6418, 6456.5, 7184, 7188 and 11704 of, to add Sections 7154.1 and 11706.5 to, and to repeal Chapter 6 (commencing with Section 6200) of Part 1 of Division 2 of, and Section 6406 of, the Financial Code, relating to finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1978 Filed with Secretary of State July 21, 1978]

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

SECTION 1. Section 5056.5 of the Financial Code is amended to read:

5056.5. "Service office" means any office or other place of business in this state operated by one or more associations, other than the principal office or a branch of an association, where activities are confined to processing and storing data and records, accounting, printing, storing of supplies, processing of loan transactions, and such other activities as the commissioner shall approve, except that savings deposits and withdrawals shall not be permitted.

SEC. 2. Section 5251 of the Financial Code is amended to read:

5251. The commissioner shall:

(a) Furnish all associations that have otherwise complied with the requirements of law, licenses authorizing them to transact business for the fiscal year established by the commissioner or for the remainder of such fiscal year.

(b) Receive and place on file in his office the annual and other reports required by law to be made by associations.

(c) Supply each association with blank forms for such reports.

(d) Make a tabulated report to the Governor, through the Secretary of the Business and Transportation Agency, on or before the first day of May in each year, showing the condition of each association reporting to him. The report shall contain such

recommendations as he deems proper, and shall be accompanied by a detailed statement of all money received by him since his last report and the disposition of such money.

SEC. 3. Section 5605 of the Financial Code is amended to read:

5605. Any officer, director or employee of an association who asks, receives, consents, or agrees to receive from a person seeking a loan from the association any commission, emolument, gratuity, or reward or any money, property, or thing of value for his own personal benefit or of personal advantage for procuring or endeavoring to procure for that person a loan from such association is guilty of a felony.

SEC. 4. Section 5607 of the Financial Code is amended to read:

5607. No officer, director, or appraiser of an association shall receive from such association, and no association shall pay to any officer, director, or appraiser of such association, any commission, emolument, gratuity or reward based on the volume or number of loans made, or based on the interest or fees collected thereon. Nothing in this section prohibits or limits any of the following:

(a) The receipt or payment of salaries of officers, directors, and appraisers.

(b) The receipt or payment of commissions to agents whether or not based on the volume or number of loans or on the interest or fees collected thereon.

(c) The receipt or payment of bonuses to officers, directors or appraisers if such bonuses are not based on the volume or number of loans made or on the interest or fees collected thereon. If such bonuses are based on the profits of the association for any period, payment thereof shall not be made earlier than 10 days before the expiration of such period and shall be based on the profits of such period or on an estimate thereof made in good faith.

SEC. 5. Section 5653 of the Financial Code is amended to read:

5653. Any amendment to the articles of incorporation or bylaws of an association which makes any change in the rights, preferences, or privileges of any outstanding stock or shares of such association is not valid, unless such amendment is approved by the vote or written consent of the holders of a majority of such outstanding stock or a majority in value of such outstanding shares, or of the class or classes of such outstanding shares which are affected by such amendment. This section shall not apply to a stock split, stock dividend, or stock consolidation.

SEC. 6. Section 6004 of the Financial Code is amended to read:

6004. Upon receipt of an application for a branch license, the commissioner, unless he finds that such application must be denied pursuant to this chapter, shall give written notice to each association existing in this state that an application for the issuance of a branch license has been made. The notice shall state the name of the association, the name of the city or area in which such branch is proposed, and that a hearing will be held at a specified time and place in the absence of a waiver as provided in Section 6005. If a

hearing is to be held, the hearing shall not be held less than 20 days after the mailing of the notice.

SEC. 7. Section 6005 of the Financial Code is amended to read:

6005. (a) Before issuing a branch license, the commissioner shall, unless it is waived, hold a hearing at the time and place specified in the notice required by Section 6004. Any person may appear at such hearing in person or by agent or attorney, and orally or in writing show cause why the branch license should not be issued upon any relevant ground.

(b) The commissioner may waive the hearing provided:

(1) There are no objectors of record, and

(2) In the case of competing applications, each applicant executes a written waiver of hearing and files it with the commissioner not later than seven business days prior to the date set for the hearing.

(c) An applicant may waive a hearing by filing a written waiver of hearing with the commissioner not later than seven business days prior to the date set for the hearing, or by including the waiver in its application.

(d) Notwithstanding subdivision (b), an applicant may, within 30 days of the date of the notice required by Section 6004, file with the commissioner a written request for a hearing whereupon the commissioner shall hold the hearing as scheduled.

(e) This section does not apply to a branch license issued for an existing facility acquired pursuant to a merger, consolidation, conversion or transfer of assets.

(f) The commissioner may approve an office or offices for an association as its executive or administrative headquarters even though the association may not transact a savings business at such office. A filing fee of three hundred seventy-five dollars ($375) shall accompany each application for an executive or administrative headquarters office.

SEC. 8. Chapter 6 (commencing with Section 6200) of Part 1 of Division 2 of the Financial Code is repealed.

SEC. 9. Section 6406 of the Financial Code is repealed.

SEC. 10. Section 6411 of the Financial Code is amended to read:

6411. An association shall not issue shares or investment certificates elsewhere than at the principal office or a branch of such association.

SEC. 10.5. Section 6418 of the Financial Code is amended to read:

6418. (a) An association may act as a depositary or fiscal agent for the holding or handling of public funds notwithstanding the fact that a member of the legislative body or an officer or employee of the depositor is an officer, employee, or stockholder of such association, or of a savings and loan holding company as defined in Section 11500 or wholly owned service corporation of such association. Such member of a legislative body, or such officer or employee thereof, shall not be deemed "interested in any contract" as that phrase is used in Section 1090 of the Government Code, if his sole interest is the fact that he is an officer, employee, or stockholder of the

association selected to act as such depositary, paying agent or fiscal agent or of its savings and loan holding company or wholly owned service corporation.

(b) An officer or employee of a local public agency shall be deemed to have only a "remote interest" in a contract, as that term is used in Section 1091 of the Government Code, where such contract is entered into without competitive bidding under a procedure established by law, if his sole interest is that of an officer, director, or employee, of an association or savings and loan holding company as defined in Section 11500 or wholly owned service corporation of such association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor, and if the conditions of subdivision (a) of Section 1091 of the Government Code are met.

SEC. 11. Section 6456.5 of the Financial Code is amended to read:

6456.5. An association may purchase stock issued by it, in an amount not to exceed the amount of earned surplus or undivided profits available for dividends on its stock, if either (a) the stock so purchased is included for federal estate tax purposes in determining the gross estate of a decedent, and the amount paid for such purchase is entitled to be treated under Section 303 of the Internal Revenue Code of 1954 or other applicable federal statute or the corresponding provision of any future federal revenue law, as a distribution in full payment in exchange for the stock so purchased or (b) such purchase is with the prior consent of the commissioner. Stock so purchased is restored to the status of authorized but unissued shares, and shall be subject to the accounting treatment that is required by the commissioner. Repurchased stock shall not be resold at less than its reacquisition cost except with the specific approval of the commissioner, and shall not be resold or reissued except in accordance with Sections 6450 to 6457, inclusive.

SEC. 12. Section 7154.1 is added to the Financial Code, to read:

7154.1. An association may make loans for the purpose of construction or substantial alteration, repair, or improvement of residential real property up to the percent of value permissible under this chapter, but disbursement of any amount of the loan in excess of 80 percent of the value of the security property shall not be made until completion of construction or substantial alteration, repair, or improvement and compliance with applicable provisions of Section 7153.2 or 7153.8; and the loans may be made for a term of not more than 36 months and with interest payable at least semiannually without regard to any requirement of this chapter for amortization of principal prior to the end of the term. A permanent loan under this chapter may be combined into a single loan with a loan under this section, and the term of the permanent loan shall be considered to begin at the end of the term allowed under this section for construction or substantial alteration, repair, or improvement.

SEC. 13. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans,

advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair or improvement.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

The limitations on loans and advances set forth in this section apply to the net proceeds of each loan or advance.

SEC. 13.1. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair or improvement.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

The limitations on loans and advances set forth in this section apply to the net proceeds of each loan or advance.

SEC. 13.2. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, or the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy, on residential real

property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair, improvement or purchase and installation for energy purposes.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

The limitations on loans and advances set forth in this section apply to the net proceeds of each loan or advance.

SEC. 13.3. Section 7184 of the Financial Code is amended to read:

7184. An association may, with or without security, make loans, advance credit, and purchase obligations representing loans and advances of credit, for the purpose of financing repairs, alterations, improvements, or equipment, except furnishings, or the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy, on residential real property. Such loans or advances:

(a) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance by the association made under the sole authority of this section for the same property alteration, repair, improvement or purchase and installation for energy purposes.

(b) Shall not exceed fifteen thousand dollars ($15,000) on any one loan or advance for the equipping of any real property when aggregated with the balance of all outstanding equipment loans relating to the same real property made by the association under the sole authority of this section.

(c) Shall not be for a period in excess of 15 years.

(d) Shall not aggregate at any one time more than 20 percent of the association's total assets with regard to all loans made under the sole authority of this section nor more than 5 percent of the association's assets with regard to loans made for the purpose of financing equipment.

The limitations on loans and advances set forth in this section apply to the net proceeds of each loan or advance.

SEC. 14. Section 7188 of the Financial Code is amended to read:

7188. An association may make federal funds loans provided that both of the following are met:

(a) The total of all time deposits and federal funds loans in the same bank does not exceed the greater of (1) one-fourth of 1 percent of the total deposits in such bank (calculated on the basis of total

deposits in such bank as shown by its last published statement of condition preceding the date each time deposit is made or acquired by the association) or (2) forty thousand dollars ($40,000), and

(b) The periods to maturity of loans of federal funds are not more than six months.

For the purposes of this section, "federal funds loan" means an unsecured loan of funds from a deposit of an association to a member bank of the Federal Deposit Insurance Corporation.

SEC. 15. Section 11704 of the Financial Code is amended to read:

11704. "Control":

(a) In the case of a savings and loan association or a savings and loan holding company

(1) The stock of which is held by fewer than 500 persons, or

(2) Where such control is by a regulated investment company as defined in Section 851 of the Internal Revenue Code of 1954, as amended, by an officer of such savings and loan association or savings and loan holding company or by an employee benefit plan trust, control means directly or indirectly or acting in concert with one or more other persons or companies, or through one or more subsidiaries, owning, controlling, or holding with the power to vote 25 percent or more of the outstanding stock of a savings and loan holding company or holding or controlling proxies representing 25 percent or more of the shares of a mutual savings and loan association; or

(b) In the case of a savings and loan association or a savings and loan holding company the stock of which is held by at least 500 persons, unless control is by a regulated investment company as defined in Section 851 of the Internal Revenue Code of 1954, as amended, by an officer of such savings and loan association or savings and loan holding company, by an employee benefit plan trust, or by a person described in subdivision (c), control means directly or indirectly, owning, controlling or holding with power to vote, or holding proxies, together representing 10 percent or more of the outstanding stock of the savings and loan associations or savings and loan holding company, or acting in concert with one or more other persons, or through one or more subsidiaries, to own, control, or hold with power to vote, or hold proxies, together representing 10 percent or more of the outstanding stock of the savings and loan association or savings and loan holding company.

(c) In the case of any person (except a regulated investment company as defined in Section 851 of the Internal Revenue Code of 1954, as amended, or an officer of such a savings and loan association or savings and loan holding company or an employee benefit plan trust), who as of the effective date of the amendments made to this section during the 1977–78 Regular Legislative Session, directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owned, controlled, or held with power to vote, or held proxies together representing 10 percent or more but less than 25 percent of the stock of such a savings and loan

association or savings and loan holding company, the stock of which is held by at least 500 persons, control means as to such person directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, to increase such percentage of stock over that owned, controlled or held with power to vote as of the effective date of the amendments made to this section during the 1977–1978 Regular Legislative Session.

SEC. 15.5. Section 11706.5 is added to the Financial Code, to read:

11706.5. Any company or other person required to file any notice, statement or other document including any amendment thereto, relating to a savings and loan association or savings and loan holding company or to transactions in the stock thereof, pursuant to Section 13 (d) or Section 14(d) of the Securities Exchange Act of 1934, as amended, or pursuant to Section 408(b) or (e) of the National Housing Act, as amended, shall also file a copy of such notice, statement or other document with the commissioner not later than the date such notice, statement or other document is actually filed or the date it is required to be filed pursuant to the foregoing statutory provisions, whichever is earlier. Any savings and loan association or savings and loan holding company which receives any notice, statement or other document referred to in this section shall send a copy thereof to the commissioner within 10 days after its receipt.

SEC. 16. It is the intent of the Legislature that if this bill and Assembly Bill No. 2225 or Assembly Bill No. 3637, or both, are chaptered and the amendments made by both or all bills become operative January 1, 1979, each of the bills amend Section 7184 of the Financial Code, and this bill is chaptered last, the amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Assembly Bill No. 3637 are both chaptered and the amendments made by both bills become operative January 1, 1979, both bills amend Section 7184 of the Financial Code, but Assembly Bill No. 2225 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 3637, the amendments proposed by both bills shall be given effect and incorporated in Section 7184 in the form set forth in Section 13.1 of this act. Therefore, if this bill and Assembly Bill No. 3637 are both chaptered and the amendments made by both bills become operative January 1, 1979, both bills amend Section 7184, this bill is chaptered after Assembly Bill No. 3637, and Assembly Bill No. 2225 is not chaptered or as chaptered does not amend that section, Section 13.1 of this act shall be operative and Sections 13, 13.2, and 13.3 of this act shall not become operative.

(2) If this bill and Assembly Bill No. 2225 are both chaptered and the amendments made by both bills become operative January 1, 1979, both bills amend Section 7184 of the Financial Code, but Assembly Bill No. 3637 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No.

2225, the amendments proposed by both bills shall be given effect and incorporated in Section 7184 in the form set forth in Section 13.2 of this act. Therefore, if this bill and Assembly Bill No. 2225 are both chaptered and the amendments made by both bills become operative January 1, 1979, both bills amend Section 7184, this bill is chaptered after Assembly Bill No. 2225, and Assembly Bill No. 3637 is not chaptered or as chaptered does not amend that section, Section 13.2 shall be operative and Sections 13, 13.1, and 13.3 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 3637 and Assembly Bill No. 2225 are all chaptered and the amendments made by all bills become operative January 1, 1979, all three bills amend Section 7184 of the Financial Code, and this bill is chaptered after Assembly Bill No. 3637 and Assembly Bill No. 2225, the amendments proposed by all three bills shall be given effect and incorporated in Section 7184 in the form set forth in Section 13.3 of this act. Therefore, if this bill and Assembly Bill No. 3637 and Assembly Bill No. 2225 are all chaptered and the amendments made by all bills become operative January 1, 1979, all three bills amend Section 7184 of the Financial Code, and this bill is chaptered after Assembly Bill No. 3637 and Assembly Bill No. 2225, Section 13.3 of this act shall be operative and Sections 13, 13.1, and 13.2 of this act shall not become operative.

SEC. 17. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 13.1, 13.2, 13.3 and 14 shall become operative on January 1, 1979. Nothing in this section shall make a section operative under this section that does not become operative under Section 16.

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:

Stock of savings and loan associations and savings and loan holding companies is being purchased by foreign corporations and individuals who may gain effective control of these important financial institutions without any regulatory review of whether or not such acquisition of control would be in the best interests of the public or the stockholders. Since savings and loan associations are the primary providers of mortgage funds for Californians and a depository for the savings of hundreds of thousands of Californians it is important to insure that control of these institutions be vested in persons who will effectively carry out the charge of encouraging thrift and promoting home ownership. It is therefore necessary that this act take effect immediately.

CHAPTER 477

An act to add Section 23958.2 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. Section 23958.2 is added to the Business and Professions Code, to read:

23958.2. Notwithstanding the provisions of Section 23958, the department is not required to investigate the personal qualifications or premises of a currently licensed person when a license is being transferred between partners and no new partner is being licensed.

CHAPTER 478

An act to amend Section 89516 of the Education Code, relating to California State University and Colleges employees.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. Section 89516 of the Education Code is amended to read:

89516. The trustees may establish rules and regulations which allow academic teaching employees, librarians, counselors, and student affairs officers to reduce their workload from full-time to part-time duties.

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 20815 of the Government Code:

(a) The employee must have reached the age of 55 prior to reduction in workload.

(b) The employee must have been employed full-time as an academic employee for at least 10 years, of which the immediately preceding five years were full-time employment. For purposes of this subdivision, sabbatical and other approved leaves shall not constitute a break in service. However, time spent on sabbatical or on other approved leaves shall not be used in satisfying the five-year full-time employment requirement.

(c) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual

consent of the employer and the employee.

(d) The employee shall be paid a salary which is the pro rata share of the salary the employee would be earning had the employee not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which the employee makes the payments that would be required if the employee remained in full-time employment.

The employee shall receive health benefits in the same manner as a full-time employee.

This section shall only be applicable to academic teaching employees, librarians, counselors, and student affairs officers who receive no higher salary than the maximum paid to a department chairman.

CHAPTER 479

An act to amend Section 1992 of the Code of Civil Procedure, relating to witnesses.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978]

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

SECTION 1. Section 1992 of the Code of Civil Procedure is amended to read:

1992. A witness disobeying a subpoena also forfeits to the party aggrieved the sum of five hundred dollars ($500), and all damages which he may sustain by the failure of the witness to attend, which forfeiture and damages may be recovered in a civil action.

CHAPTER 480

An act to amend Section 25502.4 of the Government Code, relating to counties.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. Section 25502.4 of the Government Code is amended to read:

25502.4. In counties having a population of less than 900,000 but more than 168,500, the purchasing agent shall have the duty to engage independent contractors to perform services for the county and the offices thereof, with or without the furnishing of material,

where the aggregate cost does not exceed sixteen thousand two hundred and fifty dollars ($16,250).

CHAPTER 481

An act to amend Section 35402 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 20, 1978. Filed with Secretary of State July 21, 1978.]

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

SECTION 1. Section 35402 of the Vehicle Code is amended to read:

35402. (a) Any extension or device, including any adjustable axle added to the front or rear of a vehicle, used to increase the carrying capacity of a vehicle shall be included in measuring the length of a vehicle, except that a drawbar shall not be included in measuring the length of a vehicle but shall be included in measuring the overall length of a combination of vehicles.

(b) Notwithstanding the provisions of subdivision (a), extensions of not more than 18 inches in length on each end of a vehicle or combination of vehicles used exclusively to transport vehicles shall not be included in measuring the length of a vehicle or combination of vehicles when the vehicles are loaded.

(c) Notwithstanding the provisions of subdivision (a), any extension or device which is not used to carry any load and which does not exceed three feet in length, added to the rear of a vehicle, used exclusively for pushing the vehicle or a combination of vehicles, which vehicle or combination of vehicles is designed and used exclusively to transport earth, sand, gravel, and similar materials, shall be included in measuring the length of the vehicle but shall not be included in measuring the overall length of the combination of vehicles.

CHAPTER 482

An act making an appropriation in augmentation of Item 375 of the Budget Act of 1977, relating to renters, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 16, 1978. Filed with Secretary of State August 17, 1978.]

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

SECTION 1. The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund to the Personal Income Tax Fund for deficiencies in Item 375 of Chapter 219 of the Statutes of 1977 providing credits and refunds to renters as required by Section 17053.5 of the Revenue and Taxation Code.

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

In order to make up the deficiency in the Personal Income Tax Fund caused by the insufficient appropriation for renters credits and refunds in the Budget Act of 1977 at as early a date as possible, it is necessary for this act to take effect immediately.

CHAPTER 483

An act to amend Sections 6443, 6501, 6531, 6550, 6570, 6571, and 6631 of, to add Sections 6505 and 6530.5 of, and to repeal Section 6505 of, the Streets and Highways Code, relating to the Improvement Act of 1911.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 6443 of the Streets and Highways Code is amended to read:

6443. At least 15 days before each respective 15th day of April and October, until the assessment is paid in full, the treasurer shall mail, postage prepaid, to each owner of property described in the assessment, at his last known address, as appears upon the tax rolls current at the time of mailing, a postal card notifying him of the amount due and the date when payment is due from him on the assessment and stating that the payment is subject to penalty if not paid on or prior to the due date. The failure of the treasurer to mail the card, or the failure of the property owner to receive it, shall not affect the validity of any penalty or invalidate any act or proceeding. The card shall contain the following in at least 14-point boldface type:

If you do not pay this bill, at the request of the bondholder, your property will be sold by the treasurer.

This bill is not related in any way to your property tax bill. It must be paid separately.

SEC. 2. Section 6501 of the Streets and Highways Code is amended to read:

6501. The treasurer shall mail a notice of sale to the owner of any

property to be sold for nonpayment of either principal or interest upon any delinquent bond. The notice shall be sent by certified mail to the owner of the property as shown on the last equalized assessment roll and to any person whose name appears as an owner on the records of the county assessor's office which the county assessor will use to prepare the next assessor's roll. The notice shall be substantially in the following form and the first paragraph shall be printed in at least 14-point boldface type:

IMPORTANT NOTICE

Your property will soon be sold by the city (or county) unless you pay what you owe for _____ improvement made in your area. To obtain information on how to prevent the sale of your property, immediately call the foreclosure clerk at the city (or county) treasurer's office. The telephone number is _____ to arrange for payment. For more detailed information regarding this matter, read the following:

"Notice of Sale of Property Delinquent for Nonpayment of _____ Improvement Bond

"You are hereby notified that Bond _____, Series _____, representing a lien against Parcel Number _____(or the legal description of the property in said bond) located at _____, for an improvement in the City (or County) of _____, is delinquent. Unless the amount of the unpaid principal on said bond, together with interest, penalties, and recordation fee for filing notice of pendancy, is paid to the city (or county) treasurer on or before six months after the mailing of this notice, the date of which being this _____ day of _____, 19__, or unless the bond is reinstated as provided by Section 6631, the undersigned will proceed to advertise and sell the lot or parcel of land in the manner prescribed by law to satisfy the amount of the bond, interest, penalties, and costs."

SEC. 3. Section 6505 of the Streets and Highways Code is repealed.

SEC. 4. Section 6505 is added to the Streets and Highways Code, to read:

6505. (a) The day specified in the notice of sale shall not be less than 45 days from the date of the first publication of the notice.

(b) At least 30 days prior to the sale, a copy of the notice of sale shall be transmitted by the treasurer by certified mail to the bondholder at his last known address.

(c) At least 30 days prior to the sale, the treasurer shall mail, by first-class mail, a copy of the notice of sale and the following notice which shall be printed in at least 14-point boldface type to the property owner as shown on the last equalized roll for taxes and to any other person whose name appears as owner on the records of the county assessor's office which the county will use to prepare the next

assessor's roll.

IMPORTANT NOTICE

Because you have not paid the money you owe to the city (or county) treasurer for _____ improvements made in your area, the treasurer has arranged to sell your property. You must pay off this debt by (day before sale) or your property will be sold.

If you wish to stop this sale and save your property, call the foreclosure clerk at the treasurer's office, telephone number _____, to arrange for payment of this debt. See the attached notice for further details regarding this sale.

SEC. 5. Section 6530.5 is added to the Streets and Highways Code, to read:

6530.5. The treasurer, within 10 days of the issuance of the certificate of sale, shall mail a notice to the owner of the property sold pursuant to this chapter. The notice shall be sent by first-class mail to the owner of the property as shown on the last equalized assessment roll and to any person whose name appears as an owner on the records of the county assessor's office which the county assessor will use to prepare the next assessor's roll. The notice shall state the following in at least 14-point boldface type:

IMPORTANT NOTICE

Your property located at _____ has been sold by the city (or county) treasurer because you did not pay for _____ improvements made in your area. You still have at least 11 months to pay $ (amount) which you owe plus penalties, interests, and costs. YOU CAN STILL SAVE YOUR PROPERTY. Contact the foreclosure clerk at the treasurer's office to find out the exact amount due. The telephone number is _____. If you do not pay this debt, you will lose your property and all the money you have invested in it. Act now!

SEC. 6. Section 6531 of the Streets and Highways Code is amended to read:

6531. Redemption can be made only by the payment to the treasurer of the following, together with interest at the rate of 1 percent a month from the date of sale:

(a) The amount due on the bond and costs.

(b) The moneys paid for taxes, street improvement assessments, or other taxes or statutory liens or to redeem the property from any sale in the collection or enforcement of any of the liens.

(c) The fee of the recorder for recording the certificate of sale and for filing the notice of pendency of sale or foreclosure pursuant to Part 3 (commencing with Section 3120) of Division 4.5.

(d) If incurred, the cost of an abstract of title or title search of the real property sold under foreclosure.

SEC. 7. Section 6550 of the Streets and Highways Code is

amended to read:

6550. In order to obtain a deed, the purchaser of the property or his assignees shall, 60 days prior to the expiration of the time of redemption, or 60 days before the date of his application for a deed, request the treasurer to send a written notice by certified mail, postage prepaid, to the owner of the property purchased, stating his intention to apply for a deed to the property purchased. In addition, the treasurer shall have the notice described in this section served upon the property owner by a process server pursuant to Section 415.10 of the Code of Civil Procedure and verified pursuant to Section 2009 of that code. The term "owner", as used in this section, is the name and address of the property owner as shown on the last equalized roll for taxes, and any person whose name appears as owner on the records of the county assessor's office which the county will use to prepare the next assessor's roll. However, if the owner of the property has not been personally served at the end of 60 days after posting the notice required by this section, and if reasonable diligence has been used to find and serve the owner, the notices mailed and posted pursuant to this section shall be deemed adequate service. In such a case, the notice requirements of this section shall be deemed complied with upon the execution of the treasurer of a certificate stating the nature of the efforts made to personally serve the owner and that the owner cannot, with reasonable diligence, be so served. At the time of making such request, the purchaser or his assignee shall pay to the teasurer the following sums:

(i) For issuance of the notice and mailing the same by certified mail and for cost of preparation of the affidavit required by Section 6552, the sum of three dollars ($3).

(ii) For search of the last equalized assessment roll to determine the name and address of the owner, as defined, the sum of three dollars ($3).

(iii) For service of the notice and verification thereof.

(iv) For posting the notice as required by this section, the fees provided by Sections 26725 and 26746 of the Government Code. The notice shall include all of subdivisions (a) to (f), inclusive, with subdivision (a) printed in at least 14-point boldface type.

IMPORTANT FINAL NOTICE

(a) Your property located at (address) was sold by the city (or county) treasurer on (date of sale) because you did not pay for _____ improvements made in your area. You can still save your property, but you must pay what you owe by _____. Contact the foreclosure clerk at the treasurer's office at telephone number _____ to arrange for payment of this debt. You will receive no further notices regarding this matter.

(b) That the property has been sold to satisfy the bond lien.

(c) The date of sale.

(d) The date, number, and series of the bond.

(e) The amount then due.

(f) The time when the right of redemption will expire, or when the purchaser will apply for a deed.

The treasurer shall immediately, upon such request being made and payment of the required fees, send a copy of the notice addressed to the owner of the property purchased as shown on the last equalized roll for taxes, and any person whose name appears as owner on the records of the county assessor's office which the county will use to prepare the next assessor's roll. Such notice shall be mailed at least 60 days before the expiration of the time for redemption, or 60 days before the purchaser applies for a deed. The treasurer also shall post a copy of such notice in a conspicuous place upon the property, if a survey is not required to identify and locate the property. Any travel fees incurred in attempting to post such notice shall be charged in the same amount as is provided for an actual posting in Section 26746 of the Government Code. Such notice shall be posted at least 60 days before the expiration of the time for redemption.

SEC. 8. Section 6570 of the Streets and Highways Code is amended to read:

6570. Within 60 days after the sale of the property for delinquency, the purchaser may send to the person to whom the property is assessed for purposes of taxation as shown upon the last equalized assessment roll of the county in which the property lies, and to the person in whose name, on the date the sale is made, the legal title to the property appears by deed duly recorded in the office of the county recorder of the county in which the property lies, by registered mail and first-class mail, postage prepaid, a copy of the certificate of sale. Together with the copy of the certificate of sale, a notice shall be sent that is printed in at least 14-point boldface type in the following form:

YOUR PROPERTY HAS BEEN SOLD

Your property located at _____ has been sold by the treasurer's office of the city (or county) for nonpayment of _____ improvement assessment.

You have one year from the date this notice was mailed to contest the validity of the sale.

If a copy of the certificate of sale is sent as provided in this section, no action, suit, or proceeding to set aside, cancel, or in any manner attack or question the validity of any sale for delinquency, or any proceedings prior thereto, shall be commenced or maintained by any person unless the same shall be commenced within one year after the date the above notice was mailed. After the year has expired, all persons shall be barred from commencing or prosecuting any such action, suit, or proceeding, and any and all persons shall be barred from asserting or maintaining in any action, suit, or proceeding that the sale, or any proceedings prior thereto, was invalid.

SEC. 9. Section 6571 of the Streets and Highways Code is amended to read:

6571. Any action, suit, or proceeding attacking or contesting the validity of any deed issued under the provisions of this division, or the validity of the proceedings subsequent to the issuance of the certificate of sale, shall be brought within 12 months after the issuance of the deed, and if the validity of the deed or of the proceedings is not contested within that 12 months' period, it shall not be thereafter contested or questioned in any action, suit, or proceeding.

SEC. 10. Section 6631 of the Streets and Highways Code is amended to read:

6631. Notwithstanding the provisions of Section 6619, the treasurer shall reinstate any delinquent bond upon which an action or proceeding for sale or foreclosure has been commenced, upon the payment to him of all principal and interest coupons delinquent at the time of such reinstatement together with:

(a) All penalties imposed pursuant to Section 6442.

(b) If the proceedings are pursuant to Chapter 6 (commencing with Section 6500) of this part, the expenses of publication of notice of sale paid or incurred by the treasurer, the cost of title search if incurred, the fees for filing with the county recorder a notice of pendency of sale pursuant to Part 3 (commencing with Section 3120) of Division 4.5, and the sum of three dollars ($3) for ascertainment by the treasurer of the name and address of the property owner.

(c) If the proceedings are pursuant to Chapter 11 (commencing with Section 6610) of this part, the costs of suit, the cost of abstract or report of search of title, authorized attorneys fees, and fees for filing with the county recorder a notice of pendency of foreclosure pursuant to Part 3 (commencing with Section 3120) of Division 4.5.

(d) A reinstatement fee determined as follows:

If the action or proceeding for sale or foreclosure was commenced within the following periods, measured from the date of the first delinquent principal or interest coupon:

1. Less than six months, the reinstatement fee shall be five dollars ($5);

2. Six months but less than a year, the reinstatement fee shall be ten dollars ($10);

3. One year or more, and

(i) The unpaid principal is less than one hundred dollars ($100), the reinstatement fee shall be fifteen dollars ($15);

(ii) The unpaid principal is one hundred dollars ($100) or more, the reinstatement fee shall be twenty dollars ($20).

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 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 484

An act to add Section 5129 to the Streets and Highways Code, relating to the Improvement Act of 1911, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 5129 is added to the Streets and Highways Code, to read:

5129. Notwithstanding any other provision of law, the legislative body, by resolution and in accordance with the terms and conditions under which federal funds were made available to it for the benefit of low- and moderate-income households owning and occupying lands, may apply those federal funds to the payment of assessments levied on such lands to finance any work done under this division.

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 as follows:

In order that federal funds which will become available on July 1, 1978, to finance necessary public improvements for properties of low- and moderate-income households be expended only to benefit such households where such improvements are to be implemented through the Improvement Act of 1911, it is necessary that this act take effect immediately.

CHAPTER 485

An act to add Section 499b.1 to the Penal Code, relating to crimes.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 499b.1 is added to the Penal Code, to read:

499b.1. (a) Any person who, having been convicted of a previous violation of Section 10851 of the Vehicle Code, or of subdivision (3) of Section 487, involving a vehicle or vessel, 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 a violation of Section 499b, involving a vehicle or vessel, is punishable for such subsequent offense by imprisonment in the county jail not exceeding one year or the state prison for 16 months,

two, or three years.

(b) Any person convicted of a violation of Section 499b, who has been previously convicted under charges separately brought and tried two or more times of a violation of Section 499b, all such violations involving a vehicle or vessel, and who has been imprisoned therefore as a condition of probation or otherwise at least once, is punishable by imprisonment in the county jail for not more than one year or in the state prison for 16 months, two, or three years.

CHAPTER 486

An act to add Section 22705.5 to the Education Code, relating to State Teachers' Retirement System.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 22705.5 is added to the Education Code, to read:

22705.5. A member or retirant shall receive service credit in the system for teaching service performed within and outside of California in a war relocation center administered by the Wartime Civil Control Administration if all of the following conditions exist:

(a) By reason of the member's Japanese ancestry the member was placed, prior to entering the system, in a war relocation center.

(b) The member received compensation for service in a teaching capacity in the relocation center.

(c) The member possessed a valid California teaching credential issued by the State Department of Education or had a bachelor's degree in education from a California postsecondary institution.

(d) The member or retirant elects to pay and pays one-third of the present value of the service credit being credited under this section. The present value shall be determined by the board and shall be based on the allowance payable for such service credit at time of retirement. The board may allow installment payments of the amounts due under this section.

CHAPTER 487

An act to amend Section 4701 of the Labor Code, relating to workers' compensation benefits.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 4701 of the Labor Code is amended to read:

4701. When an injury causes death, either with or without disability, the employer shall be liable, in addition to any other benefits provided by this division, for:

(a) Reasonable expenses of the employee's burial, not exceeding one thousand five hundred dollars ($1,500).

(b) A death benefit, to be allowed to the dependents when the employee leaves any person dependent upon him for support.

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 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 488

An act to amend Sections 322, 12519, and 12804 of, and to repeal Section 323 of, the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 322 of the Vehicle Code is amended to read:

322. A "farm labor vehicle" is any motor vehicle designed, used, or maintained for the transportation of seven or more farm workers, in addition to the driver, to or from a place of employment or employment-related activities.

For the purpose of this section, a farm worker is any person engaged in rendering personal services for hire and compensation in connection with the production or harvesting of any farm products.

"Farm labor vehicle" does not include:

(1) Any vehicle carrying only members of the immediate family of the owner or driver thereof.

(2) Any vehicle while being operated under specific authority granted by the State Public Utilities Commission or under specific authority granted to a transit system by an authorized city or county agency.

SEC. 2. Section 323 of the Vehicle Code is repealed.

SEC. 3. Section 12519 of the Vehicle Code is amended to read:

12519. (a) Prior to September 1, 1975, no person shall operate a farm labor vehicle unless he has in his possession a driver's license for

the appropriate class of vehicle to be driven, such license to be endorsed or have attached to it a certificate issued by the department to permit the operation of farm labor vehicles unless such operation is expressly exempted under this code.

(b) On and after September 1, 1975, no person, other than a person who possesses a valid schoolbus driver's certificate, shall operate a farm labor vehicle unless he has in his possession a driver's license for the appropriate class of vehicle to be driven, and a certificate issued by the department to permit the operation of farm labor vehicles.

Applicants shall present evidence that they have successfully completed the driver training course developed by the Department of Education pursuant to Section 374 of the Education Code, and approved by the Department of Motor Vehicles and the Department of the California Highway Patrol before a permanent certificate will be issued. The certificate shall be issued only to applicants qualified by examinations prescribed by the Department of Motor Vehicles. Such examinations shall be conducted by the Department of the California Highway Patrol. Such certificate shall be valid for not to exceed two years, but may be renewed under such conditions as the Department of Motor Vehicles may prescribe.

SEC. 4. Section 12804 of the Vehicle Code is amended to read:

12804. (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and directional signs, and his understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving the same under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive, except that the department may waive the driving test part of the examination of an applicant who holds a valid license issued by another state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examination shall also include a test of the hearing and eyesight of the applicant and such other matters as may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code. The examination for a class 1 or class 2 license under subdivision (b) of this section shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation. In establishing the requirements consideration may be given to the

standards presently required of motor carrier drivers by the Federal Highway Administration of the United States Department of Transportation. Any physical defect of the applicant which in the opinion of the department is compensated to insure safe driving ability shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive:

(1) Class 1. Any combination of vehicles and includes the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3. A three-axle housecar, any two-axle vehicle, any such housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, and any two-axle vehicle weighing 4,000 pounds or more unladen when towing a trailer coach not exceeding 9,000 pounds gross, except a bus, two-wheel motorcycle, two-wheel motor-driven cycle, or "farm labor vehicle."

(4) Class 4. Any two-wheel motorcycle, any two-wheel motor-driven cycle, or any motorized bicycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2 or 3 license upon completion of appropriate examination.

(c) Class 1 and class 2 drivers' licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation is in the licensee's immediate possession which has been issued within two years of the date of the operation of such vehicle, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed. A person holding a valid class 1 or class 2 driver's license on May 3, 1972, may operate class 1 or class 2 vehicles without a medical certificate until such time as the license expires.

(d) A farm labor vehicle driver certificate shall not be valid unless the driver is in possession of a medical certificate issued within the past two years.

(e) The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications when such certificate is issued by an employer of the applicant provided the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he is applying. Such certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he is applying.

(f) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when such certificate is issued

by a law enforcement agency for its officers who operate class 4 vehicles in their duties provided the applicant has also met the other examination requirements for the license for which he is applying.

(g) Notwithstanding the provisions of subdivision (b), any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class 4 endorsement on such license.

CHAPTER 489

An act to amend Sections 53637 and 53643 of the Government Code, relating to local agencies.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 53637 of the Government Code is amended to read:

53637. The money shall be deposited in any depositary selected from those banks and those savings and loan associations agreeing to pay the highest rate of interest.

SEC. 2. Section 53643 of the Government Code is amended to read:

53643. The treasurer may deposit any part of the money for a definite term agreed upon between the treasurer and the depositary. The term shall not exceed one year, except that this term limitation shall not apply to the treasurer of any county with a population of six million or more.

CHAPTER 490

An act to repeal Section 3440.1 of the Civil Code, to amend Sections 6102, 6103, 6105, 6107, and 6111 of, and to add Sections 6106 and 6106.1 to, the Commercial Code, relating to bulk transfers.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 3440.1 of the Civil Code is repealed.

SEC. 2. Section 6102 of the Commercial Code is amended to read:

6102. (1) A "bulk transfer" is any transfer in bulk and not in the ordinary course of the transferor's business of a substantial part of the

materials, supplies, merchandise, or other inventory (Section 9109) of an enterprise subject to this division.

(2) A transfer of a substantial part of the equipment (Section 9109) of such an enterprise is also a bulk transfer.

(3) The enterprises subject to this division are all those whose principal business is that of a baker, cafe or restaurant owner, garage owner, cleaner and dyer, or manufacturer or retail or wholesale merchant.

(4) Except as limited by the following section all bulk transfers of goods located within this state are subject to this division.

(5) The word "transfer" as used in this division does not include the creation or modification of a security interest.

SEC. 2.5. Section 6103 of the Commercial Code is amended to read:

6103. The following transfers are not subject to this division:

(1) A transfer subject to subdivision (h) of Section 3440 of the Civil Code;

(2) Assignments for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(3) Transfers of property subject to a lien or other security interest in settlement or realization of such lien or other security interest;

(4) Sales by executors, administrators, receivers, trustees in bankruptcy, or any public officer under judicial process;

(5) Sales made in the course of judicial or administrative proceedings for the dissolution or reorganization of a corporation and of which notice is sent to the creditors of the corporation pursuant to order of the court or administrative agency;

(6) Transfers of property which is exempt from execution;

(7) The transfer of goods in a warehouse where a warehouse receipt has been issued therefor by a warehouseman (Section 7102) and a copy of such receipt is kept at the principal place of business of the warehouseman and at the warehouse in which said goods are stored.

SEC. 3. Section 6105 of the Commercial Code is amended to read:

6105. Any bulk transfer subject to this division except one made by auction sale (Section 6108) is fraudulent and void against any creditor of the transferor unless the transferee gives notice of the transfer in the manner and within the time hereafter provided (Sections 6106(6) where applicable and 6107).

SEC. 4. Section 6106 is added to the Commercial Code, to read:

6106. (1) This section applies only to a bulk transfer where the consideration consists of cash or an obligation of the transferee to pay cash in the future or a combination thereof.

(2) Upon every bulk transfer subject to this section except one made by sale at auction it is the duty of the transferee (or, if the transaction is handled through an escrow, the escrow agent) to apply the consideration in accordance with the provisions of this section so far as necessary to pay those debts of the transferor for which claims are then due and payable and are filed in writing with the transferee

or his agent or an escrow agent designated in the notice prior to the date specified in the notice on or after which the bulk transfer is to be consummated. This duty of the transferee or escrow agent runs to each creditor timely filing a claim.

(3) If the transferor disputes any claim then due and payable, the transferee or escrow agent shall withhold from distribution the amount thereof (or the pro rata amount under subdivision (2) of Section 6106.1) and shall send a written notice to the creditor filing the claim that the amount will be paid to the transferor (or to the other creditors in accordance with Section 6106.1 (2), as the case may be) unless attached within 25 days. If the amount retained is not attached by the creditor within 25 days from the mailing of the notice, it shall be paid by the transferee or escrow agent to the transferor or to the other persons filing claims if they have not been paid in full.

(4) If the cash consideration payable is not sufficient to pay all of the claims filed in full, where no escrow has been established pursuant to Section 6106.1 the transferee shall follow the procedures specified in subdivisions (1) through (3) of Section 6106.1.

(5) The transferee or escrow agent, as the case may be, shall within 30 days after the transferee takes possession of the goods either pay the claims filed and not disputed (or the applicable portion thereof to the extent of the consideration under subdivision (2) of Section 6106.1.) or institute an action in interpleader pursuant to subdivision (b) of Section 386 of the Code of Civil Procedure and deposit the consideration with the clerk of the court pursuant to subdivision (c) of said section. Such action shall be brought in the appropriate court for the county where the transferor had its principal place of business in this state. Sections 386.1 and 386.6 of the Code of Civil Procedure shall apply in such action.

(6) The notice shall state, in addition to the matters required by Section 6107, the name and address of the person with whom claims may be filed and the last date for filing claims, which shall be the business day before the date specified in the notice on or after which the bulk transfer is to be consummated.

(7) Nothing contained in this section shall release any security interest or other lien on the property which is the subject of the bulk transfer except upon the voluntary release thereof by the secured party or lienholder.

SEC. 5. Section 6106.1 is added to the Commercial Code, to read:

6106.1. In any case where the notice states that the transaction will be handled through an escrow, creditors may file their claims with the escrow agent and the intended transferee shall deposit with the escrow agent the full amount of the purchase price or consideration. If at the time scheduled for the closing of the escrow the amount of cash deposited in the escrow is insufficient to pay in full all of the claims filed with the escrow agent, the escrow agent *shall:*

(1) (a) Delay the distribution of the consideration and the passing

of title for a period of not less than 10 days nor more than 20 days from the originally scheduled closing date; and

(b) Send a written notice to each creditor, who has filed a claim, within two business days after the date scheduled for the closing of the escrow stating the amount of cash deposited in the escrow and the percentage which it represents of the aggregate of all claims filed and stating that the escrow will be closed at a specified place, date, and time which shall be not less than 10 days nor more than 20 days from the originally scheduled closing date.

(2) Distribute the consideration in accordance with the legally applicable liens and priorities held by the creditors filing claims, and within any class of claims having equal priority distribution shall be made pro rata.

(3) To the extent that an obligation of the transferee to pay cash in the future is a part of the consideration and the cash consideration is not sufficient to pay all claims filed in full, apply all principal and interest received on such obligation to the payment of claims in accordance with subdivision (2) until they are paid in full before making any payment to the transferor. In such case, the notice pursuant to subdivision (1) shall state the amount, terms and due dates of the obligation and the portion of the claims expected to be paid thereby.

No funds shall be drawn from the escrow, prior to the actual closing and completion of the escrow, for the payment, in whole or in part, of any commission, fee or other consideration as compensation for a service which is contingent upon the performance of any act, condition, or instruction set forth in an escrow.

SEC. 6. Section 6107 of the Commercial Code is amended to read:

6107. (1) The notice to creditors (Section 6105) shall state:

(a) That a bulk transfer is about to be made; and

(b) The names and business addresses of the transferor and, except in the case of a sale at auction, the transferee, and all other business names and addresses used by the transferor within three years last past so far as known to the transferee; and

(c) The location and general description of the property to be transferred; and

(d) The place, and the date on or after which, the bulk transfer is to be consummated.

(2) The notice shall be

(a) Recorded in the office of the county recorder in the county or counties in which the property to be transferred is located at least 12 business days before the bulk transfer is to be consummated or the sale by auction is to be commenced; and

(b) Published at least once in a newspaper of general circulation published in the judicial district in which the property is located, if there is one, and if there is none, then in a newspaper of general circulation in the county embracing such judicial district, at least 12 business days before the bulk transfer is to be consummated or the

sale by auction is to be commenced; and

(c) Delivered or sent by registered or certified mail at least 12 business days before the bulk transfer is to be consummated or the sale by auction is to be commenced to the county tax collector in the county or counties in which the property to be transferred is located.

If the property to be transferred is located in more than one judicial district, the publication required by paragraph (b) of subdivision (2) shall be in a newspaper published in the judicial district where a greater portion of the property is located than in any other judicial district, or in the county embracing such judicial district, as the case may be. As used in this section, "business day" means any day other than a Saturday, Sunday or a day observed as a holiday by the California state government.

SEC. 7. Section 6111 of the Commercial Code is amended to read:

6111. No action under this division shall be brought nor levy made more than one year after the date on which the transferee took possession of the goods unless the transfer has been concealed. If the transfer has been concealed, an action may be brought or levy made within one year after its discovery by the creditor bringing such action or making such levy or after it should have been discovered by such creditor in the exercise of reasonable diligence, whichever first occurs.

SEC. 8. Section 7 of this act shall become operative on January 1, 1980.

SEC. 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 491

An act to amend Section 90101 of the Education Code, and to amend Sections 25450, and 37901 of the Government Code, relating to public contracts.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 90101 of the Education Code is amended to read:

90101. As used in this chapter:

(a) "Project" includes the erection, construction, alteration, painting, repair, or improvement of any state structure, building, road, or other state improvement of any kind which will exceed in cost a total of ten thousand dollars ($10,000).

(b) "Trustees" means the Trustees of the California State University and Colleges.

(c) "Service contract" means any contract for services in connection with a project other than a project contract, and includes, but is not limited to, contracts for architectural, engineering, planning, testing, general studies, or feasibility services.

SEC. 2. Section 25450 of the Government Code is amended to read:

25450. Whenever the estimated cost of construction of any wharf, chute, or other shipping facility, or of any hospital, almshouse, courthouse, jail, historical museum, aquarium, county free library building, branch library building, art gallery, art institute, exposition building, stadium, coliseum, sports arena or sports pavilion or other building for holding sports events, athletic contests, contests of skill, exhibitions, spectacles and other public meetings, or other public building or the cost of any painting, or repairs thereto exceeds the sum of four thousand dollars ($4,000), inclusive of the estimated costs of materials or supplies to be furnished pursuant to Section 25457, the work shall be done by contract. Any such contract not let pursuant to this article is void.

SEC. 3. Section 37901 of the Government Code is amended to read:

37901. As used in this chapter, "public project" means:

(a) A project for the erection, improvement, painting, or repair of public buildings and works.

(b) Work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow.

(c) Street or sewer work except maintenance or repair.

(d) Furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

CHAPTER 492

An act to amend Section 1716 of the Civil Code, relating to goods and services.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 1716 of the Civil Code is amended to read:

1716. It shall be unlawful for any person to solicit payment of money by another by means of a written statement or invoice, or any writing that could reasonably be interpreted as a statement or invoice, for goods not yet ordered or for services not yet performed and not yet ordered unless there appears on the face of the billing, invoice or statement in boldface type at least 10 points larger than

any other type on the face of the bill, invoice or statement, the following warning:

"This is NOT a bill, invoice or statement. This is a solicitation for the order of goods or services, or both. You are under no obligation to make any payment unless you accept this offer."

Any person damaged by noncompliance with this section, in addition to other remedies, is entitled to damages in an amount equal to three times the sum solicited.

Any person who violates this section shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

A violation of any of the provisions of this section shall be punishable as a misdemeanor.

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 493

An act to amend Section 1158 of the Evidence Code, relating to medical records.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 1158 of the Evidence Code is amended to read:

1158. Whenever, prior to the filing of any action or the appearance of a defendant in an action, an attorney at law presents a written authorization therefor signed by an adult patient, by the

guardian or conservator of his person or estate, or, in the case of a minor, by a parent or guardian of such minor, or by the personal representative or an heir of a deceased patient, or a copy thereof, a physician and surgeon, dentist, registered nurse, dispensing optician, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, or pharmacist or pharmacy, duly licensed as such under the laws of the state, or a licensed hospital, shall make all of the patient's records under his or its custody or control available for inspection and copying by such attorney at law or his representative, promptly upon the presentation of the written authorization.

Failure to make such records available, during business hours, within five days after the presentation of the written authorization, may subject the person or entity having custody or control of the records to liability for all reasonable expenses, including attorney's fees, incurred in any proceeding to enforce the provisions of this section.

All reasonable costs incurred by any person or entity enumerated above in making patient records available pursuant to this section may be charged against the person whose written authorization required the availability of such records. "Reasonable cost" as used in this paragraph means actual copying costs, not to exceed ten cents ($0.10) per page, plus any additional reasonable clerical costs incurred in locating and making the records available.

CHAPTER 494

An act to amend Section 690.18 of the Code of Civil Procedure, relating to exemptions from execution of judgment.

[Approved by Governor August 21, 1978 Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 690.18 of the Code of Civil Procedure is amended to read:

690.18. (a) Except with regard to court-ordered child or spousal support payments, all money received by any person, a resident of the state, as a pension, or as an annuity or retirement or disability or death or other benefit, or as a return of contributions and interest thereon, from the United States government, or from the state, or any county, city, or city and county, or other political subdivision of the state, or any public trust, or public corporation, or from the governing body of any of them, or from any public board or boards, or from any retirement, disability, or annuity system established by any of them pursuant to statute, whether the same shall be in the

actual possession of such pensioner or beneficiary, or deposited by him.

(b) All money held, controlled, or in process of distribution by the state, or a city, city and county, county, or other political subdivision of the state, or any public trust or public corporation, or the governing body of any of them, or by any public board or boards, derived from the contributions by the state or such city, county, city and county, or other political subdivision, or such public trust, public corporation, governing body, or public board or boards, or by any officer or employee thereof, for retirement or pension purposes or the payment of disability, death, or other benefits, or the payment of benefits payable to, or the reimbursement of benefits paid to, employees thereof under the provisions of the Unemployment Insurance Code, and all rights and benefits accrued or accruing to any person under any system established pursuant to statute by the state, city, city and county, county, or other political subdivision of the state, or any public trust or public corporation for retirement, annuity, or pension purposes or payment of disability or death benefits, and all vacation credits accumulated by a state employee pursuant to the provisions of Section 18050 of the Government Code, or any other public employee pursuant to any law for the accumulation of vacation credits applicable to such employee. Such moneys, benefits, and credits shall be exempt without filing a claim of exemption as provided in Section 690.50.

(c) All money held, controlled, or in process of distribution by any private retirement plan, including, but not limited to, union retirement plans, or any profit-sharing plan designed and used for retirement purposes, or the payment of benefits as an annuity, pension, retirement allowance, disability payment or death benefit from such retirement or profit-sharing plans, and all contributions and interest thereon returned to any member of any such retirement or profit-sharing plan, whether the same shall be in the actual possession of such pensioner or beneficiary, or deposited by him, are exempt from execution, attachment, or garnishment. Except with regard to moneys withheld from employees' wages and contributions based on wages in employment under provisions of the Unemployment Insurance Code, and except with regard to court-ordered child or spousal support payments, the exemption given by this subdivision shall apply to any moneys held in self-employed retirement plans and individual retirement annuities or accounts provided for in the Internal Revenue Code of 1954 as amended by the federal "Employee Retirement Income Security Act of 1974" (P.L. 93-406, 29 U.S.C. 1001 et seq.) and by the "Tax Reform Act of 1976" (P.L. 94-455), provided that such moneys do not exceed the maximum amounts exempt from federal income taxation under these acts.

CHAPTER 495

An act to amend Sections 48800, 48801, 48802, 48810, 76001, 76002, and 78009 of, and to amend the heading of Article 2 (commencing with Section 48810) of Chapter 5 of Part 27 of, the Education Code, relating to community colleges.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 48800 of the Education Code is amended to read:

48800. The governing board of any school district may determine which students would benefit from advanced scholastic or vocational work. The intent of this section is to provide educational enrichment opportunities for a limited number of eligible pupils, rather than to reduce current course requirements of elementary and secondary schools. The governing board may authorize such students, upon recommendation of the principal of the school that the pupil attends, and with parental consent, to attend a community college as special part-time students and to undertake one or more courses of instruction offered at the community college level.

Scholastic credit for courses completed shall be at the level determined to be appropriate by the school district and community college district governing boards.

SEC. 2. Section 48801 of the Education Code is amended to read:

48801. Any student authorized to attend a community college as a special part-time student pursuant to Section 48800 shall, nevertheless, be required to attend school for the minimum schoolday, except as provided for in Section 46145 or 46147, and to undertake courses of instruction of a scope and duration sufficient to satisfy the requirements of law.

SEC. 3. Section 48802 of the Education Code is amended to read:

48802. For purposes of allowances and apportionments from the State School Fund, a community college shall be credited with additional units of average daily attendance attributable to the attendance of 11th or 12th grade students at the community college as special part-time students pursuant to this article.

For purposes of allowances and apportionments from the State School Fund, a community college shall not be credited with additional units of average daily attendance attributable to the attendance of students in kindergarten through grade 10 at the community college as special part-time students pursuant to this article. Instead, the school district shall enter a contract with the community college district to reimburse the community college district for current expenses incurred on account of the attendance of such students.

A school district whose students attend a community college pursuant to this article shall, for purposes of allowances and apportionments from the State School Fund, continue to receive credit for attendance by such students computed in the manner prescribed by law, and a student's attendance at school for the minimum schoolday shall be deemed a day of attendance for purposes of making the computation.

SEC. 4. The heading of Article 2 (commencing with Section 48810) of Chapter 5 of Part 27 of the Education Code is amended to read:

Article 2. Vocational Education Classes

SEC. 5. Section 48810 of the Education Code is amended to read:

48810. The principal of any school may, with the approval of the governing board of the school district, permit students, with parental consent, to attend vocational education classes maintained by the community college district in which the school is located, in accordance with Section 78009.

SEC. 6. Section 76001 of the Education Code is amended to read:

76001. The president of any community college may admit to the community college as a special part-time student any student whose admission is recommended by his or her principal. A principal of a school may recommend a student as a special part-time student pursuant to rules and regulations which may be adopted by the governing board of the school district.

The attendance of a student at community college as a special part-time student pursuant to this section is authorized attendance. Credit for courses completed shall be at the level determined to be appropriate by the school district and community college district governing boards.

Each special part-time student shall attend school classes for at least the minimum schoolday.

SEC. 7. Section 76002 of the Education Code is amended to read:

76002. The president of any community college may admit to the summer session of the community college as a special student any student, with parental consent, whose admission to summer session is recommended by the principal of the school which the student attends. A principal may recommend such a student as a special student pursuant to rules and regulations which may be adopted by the governing board of the school district. The principal of a school shall not recommend a number of students who have completed a particular grade in excess of 5 percent of the total number of students in the school who have completed that grade immediately prior to the time of recommendation.

The attendance as a special summer session student, of a student who has completed the 11th grade, at a community college pursuant to this section shall be credited to the district maintaining the community college for the purposes of allowances and

apportionments from the State School Fund. No additional units of attendance shall be credited for apportionment purposes for students who have not completed the 11th grade. Instead, the school district shall enter a contract with the community college district to reimburse the community college district for current expenses incurred on account of the attendance of such students. The student shall receive credit for community college courses which he or she completes, in the same manner as a regularly enrolled community college student.

Sections 76001 and 48800 to 48802, inclusive, do not apply to the special students authorized to be admitted to a community college summer session pursuant to this section.

SEC. 8. Section 78009 of the Education Code is amended to read:

78009. The president of any two-year community college may admit students to vocational education classes, and may admit students in kindergarten through grade 10 to regular session scholastic classes and students who have completed any grade from kindergarten to grade 10 to summer school classes maintained for such students who may profit from the instruction and are recommended by the school principal, provided:

(a) The students are enrolled in a school within the community college district.

(b) A contract is entered into between the governing board of the school district and the community college district for the payment of the current expense to the community college district incurred on account of such attendance.

(c) Notwithstanding the provisions of Section 84500, the hours of attendance of such students is credited to the school district of enrollment but in no case shall the credited hours of attendance of a student in both attendance centers exceed one day of attendance on any one calendar day.

(d) Scholastic credit for courses completed is at the level determined to be appropriate by the school district and community college governing boards.

For the purposes of this section, such vocational education classes may be considered to be classes maintained by the school within the boundaries of the school district.

CHAPTER 496

An act to add Section 5006.48 to the Public Resources Code, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 5006.48 is added to the Public Resources Code, to read:

5006.48. (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser right or interest in such real and personal property in the Counties of Alameda and San Joaquin located approximately 10 miles east of the City of Livermore and commonly known as the Carnegie Cycle Park. If such property is leased, the lease shall be for such term and for such consideration as is mutally agreed upon by and between the Director of General Services and the lessor, and consented to by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.

(b) Any interest in property acquired pursuant to this section 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).

(c) Upon acquisition of the property, the Director of General Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of the state park system. The Department of Parks and Recreation shall carry out a program in such unit of planning, development, construction, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to paragraph (3) of subdivision (d) of Section 5001.5.

(d) The Director of General Services may offer, under competitive bidding procedures, all or part of such property for lease if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered. Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding the provisions of Section 15863 of the Government Code, all rent accruing from any such lease after jurisdiction over the property is transferred to the Department of Parks and Recreation pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 38270 of the Vehicle Code.

(e) Any fees or other returns collected by the Department of Parks and Recreation in its administration of such unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 38270 of the Vehicle Code.

SEC. 2. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from moneys in the Off-Highway

Vehicle Fund that are available pursuant to the provisions of subdivision (b) of Section 38270 of the Vehicle Code to the Department of Parks and Recreation for the purposes of Section 5006.48 of the Public Resources Code, which sum shall be allocated as follows:

(a) One million two hundred thousand dollars ($1,200,000) for the acquisition of an interest in real and personal property, including payments of rent therefor, as described in subdivision (a) of Section 5006.48 of the Public Resources Code.

(b) Three hundred thousand dollars ($300,000) for planning, development, and construction and for administrative costs, including, but not limited to, costs of environmental studies and archaeological investigations, costs incurred in conservation measures, maintenance costs, operation expenses and equipment, landscaping costs, costs incurred in erosion control, costs of perimeter fencing to protect adjacent private property owners, and personal services.

No funds appropriated by this act may 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. 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 necesssity are:

Certain lands of unique recreational value are presently being used by the public solely by permission of the private owners, who, however, may not be able to provide for the continued use of their lands. Therefore, in order that public use of the lands may continue, it is necessary that this act take effect immediately.

CHAPTER 497

An act to amend Sections 4763 and 9102.5 of, and to add Sections 9255.5 and 9867.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 4763 of the Vehicle Code is amended to read:

4763. The Department of Motor Vehicles shall include on the potential registration card, or on an accompanying document, of every person who has been sent or given a notice of violation relating to standing or parking pursuant to paragraph (2) of Section 41103 and has not complied with the provisions of paragraph (2) of Section 41103, and shall collect pursuant to Sections 4760 and 41103.5, at the time registration renewal is applied for, a fee which shall be an amount, as determined by the department, that is sufficient (together with other such fees) to provide a total amount equal to its actual costs of administering the provisions of Sections 4760, 4761, 4762, 4764, 4765, and 41103.5, and the costs incurred by the Department of the California Highway Patrol in enforcing provisions of law relating to registration requirements that have been violated by a person whose vehicle the Department of Motor Vehicles has refused to register because he has not paid to the Department of Motor Vehicles the full amount of bail for parking offenses, as required pursuant to Section 4760, or the fee specified in this section. For purposes of this section, the costs incurred by the Department of the California Highway Patrol shall be calculated on the basis of the assumption that 25 percent of the persons who do not register their vehicles within the required time period specified in this code and who have outstanding parking violations, as identified by the Department of Motor Vehicles, would be cited by the Department of the California Highway Patrol for violation of registration requirements.

SEC. 2. Section 9102.5 of the Vehicle Code is amended to read:

9102.5. (a) In lieu of all other fees which are specified in this code, except fees for duplicate plates, certificates, or cards, a fee of ten dollars ($10) shall be paid for the registration and licensing of any privately owned schoolbus, as defined in Section 545, which is either:

(1) Owned by a private nonprofit educational organization and operated in accordance with the rules and regulations of the Department of Education and the Department of California Highway Patrol exclusively in transporting school pupils, or school pupils and employees, of such private nonprofit educational organization, or

(2) Operated in accordance with the rules and regulations of the Department of Education and the Department of California Highway Patrol exclusively in transporting school pupils, or school pupils and employees, of any public school or private nonprofit educational organization pursuant to a contract between a public school district or nonprofit educational organization and the owner or operator of the schoolbus.

This section shall not, however, be applicable to any schoolbus which is operated pursuant to any contract which requires the public

school district or nonprofit educational organization to pay any amount representing the costs of registration and weight fees unless and until the contract is amended to require only the payment of an amount representing the fee required by this section.

(b) When a schoolbus under contract and registered pursuant to subdivision (a) of this section is to be temporarily operated in such a manner that it becomes subject to full registration fees specified in this code, the owner may, prior to such operation, as an alternative to such full registration, secure a temporary permit to operate the vehicle in this state for any three consecutive calendar months. Such permit shall be posted upon the windshield or other prominent place upon the vehicle, and shall identify the vehicle to which it is affixed. When so affixed, such permit shall serve as indicia of full registration for the period designated thereon. Upon payment of the fees specified in Section 9266.5, the department may issue a temporary permit under this section.

SEC. 3. Section 9255.5 is added to the Vehicle Code, to read:

9255.5. Upon application for transfer of registration pursuant to Section 5911, a fee as specified in Section 9265 shall be paid to the department in addition to the regular transfer fee.

SEC. 4. Section 9867.5 is added to the Vehicle Code, to read:

9867.5. Upon application for transfer of registration pursuant to Section 9917, a fee as specified in Section 9867 shall be paid to the department in addition to the regular transfer fee.

CHAPTER 498

An act to add Chapter 7 (commencing with Section 31630) to Part 6 of Division 12 of the Water Code, relating to county water districts.

[Approved by Governor August 21, 1978 Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Chapter 7 (commencing with Section 31630) is added to Part 6 of Division 12 of the Water Code, to read:

CHAPTER 7. COACHELLA VALLEY COUNTY WATER DISTRICT WATER REPLENISHMENT ASSESSMENTS

31630. The Coachella Valley County Water District shall have the power to levy and collect water replenishment assessments, as provided in this chapter, for the purpose of replenishing ground water supplies within the district.

31630.5. As used in this chapter:

(a) "Annual" or "year" means a calendar year unless the context indicates a contrary meaning.

(b) "District" means the Coachella Valley County Water District.

(c) "Fiscal year" means the period of July 1 through June 30, inclusive.

(d) "Production" or "produce" means the extraction of ground water by pumping or any other method within the boundaries of the district or the diversion within the district of surface supplies which naturally replenish the ground water supplies within the district and are used therein.

(e) "Producer" means any individual, partnership, association or group of individuals, lessee, firm, private corporation, or any public agency or public corporation, including, but not limited to, the Coachella Valley County Water District.

(f) "Minimal pumper" means any producer who produces 25 or fewer acre feet in any year.

(g) "Supplemental water" means water from the State Water Resources Development System, or from the Colorado River Aqueduct of the Metropolitan Water District of Southern California, or from any other source which is not part of the natural replenishment of the ground water supplies within the district, including reclaimed water.

31631. By May 1 of each year the board shall cause to be prepared and presented to it an engineering survey and report concerning the ground water supplies within the district. Such report shall include the condition of such ground water supplies, the need for replenishment, and recommendations for any replenishment program, including the source and amount of replenishment water and the cost of purchasing, transporting, and spreading such water. In connection with any proposed replenishment program, the report shall also describe the area or areas benefited, either directly or indirectly, the amount of water production in each such area during the prior year, and shall recommend the amount of assessment to be levied upon all production within such area or areas of benefit.

31631.5. If the board determines that funds should be raised by a replenishment assessment, it shall call a public hearing, and shall publish notice at least 10 days in advance thereof pursuant to Section 6061 of the Government Code. Notice shall also be mailed by the district to all producers as disclosed by the records of the district who may be affected by the recommended assessment. Failure of any affected producers to receive such notice shall not affect the validity of any subsequent replenishment assessment. The notice shall contain the time and place of the hearing, a generalized or common description of each area of benefit, the amount of each recommended replenishment assessment, and an invitation to all interested parties to attend and be heard in support of or in opposition to the proposed assessment. The notice shall also state that a copy of the engineering report is available for inspection at the office of the district.

31632. The hearing shall be held before the board and a quorum shall be present. The hearing may be adjourned from time to time

by the president. All evidence relevant to the engineering survey and report, the recommendation that a replenishment assessment pursuant to this chapter be levied, and the determination of the area benefited by such assessment and replenishment program, may be introduced. Upon completion of the hearing, the board shall, by resolution, make specific findings on all facts relevant and material to the purposes for which a replenishment assessment, if any, may be levied under this chapter. In the event the district establishes a replenishment program and levies assessments hereunder, and such program is continued in subsequent years without substantial change and at the same rate of assessment, the board may dispense with the notice, hearing, and findings required by Section 31631.5 and this section.

31632.5. Before July 1 of each year, the board may by resolution levy a replenishment assessment upon all water production during the following fiscal year within each area of benefit as determined by the board. The assessment within each area of benefit shall be at a uniform rate per acre-foot. The resolution shall also state the time or times at which such assessment shall be due and payable, which may be in convenient installments as determined by the board.

31633. The amount of any replenishment assessments levied shall be in the discretion of the board, provided that no such assessment shall exceed the variable operation, maintenance, power, and replacement components of the transportation charges, and the delta water charges, applicable at the time of the levy under the contract between the district and the State of California for an imported water supply from the State Water Resources Development System.

31633.5. Minimal pumpers may be excluded from the engineering survey and report on water production, and they shall be exempt from any replenishment assessments and reporting provisions under this chapter.

31634. The district, after the levying of any replenishment assessment, shall give notice thereof to all affected producers as disclosed by the records of the district. Such notice shall state the rate of assessment for each acre-foot of production during the fiscal year for which the assessment has been levied, and the dates when the assessment or installments thereof are due and payable. The notice shall be sent by first-class mail with the postage prepaid by the district.

31634.5. Except as provided in Section 31636, each producer, on or before the dates when the assessment or installments thereof are due and payable, shall file with the district a sworn statement setting forth the total quantity of water production in acre-feet which is subject to the replenishment assessment. Such production shall be reported as of the end of the month immediately preceding the payment date. The statement shall be on a form prepared by the district, and to the extent practicable, shall identify separately the production from each well or other water-producing facility. The

statement shall also include a general description or number locating such well or water-producing facility, the method or basis of the measurement or computation of production, and such other information as the district may require.

31635. Any replenishment assessment levied pursuant to this chapter shall be due and payable to the district at the time or times determined by the district and stated in the notice of levy, and shall accompany the statement required from each producer.

31636. If the district has an agreement with any producer whereby the district regularly reads and maintains the water-measuring devices which record the production of such producer, the producer shall be exempt from the provisions of Section 31634.5. In lieu thereof, the district shall send such producer notice of its production and the amount of the replenishment assessment or installment due.

31636.5. If any producer subject to a replenishment assessment, after notice has been given pursuant to Section 31634, shall fail to pay a replenishment assessment or installment thereof when due, such producer shall become liable to the district for interest at the rate of 1 percent per month on the delinquent amount.

31637. Should any producer, subject to a replenishment assessment, knowingly fail to file the water-production statement, such producer shall, in addition to interest as provided in Section 31636.5, become liable to the district for a penalty of one hundred fifty dollars ($150).

31637.5. If the district has probable cause to believe that the production by any producer is unreported or, if reported, is substantially in excess of that disclosed by the statement filed by such producer, the district shall cause an investigation and report to be made concerning such production, which shall include the right to inspect the water-producing facility and any water-measuring device used therewith. The board shall thereupon determine and fix the correct amount of production for any such producer, and give written notice thereof. Any such determination made by the board shall be binding upon the producer, and the replenishment assessments based thereon together with interest and penalties shall be payable immediately, unless the producer shall file with the board within 10 days after the mailing of such notice a written protest setting forth the grounds of protest. Upon the filing of such protest the board shall hold a hearing at which time the total amount of production and the replenishment assessment shall be determined, and the interest and penalties fixed, which action shall be conclusive if based upon substantial evidence. A notice of such hearing shall be mailed to the protestant at least 10 days before the date fixed for the hearing. Notice of the determination by the board shall be mailed to the protestant. The producer shall have 20 days from the date of mailing of such notice to pay the replenishment assessment, interest, and penalties so fixed by the board.

31638. The district may, in any court having jurisdiction, bring

suit against any producer to enjoin any water production in violation of any of the provisions of this chapter, and to collect any delinquent replenishment assessments, interest or penalties. The court may award interest, cost and attorney's fees on any judgment.

31638.5. It shall be unlawful to produce water from within any area of benefit after one year following the levy of a replenishment assessment within such area, unless the well or other water-producing facility producing such water shall have a water-measuring device affixed thereto which is capable of measuring and registering the accumulated amount of water produced. The provisions of this section shall not be applicable to minimal pumpers. The district by written agreement with any producer shall provide, install, maintain, own and read such water-measuring device. Violation thereof shall be punishable by a fine not to exceed three hundred dollars ($300), or by imprisonment in the county jail not to exceed 30 days, or by both such fine and imprisonment.

31639. This chapter, applicable only to the Coachella Valley County Water District, is necessary because of the special and unique problems of imported ground water recharge of ground water basins within such district and the necessity of the payment of part of such expense by a water replenishment assessment. 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 chapter as a special law is necessary for the solution of problems existing in the Coachella Valley County Water District.

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 499

An act to add Chapter 2.8 (commencing with Section 35560) to Part 5 of Division 13 of the Water Code, relating to California water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Chapter 2.8 (commencing with Section 35560) is added to Part 5 of Division 13 of the Water Code, to read:

CHAPTER 2.8. PROVISIONS PERTAINING ONLY TO THE WESTSIDE WATER DISTRICT

35560. The provisions of this chapter shall apply only to the Westside Water District or to any improvement district, distribution district, or zone formed within the Westside Water District pursuant to the provisions of this division.

35561. In addition, and as an alternative, to the matters contained in this division regarding distribution and apportionment of water, the district or any improvement district, distribution district, or zone therein may, by resolution, enter into long term water service contracts with holders of title to land therein, and may require execution of such a contract by a holder of title to land as a condition precedent to the delivery of water from the district to such holder of title or to the use by such holder of title of any facilities of the district or any improvement district, distribution district, or zone. Such contracts may provide that all water charges provided for, when due, are a lien on the landowner's land in the nature of assessments, and may be collected and enforced in the manner provided in this division for the collection and enforcement of assessments. If such a contract does so provide, such lien shall have the same force, effect, and priority as an assessment lien for all such water charges levied after recordation of such contract in the office of the county recorder in the county in which the land is situated. Unless such water service contract is recorded, it shall have no force or effect whatever against any person other than a party to the contract, unless such person has actual knowledge of the contract and its contents.

35562. In addition, and as an alternative, to the purposes for which the proceeds from water charges may be used, as set forth in Article 4 (commencing with Section 35470) of Chapter 2 of Part 5 of this division, water charges may be levied and collected in order to provide, in whole or in part, for the payment of amounts due to the United States, whether for capital charges or service charges or otherwise, pursuant to contracts made in accordance with Chapter 6 (commencing with Section 35875) of Part 5 of this division, or in order to provide, in whole or in part, for the payment of the costs of a project or the principal of and interest on bonds or warrants of the district, or to obtain funds for any lawful purpose of the district. The district may, by resolution, make such water charges payable in advance. The district may, by resolution, provide that water charges which remain unpaid for a period of not less than 30 days after they have become due shall be delinquent, and a penalty not in excess of 10 percent shall be added thereto, and they shall bear interest at a

rate not in excess of 12 percent per year.

SEC. 2. The Legislature hereby finds and declares that a special law is necessary with respect to the Westside Water District, that the provisions of Section 1 are needed to meet the special circumstances within the district, and that a general law cannot be made applicable.

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 provide authority for urgently needed water service contracts at the earliest possible opportunity, it is necessary that this act take effect immediately.

CHAPTER 500

An act to amend Section 26708 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 1978 Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 26708 of the Vehicle Code is amended to read:

26708. (a) No person shall drive any motor vehicle with any object or material placed, displayed, installed, affixed, or applied upon the windshield, or side or rear windows, or with any object or material so placed, displayed, installed, affixed, or applied in or upon the vehicle as to obstruct or reduce the driver's clear view through the windshield or side windows.

(b) This section shall not apply to:

(1) Rearview mirrors.

(2) Adjustable nontransparent sunvisors which are mounted forward of the side windows and are not attached to the glass.

(3) Signs, stickers, or other materials which are displayed in a seven-inch square in the lower corner of the windshield farthest removed from the driver.

(4) Side windows which are to the rear of the driver.

(5) Direction, destination, or termini signs upon a passenger common carrier motor vehicle, providing such signs do not interfere with the driver's clear view of approaching traffic.

(6) Rear window wiper motor.

(7) Rear trunk lid handle or hinges.

(8) The rear window or windows, when the motor vehicle is equipped with outside mirrors on both the left- and right-hand sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least 200 feet

to the rear of the vehicle.

(c) Notwithstanding subdivision (a), transparent material may be installed, affixed, or applied to the topmost portion of the windshield if:

(1) The bottom edge of the material is at least 29 inches above the undepressed driver's seat when measured from a point five inches in front of the bottom of the backrest with the driver's seat in its rearmost and lowermost position with the vehicle on a level surface.

(2) The material is not red or amber in color.

(3) There is no opaque lettering on the material and any other lettering does not affect primary colors or distort vision through the windshield.

(4) The material does not reflect sunlight or headlight glare into the eyes of occupants of oncoming or following vehicles to any greater extent than the windshield without the material.

SEC. 2. Section 26708 of the Vehicle Code is amended to read:

26708. (a) No person shall drive any motor vehicle with any object or material placed, displayed, installed, affixed, or applied upon the windshield, or side or rear windows, or with any object or material so placed, displayed, installed, affixed, or applied in or upon the vehicle as to obstruct or reduce the driver's clear view through the windshield or side windows.

(b) This section shall not apply to:

(1) Rearview mirrors.

(2) Adjustable nontransparent sunvisors which are mounted forward of the side windows and are not attached to the glass.

(3) Signs, stickers, or other materials which are displayed in a seven-inch square in the lower corner of the windshield farthest removed from the driver or signs, stickers, or other materials which are displayed in a five-inch square in the lower corner of the windshield nearest the driver.

(4) Side windows which are to the rear of the driver.

(5) Direction, destination, or termini signs upon a passenger common carrier motor vehicle, providing such signs do not interfere with the driver's clear view of approaching traffic.

(6) Rear window wiper motor.

(7) Rear trunk lid handle or hinges.

(8) The rear window or windows, when the motor vehicle is equipped with outside mirrors on both the left- and right-hand sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least 200 feet to the rear of the vehicle.

(c) Notwithstanding subdivision (a), transparent material may be installed, affixed, or applied to the topmost portion of the windshield if:

(1) The bottom edge of the material is at least 29 inches above the undepressed driver's seat when measured from a point five inches in front of the bottom of the backrest with the driver's seat in its rearmost and lowermost position with the vehicle on a level surface.

(2) The material is not red or amber in color.

(3) There is no opaque lettering on the material and any other lettering does not affect primary colors or distort vision through the windshield.

(4) The material does not reflect sunlight or headlight glare into the eyes of occupants of oncoming or following vehicles to any greater extent than the windshield without the material.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1536 are both chaptered and become effective January 1, 1979, both bills amend Section 26708 of the Vehicle Code, and this bill is chaptered after Senate Bill No. 1536, that the amendments to Section 26708 proposed by both bills be given effect and incorporated in Section 26708 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. 1536 are both chaptered and become effective January 1, 1979, both amend Section 26708, and this bill is chaptered after Senate Bill No. 1536, in which case Section 1 of this act shall not become operative.

CHAPTER 501

An act relating to state highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Notwithstanding any other provision of law or regulation, the Department of Transportation shall first offer for sale, at fair market value as determined by the department, to the Mills Land & Water Company the approximate 28.5 acres portion of the northwest quarter and southwest quarter of Section 13, Township 6 South, Range 11 West, in the Rancho Las Bolsas the department acquired from the company by judgment on May 11, 1965.

SEC. 2. Within 60 days after receipt of the first offer of the Department of Transportation to sell the approximate 28.5 acres, the Mills Land & Water Company shall notify the department of its acceptance of that offer, or any subsequent offer from the department, and any conditions attached to the acceptance.

SEC. 3. After acceptance of the department's offer by the Mills Land & Water Company and opening of escrow, the department shall, from 45 days after opening of escrow until the closing of escrow and transfer of title, join in the execution of any documents or applications reasonably related to efforts by the company to obtain necessary local zoning approvals, use permits, and other land use approvals for development of the property.

The department shall bear none of the expenses or costs of obtaining such approvals and permits.

SEC. 4. The acceptance of the offer to purchase the approximate 28.5 acres pursuant to Section 1 of this act by the Mills Land & Water Company shall constitute a settlement of any and all claims the company may have against the State of California arising from the acquisition and retention of the parcel by the Department of Transportation prior to its resale to the company, including the dismissal with prejudice of any and all actions brought by the company against the state with respect to the parcel.

SEC. 5. When the Department of Transportation acquired the approximate 28.5 acres in 1965 for the construction of State Highway Route 1 as a freeway, no severance damages were granted to the Mills Land & Water Company for the remainder of its holdings, on the basis that frontage roads which would provide access to the remaining holding would be constructed.

The California Highway Commission, on October 15, 1975, adopted a resolution to rescind its prior authorization to construct the Route 1 freeway and to authorize the disposition of property acquired for such construction.

The sale of the parcel to any entity other than the company would result in its holding being landlocked.

Because of the unique problem presented in this situation, the legislature finds and declares that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution and that the enactment of this act as a special law is necessary for the solution of this problem.

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:

In order that the disposition of the approximate 28.5 acre parcel acquired from the Mills Land & Water Company by the Department of Transportation for the construction of State Highway Route 1 as a freeway be resolved without the necessity of a lawsuit, it is necessary that this act take effect immediately.

CHAPTER 502

An act to amend Section 22122, 22136, 22148, 22230, 23701, 23703, 23900, 23910.5, 24000, 24205, 24600, and 24602 of, and to amend and renumber Sections 22725 and 24104 of, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 22122 of the Education Code is amended to read:

22122. "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, measured from the onset of the disability, but no earlier than the day following the last day of on the job performance 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 22136 of the Education Code is amended to read:

22136. "Other public systems" means the old age, survivors, disability and health insurance program provided by the Federal Social Security Act, the federal civil service retirement program, federal military disability, railroad retirement, a workers' compensation program, federal railroad retirement or any other public retirement system including any disability programs financed from public funds.

SEC. 3. Section 22148 of the Education Code is amended to read:

22148. "Retirement" means withdrawal from membership with a retirement allowance. A member of this system is retired as of the effective date shown on the retirement application or such later date as specified under Section 23900.

SEC. 4. Section 22230 of the Education Code is amended to read:

22230. Upon the receipt of a request from any retirant, disabilitant or beneficiary, the board may transmit payments to a bank, savings and loan association, or credit union for deposit in the retirant's, disabilitant's, or beneficiary's account. The transmittal of such payment shall fully discharge the board and the system from any claim resulting from actions taken under this section.

SEC. 5. Section 22725 of the Education Code, as amended by Chapter 474 of the Statutes of 1977, is amended and renumbered to read:

22725.1. A member, disabilitant, or retirant may elect to receive credit for time served in certificated teaching positions in child care centers operated by a county superintendent of schools or a school district. In no event shall a member receive credit for such service if he receives, or is eligible to receive credit for such service from another retirement system. Only those retirants with effective dates of retirement prior to January 2, 1978, may elect credit under this section.

SEC. 6. Section 23701 of the Education Code is amended to read:

23701. If no beneficiary designation is in effect on the date of death, any benefit payable shall be paid to the survivors of the member in the following order:

(a) Surviving spouse.

(b) Issue or legally adopted offspring.

Payment shall be to the members of the group entitled, share and share alike. No payment shall be made to persons in any group if at the time of death there are living persons in any group preceding it.

If there is no effective beneficiary designation and there are no survivors entitled to the benefit under this section, the benefit shall be paid to the estate of the member.

Payment pursuant to the board's determination in good faith upon evidence satisfactory to it of the existence, identity or other facts relating to entitlement of persons under this section shall constitute a complete discharge of and release of the system from liability for the benefit.

SEC. 7. Section 23703 of the Education Code is amended to read:

23703. A member's or retirant's marriage, divorce, annulment of marriage or the termination of membership by refund constitutes a revocation of his previous designation of a beneficiary except as provided herein.

Any designation of beneficiary in effect on October 1, 1967, which was filed prior to the occurrence of any of the conditions specified herein is void.

After any revocation or voidance of a beneficiary designation, a member may designate the same or another beneficiary or beneficiaries in accordance with Section 23702.

A designation of beneficiary filed with the system after an interlocutory decree in a dissolution of marriage action has been issued by the court shall continue to be valid after filing of the final decree of the dissolution of marriage.

SEC. 8. Section 23900 of the Education Code is amended to read:

23900. 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 allowance, and

(b) The effective date is later than the last day of credited service for which salary is payable to the member, and

(c) The effective date is no earlier than the first day of the month in which the application is received by the system in Sacramento, or

(d) The effective 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. 9. Section 23910.5 of the Education Code is amended to read:

23910.5. 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, and

(b) The designated effective date is later than the last day of service for which salary is payable to the member, and

(c) The designated date is no earlier than the first day of the month in which the application is received by the system in Sacramento, or

(d) 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. 10. Section 24000 of the Education Code is amended to read:

24000. Upon retirement for service which became effective after June 30, 1972, a member shall receive a retirement allowance which shall consist of:

(a) An annual allowance payable in monthly installments, upon retirement at age 60 or over, equal to 2 percent of the final compensation for each year of credited service. If the retirement of a member is effective at less than age 60 this allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month which will elapse until the member would have reached age 60, and

(b) An annuity which shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of his account at the time of his retirement, and

(c) A "tax-sheltered annuity" which shall be the actuarial equivalent of the accumulated tax-sheltered annuity contributions standing to the credit of his account at the time of his retirement.

A school district or other employing agency may elect to permit all members with 30 years of credited service to retire regardless of age and receive an annual allowance equal to 2 percent of final compensation for each year of credited service. If the member is age 50 or older, the allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month which will elapse until the member would have reached age 60.

In computing the above amounts, the age of the member at the last day of the month in which the member has requested his retirement be effective or such later date as provided in Section 23900 shall be used.

SEC. 11. Section 24104 of the Education Code is amended and renumbered to read:

24403. The first three hundred dollars ($300) of the monthly allowances payable by the system to retirants, disabilitants, and beneficiaries are increased as of July 1, 1976, as follows if the member had 20 or more years of credited service:

(a) For those with effective dates prior to July 1, 1972, 9 percent.

(b) For those with effective dates from July 1, 1972, to June 30, 1973, 6 percent.

(c) For those with effective dates from July 1, 1973, to June 30, 1974, 3 percent.

SEC. 12. Section 24205 of the Education Code is amended to read:

24205. If a member cancels the election made in Section 24203, written cancellation must be received by the board on or before the day preceding the effective date of retirement. Regardless of how

the member elects to receive his retirement allowance, such allowance shall be reduced by one-half of 1 percent for each year or partial year that option 3 is in effect under Section 24203, or by three-fourths of 1 percent for each year or partial year that option 2 is in effect under Section 24203.

SEC. 13. Section 24600 of the Education Code is amended to read:

24600. (a) The retirement or disability allowance begins to accrue on the effective date of the retirement or disability.

(b) On death of the retirant, a person receiving a disability allowance or a person who is reinstated to membership, the allowance ceases on the day in which the death or reinstatement occurs.

(c) Family benefits begin to accrue on the day of the month following the day the death of the member occurs.

(d) Option benefits begin to accrue on the day of the month following the day the retirant died.

(e) Family or disability allowances payable on account of a full-time student begin to accrue on the day of the month following the day the death of the member occurs and terminate on the day in which the student no longer qualifies for it. However, any adjustments to a family or disability allowance on account of a full-time student's periods of nonattendance shall be made as follows: the allowance shall cease on the beginning of the month in which the nonattendance was initiated and again accrues on the beginning of a subsequent month in which reattendance occurs.

SEC. 14. Section 24602 of the Education Code is amended to read:

24602. Persons entitled to receive allowances under this system may authorize deductions to be made from such allowances, in accordance with procedures established by the board.

CHAPTER 503

An act to amend Section 43.7 of the Civil Code, and Section 1157 of the Evidence Code, relating to medical review.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

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

43.7. There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within

the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical or dental services rendered by physicians and surgeons, dentists, or dental hygienists, which committee is composed chiefly of physicians and surgeons, dentists, or dental hygienists, for any act or proceeding undertaken or performed in reviewing the quality of medical or dental services rendered by physicians and surgeons, dentists, or dental hygienists, or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such committee or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he acts, and acts in reasonable belief that the action taken by him is warranted by the facts known to him after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, accounting, optometric, podiatric, pharmaceutic, chiropractic, and engineering organizations having as members at least a majority of the eligible licentiates in the geographic area served by the particular society. The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

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

This section shall not be construed to confer immunity from liability on any professional society or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a hospital or professional society, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 2. Section 1157 of the Evidence Code is amended to read:

1157. Neither the proceedings nor the records of organized committees of medical or medical-dental staffs in hospitals having the responsibility of evaluation and improvement of the quality of care rendered in the hospital or medical or dental review or dental hygienist review or chiropractive review committees of local medical, dental, dental hygienist, or chiropractic societies shall be subject to discovery. Except as hereinafter provided, no person in attendance at a meeting of any such committee shall be required to testify as to what transpired thereat. The prohibition relating to

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

The prohibitions contained in this section shall not apply to medical, dental, dental hygienist, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any such committee if any person serves upon the committee when his own conduct or practice is being reviewed.

CHAPTER 504

An act to amend Section 2800.1 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 2800.1 of the Vehicle Code is amended to read:

2800.1. Every person who, while operating a motor vehicle, hears a siren and sees at least one lighted lamp exhibiting a red light emanating from a vehicle which is distinctively marked and operated by a member of the California Highway Patrol or any peace officer of any sheriff's department or police department wearing a distinctive uniform and who, with the intent to evade the officer, willfully disregards such siren and light, and who flees or otherwise attempts to elude a pursuing peace officer's motor vehicle, is guilty of a misdemeanor.

CHAPTER 505

An act to amend Section 22655 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 22655 of the Vehicle Code is amended to read:

22655. When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, has reasonable cause to believe that a motor vehicle on a highway has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002, through 20006, inclusive, the officer may remove the vehicle from the highway for the purpose of inspection. Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway upon demand of the owner. When determining the 48-hour period, weekends and holidays shall not be included.

CHAPTER 506

An act to add Section 1047 to the Education Code, relating to county boards of education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 1047 is added to the Education Code, to read:

1047. A county board of education in a county having a population over 450,000 and under 500,000, as designated by Section 28020 of the Government Code, as amended by Chapter 1204 of the Statutes of 1971, to which all the duties and functions of the county board of supervisors have been transferred pursuant to Section 1080 may exercise the power of eminent domain to acquire any property necessary or convenient for carrying out the provisions of this article.

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 the County Board of Education of Riverside County may exercise the power of eminent domain necessary to acquire property to facilitate the remodeling of administrative facilities, so as to avoid or minimize to the greatest extent possible the disruption of its administrative responsibilities, it is necessary that this act take effect immediately.

CHAPTER 507

An act to add Section 11805 to, and to repeal and add Sections 1063.1, 11779, 11801, 11802, 11803, and 11804 of, the Insurance Code, relating to longshoremen's and harbor workers' insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 1063.1 of the Insurance Code is repealed.

SEC. 2. Section 1063.1 is added to the Insurance Code, to read:

1063.1. As used in this article:

(a) "Member insurer" means an insurer required to be a member of the association in accordance with the provisions of subdivision (a) of Section 1063, except and to the extent that such insurer is participating in an insolvency program adopted by the United States government.

(b) "Insolvent insurer" means a member insurer for which a domiciliary or ancillary liquidator has been appointed in this state after the effective date of this article.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, (i) imposed by law and arising out of an insurance policy of the insolvent insurer; (ii) which were unpaid by the insolvent insurer; (iii) which are presented as a claim to the liquidator in this state or to the association on or before the last date fixed for the filing of claims in the domiciliary liquidating proceedings; (iv) which were incurred prior to, on, or within 30 days after the date the liquidator was appointed; (v) for which the assets of the insolvent insurer are insufficient to discharge in full; (vi) in the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the Workers' Compensation Law of this state and (vii) in the case of other classes of insurance if such policy is issued to a resident of this state or claim against an insured thereunder is made by a resident of this state.

(2) "Covered claims" shall not include any obligations arising from life, title, surety, disability, credit, mortgage, or mortgage guaranty insurance, nor arising from a policy of ocean marine insurance.

(3) "Covered claims" shall not include any obligations to refund unearned premiums, nor any obligations of the insolvent insurer arising out of any reinsurance contracts, nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or canceled at the insured's request or after the insurance policy has been canceled by the association as provided in this chapter, nor any obligations to any state or to the federal government.

(4) "Covered claims" shall not include any obligations to insurers, insurance pools, or underwriting associations, except as otherwise provided in this chapter.

(5) "Covered claims," except in the case of a claim for workers' compensation benefits, shall not include any claim in an amount of one hundred dollars ($100) or less, nor the first one hundred dollars ($100) of any claim in excess of one hundred dollars ($100), nor that portion of any claim which is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(6) "Covered claims" shall not include that portion of any claim, other than a claim for workers' compensation benefits, which is in excess of five hundred thousand dollars ($500,000).

(7) "Covered claims" shall not include (a) any claim to the extent it is covered by any other insurance of a class covered by the provisions of this article available to the claimant nor (b) any claim by any person other than the original claimant under the insurance policy in his own name, his executor, administrator, guardian or other personal representative or trustee in bankruptcy and shall not include any claim asserted by an assignee or one claiming by right of subrogation, except as otherwise provided in this chapter.

(8) "Covered claims" shall not include any obligations arising out of the issuance of an insurance policy written by the separate division of the State Compensation Insurance Fund pursuant to the provisions of Sections 11802 and 11803.

(d) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the California Department of Insurance.

SEC. 3. Section 11779 of the Insurance Code is repealed.

SEC. 4. Section 11779 is added to the Insurance Code, to read:

11779. The fund may insure California employers against their liability for compensation or damages for injury or death under the United States Longshoremen's and Harbor Workers' Compensation Act, or other federal or maritime laws, as fully as any private insurer.

SEC. 5. Section 11801 of the Insurance Code is repealed.

SEC. 6. Section 11801 is added to the Insurance Code, to read:

11801. The assets, premiums, reserves, investment income, and any and all property of whatsoever kind derived or acquired by the

fund from its transaction of its workers' compensation insurance business shall not be used, attached or levied upon in any manner whatsoever by any person to satisfy claims or any other obligations or liability incurred, arising out of, or related to, the fund's transaction of insurance pursuant to the United States Longshoremen's and Harbor Workers' Act.

SEC. 7. Section 11802 of the Insurance Code is repealed.

SEC. 8. Section 11802 is added to the Insurance Code, to read:

11802. All premiums, reserves, investment income, and all property of whatsoever kind derived or acquired by the fund from its transaction of insurance pursuant to the United States Longshoremen's and Harbor Workers' Compensation Act shall be maintained and identified in separate accounts and records.

SEC. 9. Section 11803 of the Insurance Code is repealed.

SEC. 10. Section 11803 is added to the Insurance Code, to read:

11803. All claims, costs of doing business, liabilities, expenses, and obligations arising out of or related to the fund's transaction of insurance pursuant to the United States Longshoremen's and Harbor Workers' Compensation Act shall be paid and charged to the income of whatsoever nature derived from its United States Longshoremen's and Harbor Workers' Compensation Act insurance business only.

SEC. 11. Section 11804 of the Insurance Code is repealed.

SEC. 12. Section 11804 is added to the Insurance Code, to read:

11804. Joint or shared use of office building space, whether owned, leased or rented, and the joint use of all furniture, automobiles, office equipment, supplies and services shall be charged to each class of insurance business on an equitable and proportional basis.

SEC. 13. Section 11805 is added to the Insurance Code, to read:

11805. The State Compensation Insurance Fund shall report annually to the Legislature as soon after the close of the calendar year as is feasible, with respect to its experience handling United States longshoremen's and harbor workers' insurance pursuant to this chapter, including, but not limited to, a statement of resources and liabilities at the close of each annual period commencing December 31, 1979.

SEC. 14. In enacting the provisions of this act, it is the intent of the Legislature, in continued support of California industry and commerce to reenact and extend indefinitely the provisions of Chapter 444 of the Statutes of 1976 relating to the authority of the State Compensation Insurance Fund to insure California employers against their liability for compensation or damages for injury or death under the United States Longshoremen's and Harbor Workers' Compensation Act, or other federal or maritime laws, as fully as any private insurer.

SEC. 15. This act shall take effect immediately and shall be applied retroactively commencing July 10, 1978.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the

meaning of Article IV of the Constitution and shall go into effect immediately. The facts constituting such necessity are:

A serious deficiency exists in the available market for insurance against the liability imposed by the Longshoremen's and Harbor Workers' Compensation Act upon certain California employers to the extent that such employers are unable to purchase appropriate insurance. Unless this bill takes effect immediately, the State Compensation Insurance Fund will be precluded by law from taking care of such needs.

CHAPTER 508

An act to amend Section 4514 of, and to add Chapter 5 (commencing with Section 4550) to Title 3 of Part 5 of Division 4 of, the Civil Code, relating to dissolution of marriage, and making an appropriation therefor.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 4514 of the Civil Code is amended to read:

4514. (a) When an interlocutory judgment has been entered pursuant to Section 4512 and six months have expired from the date of service of a copy of summons and petition or the date of appearance of the respondent, the court, on motion of either party or upon its own motion, may enter the final judgment dissolving the marriage, and such final judgment shall restore them to the status of single persons and permit either to marry after the entry thereof; and such other and further relief as may be necessary to complete disposition of the action, but if any appeal is taken from the interlocutory judgment or a motion for a new trial is made, final judgment shall not be entered until such motion or appeal has been finally disposed of, nor then, if the motion has been granted or judgment reversed.

(b) Where a joint petition under Chapter 5 (commencing with Section 4550) is thereafter revoked and either party commences a proceeding pursuant to Section 4503 within 90 days from the date of filing of the revocation, the permissible date of entry of final judgment pursuant to this section shall be calculated by deducting the period of time which shall have elapsed from the date of filing the joint petition to the date of filing of the revocation.

(c) The death of either party after the entry of the interlocutory judgment does not impair the power of the court to enter final judgment as hereinbefore provided; but such entry shall not validate any marriage contracted by either party before the entry of such final judgment, nor constitute any defense of any criminal

prosecution made against either.

SEC. 2. Chapter 5 (commencing with Section 4550) is added to Title 3 of Part 5 of Division 4 of the Civil Code, to read:

CHAPTER 5. SUMMARY DISSOLUTION

4550. A marriage may be dissolved by the summary dissolution procedure specified in this chapter when all of the following conditions exist at the time the proceeding is commenced:

(a) Either party has met the jurisdictional requirements of Sections 4530 and 4531 with regard to dissolution of marriage.

(b) Irreconcilable differences have caused the irremediable breakdown of the marriage and the marriage should be dissolved.

(c) There are no minor children of the parties born or adopted during the marriage, and the wife, to her knowledge, is not pregnant.

(d) The marriage is not more than two years in duration at the time the petition is filed.

(e) Neither party has any interest in real property wheresoever situated.

(f) There are no unpaid obligations in excess of two thousand dollars ($2,000), incurred by either or both of the parties from the date of marriage, excluding the amount of any unpaid obligations with respect to automobiles.

(g) The total aggregate fair market value of personal property assets in which either of the parties has any interest, excluding all encumbrances and automobiles, is less than five thousand dollars ($5,000).

(h) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community, and have duly executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(i) The parties waive any rights to spousal support.

(j) The parties, upon entry of final judgment of dissolution of marriage, irrevocably waive their respective rights to appeal, their rights to request findings of fact and conclusions of law, and their rights to move for a new trial.

(k) The parties have read and understand the summary dissolution brochure provided for in Section 4556.

(*l*) The parties desire that the court dissolve the marriage.

4551. A proceeding for summary dissolution of the marriage shall be commenced by filing in the superior court a joint petition in the form prescribed by the Judicial Council. The petition shall be signed under oath by both the husband and the wife, and shall state that as of the date of the filing of the joint petition each and every condition set forth in Section 4550 has been met. Such joint petition shall state the mailing address of both the husband and the wife. The joint petition shall also state whether or not the wife elects to have her maiden or former name restored, and, if so, shall state the name to be restored.

4552. (a) At any time prior to the filing of application for final judgment, either party to the marriage may revoke the joint petition and thereby terminate the summary dissolution proceeding filed pursuant to this chapter.

(b) The revocation shall be effected by filing with the clerk of the court where the proceeding was commenced a notice of revocation in such form and content as shall be prescribed by the Judicial Council.

(c) The revoking party shall send a copy of the notice of revocation to the other party by first-class mail, postage prepaid, at his or her last known address.

4553. When six months have expired from the date of the filing of the joint petition for summary dissolution, the court may, upon application of either party, enter the final judgment dissolving the marriage, and such final judgment shall restore them to the status of single persons and permit either to marry after the entry thereof. The clerk shall send a notice of entry of final judgment to each of the parties at his or her last known address.

4554. Entry of the final judgment shall constitute a final adjudication of the rights and obligations of the parties with respect to the status of the marriage and property rights and shall constitute a waiver of their respective rights to spousal support, rights to appeal, rights to request findings of fact and conclusions of law, and rights to move for a new trial.

4555. A final judgment made pursuant to Section 4553 shall not prejudice nor bar the rights of either of the parties to institute an action to set aside such final judgment for fraud, duress, accident, mistake, or other grounds recognized at law or in equity or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

4556. Each superior court shall make available a brochure, the contents and form of which shall be prescribed by the Judicial Council, describing the requirements, nature, and effect of proceedings under this chapter. The brochure shall be printed and distributed by the Judicial Council in both English and Spanish and shall state, in nontechnical language, all the following:

(a) It is in the best interests of the parties to consult an attorney regarding the dissolution of their marriage, and that the services of an attorney may be obtained through lawyer referral services, group or prepaid legal services, or legal aid organizations.

(b) The parties should not rely exclusively on this brochure which is not intended as a guide for self-representation in proceedings under this chapter.

(c) A concise summary of the provisions and procedures of this chapter and Sections 4514, 4530, and 4531.

(d) The nature of services of the conciliation court, where available.

(e) That neither party to the marriage can in the future obtain spousal support from the other.

(f) A statement in boldface type to the effect that upon entry of

the final judgment, the rights and obligations of the parties to the marriage with respect to the marriage, including property and spousal support rights, will be permanently adjudicated without right of appeal, except that neither party shall be barred from instituting an action to set aside such final judgment for fraud, duress, accident, mistake, or other grounds at law or in equity, or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

(g) That the parties to the marriage retain the status of married persons and cannot remarry until final judgment dissolving the marriage is entered.

(h) Such other matters as the Judicial Council may deem appropriate.

SEC. 3. The sum of twenty-four thousand dollars ($24,000) is hereby appropriated from the General Fund to the Judicial Council for the purpose of developing the legal forms and brochure required pursuant to Chapter 5 (commencing with Section 4550) of Title 3 of Part 5 of Division 4 of the Civil Code, as enacted by Section 2 of this act.

CHAPTER 509

An act to amend Section 2941 of the Civil Code, relating to mortgages and deeds of trust.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 2941 of the Civil Code is amended to read:

2941. (a) When any mortgage has been satisfied, the mortgagee or the assignee of the mortgagee shall execute a certificate of the discharge thereof, as provided in Section 2939, and shall record or cause to be recorded, except as provided in subdivision (c), such certificate in the office of the county recorder in which the mortgage is recorded. The mortgagee shall then deliver, upon the written request of the mortgagor or the mortgagor's heirs, successors, or assignees, as the case may be, the original note and mortgage to the person making such request.

(b) When the obligation secured by any deed of trust has been satisfied, the beneficiary or the assignee of the beneficiary shall execute and deliver to the trustee the original note and deed of trust and a request for a full reconveyance to be executed by the trustee. The trustee shall execute and shall record or cause to be recorded, except as provided in subdivision (c), such full reconveyance in the office of the county recorder in which the deed of trust is recorded. The trustee shall then deliver, upon the written request of the trustor or the trustor's heirs, successors, or assignees, as the case may be, the

original note and deed of trust to the person making such request.

(c) The mortgagee or trustee shall not record or cause to be recorded such certificate of discharge or full reconveyance where (1) the mortgagee or trustee has received written instructions to the contrary from the mortgagor or trustor, or the owner of the land, as the case may be, or from the owner of the obligation secured by the deed of trust, his agent or escrow, or (2) such certificate of discharge or full reconveyance is to be delivered to the mortgagor or trustor, or the owner of the land, as the case may be, through an escrow to which such mortgagor, trustor, or owner is a party.

(d) The violation by a beneficiary, trustee, or mortgagee, or assignee thereof, of any provision of this section shall make the beneficiary, trustee, or mortgagee, or assignee thereof, liable to the trustor or mortgagor, or the owner of the land, as the case may be, or such person's grantees or heirs, for all damages which any of such persons may sustain by reason of such violation, and shall also forfeit to any of such persons the sum of three hundred dollars ($300).

(e) The trustee, beneficiary or mortgagee may charge a fee to the trustor or mortgagor, or the owner of the land, as the case may be, for all services rendered in connection with the preparation, execution or recordation of a full reconveyance, or request for a full reconveyance, or certificate of discharge of a mortgage. Such fee may be made payable in advance of the performance of any services required by this section.

CHAPTER 510

An act relating to the submission of constitutional amendments to the people at the 1978 General Election, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Notwithstanding any other provision of the law, if Senate Constitutional Amendment Number 67 is passed by the Legislature prior to August 19, 1978, it shall be placed on the ballot and submitted to the electors at the 1978 General Election.

SEC. 2. Upon the effective date of this act, the author of the constitutional amendment and one member of the opposite house who voted with the majority on the amendment, shall be appointed by the presiding officers of the respective houses to draft the argument for the adoption of the measure. If the constitutional amendment was not adopted unanimously by the house in which it was introduced, one member of that house, who voted against it, shall be appointed by the presiding officer of that house to write an

argument against the measure. If there was no negative vote on the measure in the house in which it was introduced, the presiding officer of that house shall appoint some qualified person to draft an argument against the measure. No argument shall exceed 500 words. All initial arguments shall be filed with the Secretary of State by August 21, 1978.

SEC. 3. In no event shall initial arguments be submitted to the Secretary of State under this act later than the time limitations imposed pursuant to this act. The selection and exchange of arguments shall occur on or before August 22, 1978 and in no event shall rebuttal arguments be submitted to the Secretary of State later than August 23, 1978.

SEC. 4. Notwithstanding Section 10218 of the Elections Code, the constitutional amendment proposed and adopted by the Legislature after June 29, 1978 and before August 19, 1978 shall be numbered and placed on the ballot in the order that it is submitted and received by the Secretary of State.

SEC. 5. Upon the effective date of this act, the Secretary of State shall request the Attorney General to prepare a ballot title for the measure submitted pursuant to this act and shall also request the Legislative Analyst to prepare an analysis of said measure in accordance with Section 88003 of the Government Code. Senate Constitutional Amendment Number 67 shall be designated on the ballot at the General Election by its ballot title.

SEC. 6. Constitutional amendments adopted by the Legislature between June 30, 1978, and August 18, 1978, shall be included in, or as an insert to, the regular state ballot pamphlet prepared for the November 1978 General Election; provided, however, that such ballot pamphlet, including any insert, shall be delivered to the county clerks by the 23rd day prior to the election.

SEC. 7. With respect to any constitutional amendment adopted by the Legislature after June 29, 1978, and before August 19, 1978, which is required to be placed on the ballot and submitted to the voters at the 1978 General Election pursuant to this act or pursuant to any other provision of law, and which is prepared and included in the regular state ballot pamphlet, including any insert, the Secretary of State may distribute all or any portion of such ballot pamphlets, including any inserts, directly to the voters.

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 Senate Constitutional Amendment Number 67 may be submitted to the voters at the November 1978 General Election, it is necessary that this act take effect immediately.

CHAPTER 511

An act making an appropriation for the state park system.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Notwithstanding Section 5098.2 of the Public Resources Code, the sum of three hundred thousand dollars ($300,000) is hereby appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation for the acquisition for the state park system of the Antelope Valley Indian Museum located near Saddleback Butte State Park in the County of Los Angeles.

SEC. 2. The Director of Parks and Recreation, if he finds that it would be feasible and practicable, may provide for the long-term operation and maintenance of the Antelope Valley Indian Museum on a self-sustaining basis pursuant to contract with any natural person, corporation, association, organization, or public agency.

SEC. 3. The acquisition made pursuant to this act 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. 4. No funds appropriated by this act may 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.

CHAPTER 512

An act to amend Section 54902.5 of the Government Code, relating to local governmental boundaries.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 54902.5 of the Government Code is amended to read:

54902.5. Notwithstanding the provisions of Section 6103, the state board shall establish a schedule of fees for filing and processing the statements and maps or plats which are required to be filed with the state board pursuant to Section 54902. 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 city, district, or executive officer of a local agency formation commission, forwarding the statement to the tax or assessment levying authority for filing pursuant to Section 54900, shall accompany the statement with the necessary fee for transmittal to the state board; except that with respect to a newly created city or district, no fee shall be required until such time as the city or district receives its first revenues.

CHAPTER 513

An act to amend Section 1 of Chapter 1515 of the Statutes of 1969, relating to state property.

[Approved by Governor August 21, 1978. Filed with Secretary of State August 21, 1978.]

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

SECTION 1. Section 1 of Chapter 1515 of the Statutes of 1969 is amended to read:

Section 1. The Director of General Services is hereby authorized and directed to quitclaim to the City of Fresno, at no cost to the city, all interests of the state in that portion of land adjacent to the Fresno Air Terminal in Section 20, Township 13 South, Range 21 East, Mount Diablo base and meridian that was formerly owned by the United States of America, given to the State of California for use by Fresno State College, and has been declared surplus, being some 352.5 acres, more or less, upon condition that title to the land remain in a public agency.

SEC. 2. That portion of the property quitclaimed to the City of Fresno and subsequently transferred by the City of Fresno to the City of Clovis shall not be subject to the condition that the land be used for public purposes.

SEC. 3. As a condition to the operation of this bill and to the removal of the condition that the land be used for public purposes, the City of Fresno and the City of Clovis, with respect to the property described in Section 1 of this bill, shall transfer to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove such deposits, and to occupy and use so much of the surface of the land

as may be necessary therefor. The State Lands Commission shall have the sole responsibility for and jurisdiction over the administration, management, and disposal of this mineral grant as provided by Section 6405 of the Public Resources Code.

CHAPTER 514

An act to add Chapter 6 (commencing with Section 35900) to Division 15 of the Vehicle Code, relating to the Multistate Highway Transportation Agreement.

[Approved by Governor August 22, 1978. Filed with Secretary of State August 22, 1978.]

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

SECTION 1. Chapter 6 (commencing with Section 35900) is added to Division 15 of the Vehicle Code, to read:

CHAPTER 6. MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT

35900. The Multistate Highway Transportation Agreement is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially set forth in Section 35901.

35901. The provisions of this multistate agreement are as follows:

MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT

ARTICLE I. FINDINGS AND PURPOSES

(a) The participating jurisdictions find that:

(1) Highway transportation is the major mode for movement of people and goods in the western states.

(2) Uniform application of state vehicle regulations and laws may result in a reduction of pollution, congestion, fuel consumption, and related transportation costs, which are necessary to permit increased productivity.

(b) The purposes of this agreement are to:

(1) Adhere to the principle that each participating jurisdiction has the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system.

(2) Establish a system that would promote more efficient operation of vehicles traveling between two or more participating jurisdictions regarding necessary state government vehicle laws and regulations.

(3) Encourage uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives set forth in this agreement when the objectives are compatible with the safe operation of the vehicles on each member's highway system, and when these size and weight standards do not have an adverse impact on state and local highway, street, or road maintenance programs.

(4) Encourage uniformity, insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards.

(5) Provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in paragraph (a) of this article.

ARTICLE II. DEFINITIONS

(a) As used in this agreement:

(1) "Designated representative" means a legislator or other person authorized to represent the jurisdiction.

(2) "Jurisdiction" means a state of the United States or the District of Columbia.

(3) "Vehicle" means any vehicle as defined by statute to be subject to size and weight standards which operates in two or more participating jurisdictions.

ARTICLE III. GENERAL PROVISIONS

(a) Participation in this agreement is open to jurisdictions which subscribe to the findings, purposes, and objectives of this agreement and which will seek legislation necessary to accomplish these objectives.

(b) The participating jurisdictions, working through their designated representatives, shall cooperate and assist each other in achieving the desired goals of this agreement pursuant to appropriate statutory authority.

(c) Article headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or paragraph hereof.

(d) This agreement shall not authorize the operation of a vehicle in any participating jurisdiction contrary to the laws or rules or regulations thereof.

(e) The final decision regarding interpretation of questions at issue relating to this agreement shall be reached by unanimous joint action of the participating jurisdictions, acting through their designated representatives. Results of all such actions shall be in writing.

(f) This agreement may be amended by unanimous joint action of the participating jurisdictions, acting through their designated representatives. Any amendment shall be in writing and shall

become a part of the agreement.

(g) Any jurisdiction entering this agreement shall provide each of the other participating jurisdictions with a list of any of its restrictions, conditions, or limitations on the general terms of this agreement.

(h) Any jurisdiction may become a member of this agreement by signing and accepting the terms of the agreement.

ARTICLE IV. COOPERATING COMMITTEE

(a) Pursuant to paragraph (b) of Article III, the designated representatives of the participating jurisdictions shall constitute a committee which shall have the power to:

(1) Collect, correlate, analyze, and evaluate information resulting or derivable from research and testing activities in relation to vehicle size, vehicle weight-related matters, highway safety, and highway and bridge maintenance problems caused by heavy vehicles.

(2) Recommend and encourage the undertaking of research and testing in any aspect of vehicle size and weight or related matter when, in their collective judgment, appropriate or sufficient research or testing has not been undertaken.

(3) Recommend changes in law or policy, including the compatibility of laws and uniformity of rules or regulations which would assist effective governmental action or coordination in the field of vehicle size and weight-related matters.

(b) Each participating jurisdiction shall be entitled to one vote only. No action of the committee shall be binding unless a majority of the participating jurisdictions are in favor thereof.

(c) The committee shall meet at least once annually and shall elect, from among its members, a chairman, a vice chairman, and a secretary.

(d) The committee shall submit annually to the legislature of each participating jurisdiction, not later than November 1, a report setting forth the work of the committee during the preceding year and including recommendations developed by the committee. The committee may submit such additional reports as it deems appropriate or desirable. Copies of all such reports shall be made available to the Transportation Committee of the Western Conference, Council of State Governments, and to the Western Association of State Highway and Transportation Officials.

ARTICLE V. OBJECTIVES OF THE PARTICIPATING JURISDICTIONS

(a) The participating jurisdictions hereby declare that:

(1) It is the objective of the participating jurisdictions to obtain safer, more efficient and more economical transportation by motor vehicles among the participating jurisdictions.

(2) It is the further objective of the participating jurisdictions that

in the event the operation of a vehicle, or combination of vehicles pursuant to the objectives stated in paragraph (1) of subdivision (b) would result in withholding or forfeiture of federal-aid funds, the operation of such vehicle, or combination of vehicles shall be authorized under special permit authority by each participating jurisdiction which can legally issue such permits.

(3) The authority of any participating jurisdiction to issue special permits for the movement of any vehicle, or combinations of vehicles, having dimensions or weights, or both, in excess of the maximum statutory limits in each participating jurisdiction shall not be affected.

(4) It is the further objective of the participating jurisdictions to facilitate and expedite the operation of any vehicle, or combination of vehicles, among the participating jurisdictions. To that end, the participating jurisdictions hereby agree, through their designated representatives, to meet and cooperate in the consideration of vehicle size and weight-related matters including, but not limited to, the development of uniform enforcement procedures; additional vehicle size and weight standards; operational standards; agreements or compacts to facilitate regional application and administration of vehicle size and weight standards; uniform permit procedures; uniform application forms; rules and regulations for the operation of vehicles, including equipment requirements, driver qualifications, and operating practices; traffic safety and highway maintenance; and such other matters as may be pertinent.

(5) In recognition of the desire for a degree of national uniformity of size and weight regulations, it is the further objective of the participating jurisdictions to encourage the development of broad, uniform size and weight standards on a national basis under this agreement that are compatible with national standards.

ARTICLE VI. ENTRY INTO FORCE AND WITHDRAWAL

(a) This agreement shall enter into force in the State of California for a period of three years when enacted into law by two or more jurisdictions. Thereafter, this agreement shall become effective as to any other jurisdiction upon its enactment thereof, except as otherwise provided in paragraph (g) of Article III. Not later than July 1, 1981, the Secretary of Business and Transportation shall recommend to the Legislature whether or not this agreement should be continued based on its usefulness to the State of California.

(b) Any participating jurisdiction may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until 30 days after the designated representative of the withdrawing jurisdiction has given notice in writing of the withdrawal to all the other participating jurisdictions.

ARTICLE VII. CONSTRUCTION AND SEVERABILITY

(a) This agreement shall be liberally construed so as to effectuate the purposes thereof.

(b) The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any participating jurisdiction 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 agreement shall not be affected thereby. If this agreement shall be held contrary to the constitution of any jurisdiction participating herein, the agreement shall remain in full force and effect as to the remaining participating jurisdictions and in full force and effect as to the jurisdictions affected as to all severable matters.

ARTICLE VIII. FILING OF DOCUMENTS

(a) A copy of this agreement, its amendments, and rules and regulations promulgated thereunder and interpretations thereof, shall be filed in the highway department of each participating jurisdiction and shall be made available for review by interested parties.

35905. The designated representative to the cooperating committee established by Article IV of the Multistate Highway Transportation Agreement shall be jointly appointed by, and serve at the pleasure of, the Chairmen of the Assembly and the Senate Transportation Committees. The designated representative may be represented by an alternate jointly appointed by the two chairmen.

35906. All statutes prescribing weight and size standards and all statutes relating to special permits shall continue to be in full force and effect until amended or repealed.

35907. Any state agency, as defined in Section 11000 of the Government Code, may cooperate with and assist the cooperating committee within the scope of its authority as set forth in Article IV of Section 35901. Funding for such cooperation or assistance, if necessary, shall come from the State Highway Account.

35908. A copy of the report submitted to the Legislature pursuant to paragraph (d) of Article IV of the Multistate Highway Transportation Agreement shall also be submitted to the Department of Transportation. Any and all notices required by the cooperating committee bylaws shall be given to the designated representative or his alternate.

CHAPTER 515

An act to amend Section 437.13 of the Health and Safety Code, relating to health.

[Approved by Governor August 22, 1978. Filed with Secretary of State August 22, 1978.]

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

SECTION 1. Section 437.13 of the Health and Safety Code is amended to read:

437.13. (a) Notwithstanding any other provision of law, no proposal for the remodeling of any health facility licensed on or before September 9, 1976, or for the construction of any new health facility to replace in whole or in part any existing health facility licensed on or before September 9, 1976, or for the replacement of the equipment or services of any health facility licensed on or before September 9, 1976, shall be required to be approved as provided in this part, unless the proposal involves one of the following:

(1) An increase in bed capacity.

(2) The conversion of a facility in one category of licensure to a different category of licensure.

(3) The conversion of any of a health facility's existing beds from one classification set forth in Section 1250.1 to another classification, except as authorized by Section 437.10.

(4) A significant expansion or addition of diagnostic or therapeutic capability, or a significant expansion or addition of services.

(5) Location of the health facility on a site which is not the same site or immediately adjacent thereto.

(6) The remodeling or replacement of any special service set forth in subdivision (a), (b), (c), (d), (e), (f), (g), or (h) of Section 1255, which exceeds a cost of one hundred fifty thousand dollars ($150,000), unless a certificate of need has been obtained for such remodeling or replacement of such special service.

(7) The replacement of any diagnostic or therapeutic equipment at a cost in excess of one hundred fifty thousand dollars ($150,000), when such equipment has been in operation for five years or less. For the purposes of this paragraph, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the state department, shall be considered together.

(8) The replacement or remodeling of patient rooms and nursing stations costing in excess of two hundred fifty thousand dollars ($250,000), unless such replacement or remodeling meets the requirements of subdivision (b).

(9) Except as provided in subdivision (c), a project for the remodeling or replacement of all or any portion of a health facility or equipment thereof which is not limited to a project specified in

paragraph (6), (7), or (8) of this subdivision and the cost of which exceeds the lesser of one million five hundred thousand dollars ($1,500,000) or four thousand dollars ($4,000) multiplied by the health facility's total authorized bed capacity, excluding the cost of projects covered in paragraph (6), (7), or (8).

(b) Any project specified in paragraph (8) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if any of the following conditions are met:

(1) Where the health facility has over the previous three years experienced an average licensed bed occupancy rate of over 80 percent, the licensed bed capacity shall not be required to be reduced by a remodeling or replacement proposal.

(2) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 76 nor more than 80 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 95 percent of the licensed bed capacity prior to the project.

(3) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 71 nor more than 75 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the licensed bed capacity prior to the project.

(4) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 66 nor more than 70 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 85 percent of the licensed bed capacity prior to the project.

(5) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not more than 65 percent, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 80 percent of the licensed bed capacity prior to the project.

(6) Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the facility's average bed occupancy rate over the previous three years was in excess of 65 percent, the licensed bed capacity shall not be required to be reduced. Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the health facility's average bed occupancy rate is below 65 percent over the previous three years, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 90

percent of the facility's licensed bed capacity prior to the project.

(c) Any project specified in paragraph (9) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if the applicant demonstrates to the satisfaction of the director that the project is necessary in order for the facility to be able to continue the provision of service in a manner consistent with current standards of practice, and that the project meets all of the following criteria:

(1) The proposed space in square feet for the project, upon completion, is not more than 5 percent net above the statewide average number of square feet per licensed bed in services or departments of comparably sized facilities approved in California during the previous two years pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5 unless the applicant demonstrates to the satisfaction of the director special requirements for additional space.

(2) Financial resources exist to successfully complete and implement the project, and the financing will not result in an undesirable increase in patient charges in the facility.

(3) The project promotes fiscal economies through measures that assure efficiency and effectiveness, which may include the operation of joint cooperative or shared facility health resources and maximum utilization of facilities.

(4) Less costly alternatives for the project were evaluated by the applicant and found not to be as desirable as the proposed project.

(5) The cost of equipment and construction is within reasonable limits and range for the area, type of project, and projected operational cost.

(6) The size of the project is based on historical or reasonably projected utilization of the service, equipment, or facility.

The state department shall adopt regulations further defining the specifics of the criteria set forth in this subdivision.

(d) In reviewing a proposal for a certificate of exemption for remodeling a health facility or for the replacement of equipment or services of a health facility which is not eligible for a certificate of exemption because of paragraph (8) of subdivision (a), or for remodeling or replacing a basic emergency center or its equipment which is not eligible for a certificate of exemption because of paragraph (6) of subdivision (a), when the health facility has been purchased for the purpose of providing services to existing members and reasonably anticipated members of a comprehensive group practice prepayment health care service plan, the medical services, of which, are provided by at least 200 physicians in group practice, who provide at least 75 percent of the medical services they deliver to members of the comprehensive group health care service plan, and which is licensed under the Knox-Keene Health Care Service Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2) and qualified as a health maintenance organization under Title

XIII of the federal Public Health Service Act (42 U.S.C., Sec. 300e et seq.), the state department, after a public hearing thereon, shall grant a certificate of exemption if the applicant: (1) demonstrates that the project is necessary to meet the needs of such members; (2) meets the criteria in paragraphs (1) to (6), inclusive, of subdivision (c); (3) does not violate paragraphs (1) to (7), inclusive, of subdivision (a), except that remodeling or replacing a basic emergency center shall not be considered a violation of paragraph (6) of subdivision (a) for such purpose; (4) submits a letter of intent to undertake the proposed project within two years of the date of purchase of the facility; and (5) agrees not to sell, lease, or rent the facility for five years without the permission of the state department.

(e) For all purposes, including those specified in Section 14105.5 of the Welfare and Institutions Code and in Section 1268 of this code, it shall be deemed that a certificate of need has been issued for any proposal issued a certificate of exemption under this section.

Health facilities desiring an exemption under this section shall, pursuant to regulations of the state department, submit an application and plans to the state department. The state department shall inform the applicant in writing of its determination as to eligibility of the applicant's proposal for such exemption within 60 calendar days of receipt of the application. If the state department determines that the proposal is not eligible for such exemption, the applicant may reapply for a certificate of need as provided in Section 438 or seek judicial review.

This section shall remain in effect only until July 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1986, deletes or extends such date.

CHAPTER 516

An act to amend Sections 1 and 2 of Chapter 1672 of the Statutes of 1967, relating to recreation and fish and wildlife enhancement associated with state water projects.

[Approved by Governor August 22, 1978. Filed with Secretary of State August 22, 1978.]

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

SECTION 1. Section 1 of Chapter 1672 of the Statutes of 1967 is amended to read:

Section 1. The Legislature, pursuant to Section 11912 of the Water Code, approves the allocation by the Department of Water Resources of fifty-one million one hundred eight thousand six hundred six dollars ($51,108,606) to recreation and fish and wildlife enhancement as nonreimbursable joint costs of the State Water Project, as reported in Bulletin No. 132-78, Appendix D, "Costs of

Recreation and Fish and Wildlife Enhancement," dated April 1978, in accordance with the following schedule:

Schedule:	
(a) For Frenchman Dam and Lake	$2,543,087
(b) For Antelope Dam and Lake	$5,085,228
(c) For Grizzly Valley Dam and Lake Davis	$4,929,961
(d) California Aqueduct, Delta to Dos Amigos Pumping Plant	$9,858,363
(e) Oroville Division	$11,554,857
(f) For Del Valle Dam and Lake Del Valle	$17,137,110
Total of schedule	$51,108,606

SEC. 2. Section 2 of Chapter 1672 of the Statutes of 1967 is amended to read:

Sec. 2. The Legislature, pursuant to Section 11912 of the Water Code, approves the expenditures of fifteen million seven hundred eighty-four thousand nine hundred eighty dollars ($15,784,980) for separate specific recreation land costs of the State Water Project as revised by the Department of Water Resources in said Bulletin No. 132-78, Appendix D, in association with the following facilities and in accordance with the following schedule:

Schedule:	
(a) Frenchman Dam and Lake	$53,460
(b) Grizzly Valley Dam and Lake Davis	$224,461
(c) Oroville Division	$2,905,526
(d) California Aqueduct	$2,081,922
(e) San Luis Dam and Reservoir and O'Neill Forebay	$631,347
(f) Del Valle Dam and Lake Del Valle	$779,717
(g) Castaic Dam and Lake	$3,144,715
(h) Cedar Springs Dam and Silverwood Lake	$915,783
(i) Perris Dam and Lake Perris	$5,038,119
(j) Abbey Bridge Dam and Reservoir	$9,930
Total of schedule	$15,784,980

CHAPTER 517

An act to amend Section 4440 of the Welfare and Institutions Code, relating to the Pacific State Hospital.

[Approved by Governor August 23, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 4440 of the Welfare and Institutions Code is amended to read:

4440. The department has jurisdiction over the following institutions:

Agnews State Hospital.
Camarillo State Hospital.
Fairview State Hospital.
Napa State Hospital.
Frank D. Lanterman State Hospital.
Patton State Hospital.
Porterville State Hospital.
Sonoma State Hospital.
Stockton State Hospital.

SEC. 2. For purposes of implementing the amendments to Section 4440 of the Welfare and Institutions Code made by this act in an economic manner, existing forms, letters, and other printed matter containing references to Pacific State Hospital may be used until such time as they are depleted.

CHAPTER 518

An act to amend Section 11778 of, and to add Section 11778.5 to, the Government Code, relating to the Health and Welfare Agency, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 11778 of the Government Code is amended to read:

11778. There is in the Health and Welfare Agency, at the agency level, the Health and Welfare Agency Data Center. The Health and Welfare Agency Data Center shall be directed by a data center director who shall be appointed by the Secretary of the Health and Welfare Agency, subject to civil service. The position of data center director shall be designated a career executive assignment. The data center director shall be responsible for the efficient and effective management and operation of the center.

SEC. 2. Section 11778.5 is added to the Government Code, to read:

11778.5. There is hereby created in the State Treasury, the

Health and Welfare Agency Data Center Revolving Fund, hereafter referred to as "HWDC Fund". The monies in such fund shall be utilized for the payment of expenses incurred by the Health and Welfare Agency Data Center upon appropriation by the Legislature.

The HWDC Fund shall consist of the following:

(a) All moneys received into the State Treasury from any source whatever in payment of electronic data processing services rendered by the Health and Welfare Agency Data Center or for other services rendered by the center.

(b) All moneys from outstanding balances of prior fiscal years which have not reverted to the General Fund.

(c) The balance remaining in the HWDC Fund at the end of any fiscal year whether the moneys received are from an appropriation or from payments for services rendered.

If the balance remaining in the HWDC Fund at the end of any fiscal year exceeds two million dollars ($2,000,000), the excess amount shall be used to repay the General Fund for the appropriation made by the act enacting this section. After such repayment, the excess amount shall be used to reduce the billing rates for services rendered during the following fiscal year.

SEC. 3. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Health and Welfare Agency Data Center without regard to fiscal years for purposes of providing data processing services as provided in Sections 11778 and 11778.5 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:

In order for the Health and Welfare Agency Data Center to receive and disburse funds for data processing services commencing July 1, 1978, this act must take effect immediately.

CHAPTER 519

An act to amend Section 39015 of the Education Code, relating to school sites.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978]

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

SECTION 1. Section 39015 of the Education Code is amended to read:

39015. In the event a school district heretofore or hereafter acquires a site for school purposes, as determined by the State Allocation Board, and does not use the site within (1) five years of

the date of acquisition for the kindergarten, if any, and any of grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district, or, (2) seven years of the date of acquisition for any of grades 7 to 12, inclusive, maintained by a high school district or a unified school district, or if a school district has a site at any grade level which has previously been used but has not been used for school purposes within the preceding five years, the school district shall be subject to nonuse payments, unless the State Allocation Board from time to time makes a determination that the school district will utilize the property for the purpose for which it was intended within a reasonable period of time, in a specific amount for each additional year in which the site is retained and not used by the district beyond the foregoing specified periods, except the first such additional year shall be deemed to end not earlier than April 30, 1973.

The payments required shall be computed by the executive officer of the State Allocation Board and certified to the State Controller, and payments shall be equal to one one-hundredth ($1/100$) of the original purchase price of the site modified by either a factor reflecting the change in assessed value of all lands in the state from the date of purchase of the site to the current date or such other factor which in the determination of the State Allocation Board is applicable to the site under consideration.

Whenever the State Allocation Board has determined that a school district in good faith has, within the preceding year, advertised the school site for sale to the highest bidder pursuant to the provisions of Article 4 (commencing with Section 39360) of Chapter 3 of Part 24 of this division and has received no bids which in the judgment of the State Allocation Board reflect the fair market value of the property, the executive officer of the State Allocation Board shall not compute any nonuse payments for such site for a period of one year beyond such a determination.

CHAPTER 520

An act to amend Sections 206, 207, 211, 212, 213, 217, 457, 458, 459, and 460 of the Fish and Game Code, relating to mammals.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 206 of the Fish and Game Code is amended to read:

206. In addition to any other regular or special meetings, the commission shall hold eight meetings, one in August, one in October, one in December, one in March, one in April, and one in June of each

year, one meeting to consider the proposals relating to fish, amphibia, and reptiles presented at the October meeting, and one meeting to consider the proposals relating to mammals presented at the March meeting.

The October and December meetings shall be devoted to determining what, if any, regulations should be made pursuant to this article in relation to fish, amphibia, and reptiles and to the making of such regulations.

The March and April meetings shall be devoted to determining what, if any, regulations should be made pursuant to this article in relation to mammals and to the making of such regulations.

The June and August meetings shall be devoted to determining what, if any, regulations should be made pursuant to this article in relation to resident game birds.

After the October meeting the commission shall hold a fishing proposals meeting which shall be devoted to open public discussion of, and presentation of objections to, the proposals presented to the commission in October and after considering such discussion and objections, the commission, at the meeting, shall announce the regulations which it proposes to make relating to fish, amphibia, and reptiles.

After the March meeting the commission shall hold a hunting proposals meeting which shall be devoted to open public discussion of, and presentation of objections to, the proposals presented to the commission in March and, after considering such discussion and objections, the commission, at the meeting, shall announce its determinations and the regulations which it intends to make relating to mammals.

The commission shall give notice of the time and place of the meetings by publishing a notice thereof in one newspaper of general circulation printed and published in each of the counties of the state, or if no newspaper of general circulation is printed and published in a county, then in a newspaper of general circulation circulated in such county, in at least one issue of such newspaper published not less than 15 days prior to the meeting; and shall also publish notice of such meetings in any publication issued by the department after determining the time and place of such meetings and prior to the dates thereof. All meetings required by this section shall be open to the public.

SEC. 2. Section 207 of the Fish and Game Code is amended to read:

207. The October, December and March meetings shall be in the first 10 days of the month. The April meeting shall be in the last 10 days of the month. The June meeting shall be held on the last Friday of the month. The commission shall determine and announce the date set for the respective meetings at least 60 days in advance of the meeting.

In even-numbered years the October and March meetings shall be held in Sacramento, the fishing proposals meetings in Redding or in

Red Bluff, as selected by the commission, the hunting proposals meeting in San Diego, and the December and April meetings in Los Angeles. In odd-numbered years the October and March meetings shall be in Los Angeles, the December and April meetings in Sacramento, the fishing proposals meeting in San Diego and the hunting proposals meeting in Redding or in Red Bluff, as selected by the commission.

All Sacramento and Los Angeles meetings specified in this section shall be held in state buildings.

SEC. 3. Section 211 of the Fish and Game Code is amended to read:

211. At the meeting in March the commission shall receive recommendations from its own officers and employees, from the department and other public agencies, from organizations of private citizens, and from any interested persons as to what, if any, regulations should be made relating to mammals, or any species or subspecies thereof.

The minutes of the March meeting relating to the legislative district of each Member of the Legislature shall be mailed by first-class mail to that Member of the Legislature.

SEC. 4. Section 212 of the Fish and Game Code is amended to read:

212. At the hunting proposals meeting, the commission shall publicly announce the regulations it proposes to make relating to mammals. At the April meeting the commission may hear and consider any objections to its proposed regulations.

SEC. 5. Section 213 of the Fish and Game Code is amended to read:

213. At, or within 10 days after, the meeting in the last 10 days of April the commission may make such regulations in relation to mammals, or any species or subspecies thereof, as it deems necessary to preserve, properly utilize, or maintain the best relative number of each such species or subspecies.

SEC. 6. Section 217 of the Fish and Game Code is amended to read:

217. Within 45 days after the meeting in the first 10 days of December of each year, the commission shall publish and distribute in booklet form such regulations as shall be adopted at such meeting. Within 45 days after the meeting in the last 10 days of April of each year, the commission shall publish and distribute in booklet form such regulations as shall be adopted at such meeting. Within 45 days after the meeting in August of each year, the commission shall publish and distribute in booklet form such regulations as shall be adopted at such meeting.

Copies of all such publications shall be mailed to each county clerk, district attorney and judge of a municipal court or justice court throughout the state.

SEC. 7. Section 457 of the Fish and Game Code is amended to read:

457. The department shall determine prior to January 15 of each year its proposed recommendations to the commission, including its recommendations as to whether any antlerless deer hunts should be ordered. The recommendations of the department shall include the number, if any, of antlerless deer that should be taken in units, whether the permits should be either-sex permits, the proposed dates for each such taking, and the number of permits proposed for each unit.

SEC. 8. Section 458 of the Fish and Game Code is amended to read:

458. The department not later than January 15 shall notify, by certified mail, the board of supervisors of each county affected of the details of its recommendations affecting such county.

The board of supervisors of any affected county may elect to hold a public hearing on the proposed recommendations of the department. Any such hearing shall be held prior to March 1. The director or his representative shall attend the hearing.

The board of supervisors of any county to which this section is applicable may, by resolution adopted, elect not to exercise the rights conferred by this section. Upon receipt of any such resolution, the department shall not thereafter be required pursuant to this section to notify the board of supervisors of such county of its recommendations affecting such county.

This section applies only to the boards of supervisors of, and to those districts or parts of districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

SEC. 9. Section 459 of the Fish and Game Code is amended to read:

459. The board of supervisors of any county which has held a public hearing pursuant to Section 458 may, not later than March 1, by resolution adopted, object to the proposed recommendations of the department or may by resolution adopted, determine that the proposed recommendation should be modified, setting forth the necessary modifications.

A resolution objecting to, or setting forth modifications of, the proposed recommendations shall be based upon the testimony and information presented at the hearing, or presented to the board of supervisors at its meeting to consider such resolution.

The department shall not recommend to the commission, and the commission shall not authorize, the taking of antlerless deer in a county if it has received from the board of supervisors of that county a resolution objecting to such taking. In the event a board of supervisors of a county has submitted a resolution determining that the department's proposed recommendations on the taking of antlerless deer should be modified for that county, the department

shall either so modify its recommendations and the commission shall so modify its orders, or the department shall not recommend and the commission shall not authorize the taking of antlerless deer in such county.

This section applies only to the board of supervisors of, and to those districts or parts of districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

SEC. 10. Section 460 of the Fish and Game Code is amended to read:

460. Prior to the March meeting of the commission as required in Section 207, the department shall recommend to the commission those deer herd units to be placed under a general deer hunting season. At the same time the department shall recommend to the commission subject to the provisions of Sections 458 and 459 whether any antlerless deer should be taken and in what deer herd units these are to be taken. If in the judgment of the department there are deer herd units in which hunting pressure would adversely affect the deer herd, or impair the hunting experience, or endanger the public safety, the department shall also recommend to the commission those deer herd units where hunter numbers should be restricted and which should be removed from the general deer hunting season designation. The department shall inform the commission of the condition of each deer herd unit. Upon receipt of the recommendations and information required in this section, the commission shall make such material known to the public and its determinations regarding proposed regulations. The recommendations of the department shall, in accordance with the provisions of Sections 458 and 459, include the number, if any, of antlerless deer that should be taken in units, whether the permits should be either-sex permits, the proposed dates for each such taking, and the number of permits proposed for each unit. At the same time the department shall recommend the establishment of any hunter-restricted quota units, if needed, and the number of the quota and manner in which such quota permits should be issued.

CHAPTER 521

An act to amend Section 11010 of the Business and Professions Code, and to amend Section 66434 of, and to add Section 66434.5 to, the Government Code, relating to subdivision of land.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 11010 of the Business and Professions Code is amended to read:

11010. Prior to the time when subdivided lands are to be offered for sale or lease, the owner, his agent or subdivider shall notify the commissioner in writing of his intention to sell or lease such offering.

The notice of intention shall contain the following information:

(a) The name and address of the owner.

(b) The name and address of the subdivider.

(c) The legal description and area of lands.

(d) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

(e) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

(f) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities.

(g) A true statement of the use or uses for which the proposed subdivision will be offered.

(h) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

(i) A true statement of the maximum depth of fill used, or proposed to be used on each lot, and a true statement on the soil conditions in the subdivision supported by engineering reports showing the soil has been, or will be, prepared in accordance with the recommendations of a registered civil engineer.

(j) A true statement of the amount of indebtedness which is a lien upon the subdivision or any part thereof, and which was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(k) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district, within the boundaries of which, the subdivision, or any part thereof, is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to such subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(*l*) A statement approved or ratified by the governing board or boards of the public school district or districts serving the subdivision indicating the location and distance from the farthest lot in the tract to the nearest high school, junior high school and elementary school; whether schoolbus transportation is available to each of the

aforementioned schools and, if so, at whose expense and under what conditions; and such other information concerning the availability of schools which the public school district or districts believes will be of importance to prospective purchasers of dwelling units within the subdivision.

(m) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision and, where applicable, the noise and safety zone boundaries and associated land use regulations adopted by the airport land use commission of the county or counties for the area surrounding each such airport.

(n) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(o) Such other information as the owner, his agent, or subdivider, may desire to present.

SEC. 2. Section 66434 of the Government Code is amended to read:

66434. The final map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall be based upon a survey 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, affidavits and acknowledgments 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 by 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) All survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon shall be shown, including bearings and distances of straight lines, and radii and arc length or chord bearings and length for all curves, and such information as may be necessary to determine the location of the centers of curves and ties to existing monuments used to establish the subdivision boundaries.

(d) Each parcel shall be numbered and each block may be numbered or lettered. Each street shall be named.

(e) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated. The map shall show the definite location of the subdivision, and particularly its relation to surrounding surveys.

(f) When a soils report, a geologic report, or soils and geologic

reports have been prepared specifically for the subdivision, such fact shall be noted on the final map, together with the date of such report or reports, the name of the engineer making the soils report and geologist making the geologic report and the location where the reports are on file pursuant to Section 66434.5.

(g) It shall also satisfy any additional survey and map requirements of local ordinances.

SEC. 3. Section 66434.5 is added to the Government Code, to read:

66434.5. The soils report, geologic report, or soils and geologic reports specified in subdivision (f) of Section 66434 shall be kept on file for public inspection by the city or county having jurisdiction.

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 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 522

An act to amend Sections 35145 and 72121 of, and to add Sections 35145.5 and 72121.5 to, the Education Code, relating to public schools.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 35145 of the Education Code is amended to read:

35145. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 35146 of, and subdivision (c) of Section 48914 of, this code, all meetings of the governing board of any school district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at such meetings and shall be subject to the following requirements:

(a) Minutes must be taken at all such meetings, recording all actions taken by the governing board. Such minutes shall constitute public records, and shall be available to the public.

(b) An agenda shall be posted at a place where members of the public, including district employees, may view the same at least 48 hours prior to the time of regular meetings and at least 24 hours prior to special meetings. This agenda must include, but is not limited to, items on which the governing board may take action at that meeting.

SEC. 2. Section 35145.5 is added to the Education Code, to read:

35145.5. It is the intent of the Legislature that members of the public be able to place matters directly related to school district

business on the agenda of school district governing board meetings, and that members of the public be able to address the board regarding items on the agenda as such items are taken up. Governing boards shall adopt reasonable regulations to insure that this intent is carried out. Such regulations may specify reasonable procedures to insure the proper functioning of governing board meetings.

This subdivision shall not preclude the taking of testimony at regularly scheduled meetings on matters not on the agenda which any member of the public may wish to bring before the board, provided that no action is taken by the board on such matters at the same meeting at which such testimony is taken. Nothing in this paragraph shall be deemed to limit further discussion on the same subject matter at a subsequent meeting.

SEC. 3. Section 72121 of the Education Code is amended to read:

72121. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 72122 of, and subdivision (c) of Section 76041 of, this code, all meetings of the governing board of any community college district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at such meetings and shall be subject to the following requirements:

(a) Minutes must be taken at all such meetings, recording all actions taken by the governing board. Such minutes shall constitute public records, and shall be available to the public.

(b) An agenda shall be posted at a place where members of the public, including district employees, may view the same at least 48 hours prior to the time of regular meetings and at least 24 hours prior to special meetings. This agenda must include, but is not limited to, items on which the governing board may take action at that meeting.

SEC. 4. Section 72121.5 is added to the Education Code, to read:

72121.5. It is the intent of the Legislature that members of the public be able to place matters directly related to community college district business on the agenda of community college district governing board meetings, and that members of the public be able to address the board regarding items on the agenda as such items are taken up. Governing boards shall adopt reasonable regulations to insure that this intent is carried out. Such regulations may specify reasonable procedures to insure the proper functioning of governing board meetings.

This subdivision shall not preclude the taking of testimony at regularly scheduled meetings on matters not on the agenda which any member of the public may wish to bring before the board, provided that no action is taken by the board on such matters at the same meeting at which such testimony is taken. Nothing in this paragraph shall be deemed to limit further discussion on the same subject matter at a subsequent meeting.

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

government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 523

An act to amend Sections 10401 and 10430 of the Government Code, relating to the Commission on Uniform State Laws.

[Approved by Governor August 24, 1978 Filed with Secretary of State August 24, 1978]

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

SECTION 1. Section 10401 of the Government Code is amended to read:

10401. The commission consists of one Member of the Senate, appointed by the Committee on Rules, one Member of the Assembly, appointed by the Speaker, and four additional members, appointed by the Governor. The Legislative Counsel is an ex officio member of the commission.

The Members of the Legislature appointed to the commission shall serve at the pleasure of the appointing power and shall participate in the activities of the commission to the extent that such participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, said Members of the Legislature shall constitute a joint interim investigating committee on the subject of this chapter and as such shall have the powers and duties imposed upon such committees by the Joint Rules of the Senate and Assembly.

SEC. 2. Section 10430 of the Government Code is amended to read:

10430. The commissioners shall either each attend the meetings of the National Conference of Commissioners on Uniform State Laws, or arrange for the attendance of at least one of their number at such National conference. The attendance of a commissioner at such a meeting shall be deemed an excused or authorized absence from his or her employment.

CHAPTER 524

An act to repeal Section 1000.4 of the Penal Code, relating to drug abuse, and making an appropriation therefor.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 1000.4 of the Penal Code is repealed.

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 the provisions of this act merely continue a program that was established prior to the effective date of Section 2231 and therefore this act does not impose any new duties or costs on local agencies.

CHAPTER 525

An act to add Chapter 8 (commencing with Section 12101) to Division 5 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Chapter 8 (commencing with Section 12101) is added to Division 5 of the Vehicle Code, to read:

CHAPTER 8. PRIVATE PARTY VEHICLE MARKETS

12101. Any transaction which is regulated by this chapter shall not be subject to the provisions of Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code, regulating transactions in identifiable secondhand tangible personal property. No person shall be considered a "secondhand dealer" within the meaning of Section 21661 of the Business and Professions Code because of activities regulated by this chapter.

12102. The following definitions apply with respect to this chapter:

(a) "Private party vehicle market" means any event conducted under any of the following circumstances:

(1) An event at which two or more vehicles are offered or displayed for sale or exchange and a fee is charged for the privilege of offering or displaying the vehicles for sale or exchange.

(2) An event at which a fee is charged to prospective buyers for admission to the area where vehicles are offered or displayed for sale or exchange.

(3) An event, other than one conducted by a person listed in subdivision (a) of Section 286, at which used vehicles are offered or displayed for sale or exchange if such event is held at the same place more than six times in any 12-month period, regardless of the

number of persons offering or displaying vehicles or the absence of fees.

(b) "Private party vehicle market operator" means any person who controls, manages, conducts, or otherwise administers a private party vehicle market.

(c) "Vendor" means any person who exchanges, sells, or offers for sale or exchange any vehicle at a private party vehicle market.

(d) Any event arranged or sponsored, or both, by a dealer licensed pursuant to Division 5 (commencing with Section 11100) shall not be considered a private party vehicle market.

12103. (a) Every private party vehicle market operator shall maintain a record, for not less than one year, of all of the following information:

The name of each vendor selling, exchanging, or offering for sale or exchange, any vehicle at a private party vehicle market, and the vendor's driver's license number, the registration number assigned to the vehicle, the vehicle identification number, and the make, model, and color of the vehicle.

(b) Such information shall be made available, upon request, to any peace officer and to any employee of the department designated by the director.

12104. (a) Every private party vehicle market operator shall supply, to vendors, sufficient forms which are necessary to comply with Section 5900.

(b) Every private party vehicle market operator shall supply, to vendors, all information made available by the department to the general public regarding all existing provisions of law pertaining to requirements for the transfer of vehicle ownership and registration between parties who are not dealers.

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

CHAPTER 526

An act to amend the heading of Chapter 3 (commencing with Section 8330) of Part 3 of Division 9 of, and to add Section 8332 to, the Streets and Highways Code, relating to highways.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. The heading of Chapter 3 (commencing with Section 8330) of Part 3 of Division 9 of the Streets and Highways Code is amended to read:

CHAPTER 3. RESERVATION AND VACATION OF EASEMENTS

SEC. 2. Section 8332 is added to the Streets and Highways Code, to read:

8332. (a) With respect to any easement reserved and excepted from the vacation of any street, the city council may summarily vacate and abandon the easement by the adoption of an ordinance or a resolution.

(b) The ordinance or resolution shall be adopted at a hearing for which notices, at least 30 days prior to the hearing, have been posted conspicuously along the easement proposed to be vacated. The notice shall give the time and place of the hearing and shall be posted not more than 300 feet apart, with a minimum of three notices to be posted.

(c) A certified copy of the ordinance or resolution, as the case may be, shall be recorded in the office of the county recorder of the county within which the city is located. Upon the recordation, the easement shall be extinguished.

(d) This section shall apply only to easements occupied solely by facilities of the city summarily vacating or abandoning the easement.

CHAPTER 527

An act to repeal Section 2 of Chapter 161 of the Statutes of 1977, relating to the Interstate Civil Defense and Disaster Compact, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978]

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

SECTION 1. Section 2 of Chapter 161 of the Statutes of 1977 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 that the provisions of the Interstate Civil Defense and Disaster Compact remain in effect beyond December 30, 1978, it is necessary for this act to take effect immediately.

CHAPTER 528

An act to add Section 647 to the Evidence Code, relating to presumptions.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 647 is added to the Evidence Code, to read:

647. The return of a process server registered pursuant to Chapter 16 (commencing with Section 22350) of Division 8 of the Business and Professions Code upon process or notice establishes a presumption, affecting the burden of producing evidence, of the facts stated in the return.

CHAPTER 529

An act to amend Sections 5014 and 19008 of the Streets and Highways Code, relating to improvement districts.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 5014 of the Streets and Highways Code is amended to read:

5014. "Street" includes avenues, highways, lanes, alleys, crossings, or intersections and courts which have been dedicated and accepted according to law or which have been in common and undisputed use by the public for a period of not less than five years next preceding, or which have been dedicated to a semipublic use by way of a dedication made for the exclusive use and benefit of all properties located within the boundaries of a community services district formed under the provisions of the Community Services District Law (commencing with Section 61000 of the Government Code), or which are privately owned, opened to public traffic, and located within the boundaries of an assessment district established to provide street lighting.

SEC. 2. Section 19008 of the Streets and Highways Code is amended to read:

19008. "Public highway" or "highway" includes any highway, county highway, state highway, public street, avenue, alley, park, parkway, driveway, or public place, in any county, or unincorporated town or village which is dedicated to the public and generally used for traffic by the public or which is privately owned, opened to public

traffic, and located within the boundaries of a district created under this part.

CHAPTER 530

An act to add Section 7304 to the Health and Safety Code, relating to embalming.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 7304 is added to the Health and Safety Code, to read:

7304. No embalmer shall embalm a dead body without obtaining written or oral permission of a person who has the right to control the disposition of the remains pursuant to Section 7100, except that prior authorization is not required if embalming is necessary in order to comply with applicable laws or regulations, or is necessary to avoid irreparable deterioration of the dead body, in which case, a good faith effort shall be made to obtain permission.

CHAPTER 531

An act to amend Section 51032 of the Government Code, relating to the licensing of massage establishments.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 51032 of the Government Code is amended to read:

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, proof that the massage personnel or the owners or operators of a massage business have been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses of this subdivision, 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 or proof that the massage personnel or the owners or operators of the massage business have been convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses of this subdivision.

CHAPTER 532

An act to amend Section 2931 of the Penal Code, relating to prisoners.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978.]

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

SECTION 1. Section 2931 of the Penal Code is amended to read:

2931. (a) In any case in which an inmate was sentenced to the state prison pursuant to Section 1170, or if he committed a felony before July 1, 1977, and he would have been sentenced under Section 1170 if the felony had been committed after July 1, 1977, 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 given to 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.

(4) A change in custodial status.

(b) Total possible good behavior and participation credit shall result in a four-month reduction for each eight months served in prison or in a reduction based on this ratio for any lesser period of time. Three months of this four-month reduction, or a reduction based on this ratio for any lesser period, shall be based upon forebearance 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, sale or unauthorized possession or use of alcoholic beverages or any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code. 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, or a formula based on this ratio for a lesser period, shall be based solely upon participation in work, educational, vocational, therapeutic or other prison activities. 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 for each failure to participate. However, those confined either by choice or due to behavior problems shall be given specified activities commensurate with the custodial status.

CHAPTER 533

An act to add Sections 8923, 9423, 9733, and 9843 to the Elections Code, relating to elections.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 24, 1978]

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

SECTION 1. Section 8923 is added to the Elections Code, to read:

8923. All meetings of the committee shall be held in quarters which shall be accessible to the physically handicapped.

SEC. 2. Section 9423 is added to the Elections Code, to read:

9423. All meetings of the committee shall be held in quarters which shall be accessible to the physically handicapped.

SEC. 3. Section 9733 is added to the Elections Code, to read:

9733. All meetings of the committee shall be held in quarters which shall be accessible to the physically handicapped.

SEC. 4. Section 9843 is added to the Elections Code, to read:

9843. All meetings of the committee shall be held in quarters which shall be accessible to the physically handicapped.

CHAPTER 534

An act to amend Sections 8683, 8686.2, and 8686.3 of the Government Code, relating to disaster assistance.

[Approved by Governor August 24, 1978 Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Section 8683 of the Government Code is amended to read:

8683. Whenever funds are available for purposes of this chapter, the director shall make allocations therefrom in such amounts as he determines to be necessary to state agencies for expenditure for making the investigations, estimates, and reports required by this chapter. Such allocations may also be made to provide for preliminary investigations, estimates, reports, training of state agency personnel, or to reimburse the state agencies for expenditures made in anticipation of actual applications by local agencies. Allocations may also be made for the purpose of making such investigations, estimates, and reports as may be necessary to enable local agencies to obtain federal aid for natural disaster relief purposes, regardless of whether or not such aid is available for projects that are eligible for state allocations pursuant to this chapter. The director may make allocations to any state agency or office from such funds, or other funds available therefor, in such amounts as are necessary to administer the provisions of this chapter.

SEC. 2. Section 8686.2 of the Government Code is amended to read:

8686.2. When the United States or any agency thereof is to provide disaster relief funds for any portion of the cost of a project, the amount so provided shall be deducted from the cost of the project in determining the amount to be allocated by the state and the amount to be contributed by the local agency under Section 8686. It shall not be required that the disaster relief funds to be provided from federal sources shall be paid into the State Treasury, but the director shall, if state funds are available, authorize the work to be commenced when the director has received assurance, adequate in his opinion, that the federal disaster relief matching funds will be made available for expenditure for the work, or for payment to the state for performance thereof.

It is the intent of the Legislature that the amendments to this section made by Assembly Bill No. 2338 of the 1977–78 Regular Session of the Legislature be operative commencing with the effective date of the Natural Disaster Assistance Act, May 31, 1974.

SEC. 3. Section 8686.3 of the Government Code is amended to read:

8686.3. Local agencies shall undertake to recover maximum federal participation in funding projects. State contributions for such projects as determined by Section 8686 will be reduced by an amount equal to the amount local agencies would have recovered from federal disaster relief sources if they had applied for such funding and had programmed their work to conform to federal requirements. When a local agency applies for federal disaster relief funds, the director shall inform the agency of available state funds.

CHAPTER 535

An act to amend Section 74708 of the Government Code, relating to courts.

[Approved by Governor August 24, 1978 Filed with Secretary of State August 25, 1978.]

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

SECTION 1. 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 five judges who may together appoint:
(1) One court administrative officer.
(2) One traffic referee.
(3) One clerk.
(4) One court reporter.
(5) Two municipal court secretaries.
(b) There shall be one clerk, who may appoint:
(1) One administrative assistant II.
(2) One accountant I.
(3) Two assistant clerks.
(4) Eleven deputy clerks IV.
(5) Fifteen deputy clerks III.
(6) Thirteen deputy clerks II.
(7) One account clerk II.
(8) One deputy jury commissioner.
(9) One clerk-typist II.

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 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 536

An act to amend Section 16750 of the Business and Professions Code, relating to restraints of trade.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Section 16750 of the Business and Professions Code is amended to read:

16750. (a) Any person who is injured in his business or property by reason of anything forbidden or declared unlawful by this chapter, may sue therefor in any court having jurisdiction in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover three times the damages sustained by him, and shall be awarded a reasonable attorneys' fee together with the costs of the suit.

Such action may be brought by any person who is injured in his business or property by reason of anything forbidden or declared unlawful by this chapter, regardless of whether such injured person dealt directly or indirectly with the defendant.

The amendments to this section adopted at the 1959 Regular Session of the Legislature do not apply to any action commenced prior to September 18, 1959.

(b) The state and any of its political subdivisions and public agencies shall be deemed a person within the meaning of this section.

(c) The Attorney General may bring an action on behalf of the state or of any of its political subdivisions or public agencies to recover the damages provided for by this section, or by any comparable provision of federal law, provided that the Attorney General shall notify in writing any political subdivision or public agency of his intention to bring any such action on its behalf, and at any time within 30 days thereafter, such political subdivision or public agency may, by formal resolution of its governing body or as otherwise specifically provided by applicable law, withdraw the authority of the Attorney General to bring the intended action. In any action brought pursuant to this section on behalf of any political subdivision or public agency of the state, the state shall retain for deposit in the Attorney General antitrust account within the General Fund, out of the proceeds, if any, resulting from such action, an

amount equal to the expense incurred by the Attorney General in the investigation and prosecution of such action or an amount equal to 10 percent of the total recovery obtained by the Attorney General, whichever is greater.

(d) In any antitrust action brought on behalf of the state in which the Attorney General is the class representative of political subdivisions, public agencies, or citizens of the state who have been affected by the matters set forth in the complaint, the state shall retain for deposit in the Attorney General antitrust account within the General Fund, the proceeds, if any, of any attorneys' fees awarded by the court in which such case is located, to the Attorney General, resulting from such class representation.

(e) In any action brought by the Attorney General pursuant to either state or federal antitrust laws for the recovery of damages by the state or any of its political subdivisions or public agencies, in addition to his other powers and authority, the Attorney General may enter into contracts relating to the investigation and the prosecution of such action with any other party plaintiff who has brought a similar action for the recovery of damages and with whom the Attorney General finds it advantageous to act jointly, or to share common expenses or to cooperate in any manner relative to such action. In any such action, notwithstanding the provisions of Section 12520 of the Government Code, the Attorney General may undertake, among other things, either to render legal services as special counsel to, or to obtain the legal services of special counsel from any department or agency of the United States, of this state or any other state or any department or agency thereof, any county, city, public corporation or public district of this state or of any other state, that has brought or intends to bring a similar action for the recovery of damages, or their duly authorized legal representatives in such action. The Attorney General may also enter into any agreement authorized by Chapter 5 (commencing with Section 6500), Division 7, Title 1 of the Government Code with any governmental entity enumerated in this subdivision, notwithstanding any provision to the contrary contained in Section 6500 of the Government Code. Every contract or agreement entered into pursuant to this subdivision (e) shall be approved by the Department of General Services.

(f) The amounts paid into the Attorney General antitrust account within the General Fund pursuant to subdivisions (c), (d) and (e) arising from the same action or companion actions shall not cumulatively exceed the greater of ten percent (10%) of the total recovery in all actions resulting from the Attorney General's representation or an amount equal to the expenses incurred by the Attorney General in the investigation and prosecution of such actions. Any excess shall be paid into the General Fund.

(g) The district attorney of any county may prosecute any action on behalf of such county or any city or public agency or political subdivision located wholly within such county which the Attorney

General is authorized to bring pursuant to subdivision (c) of this section, whenever it appears that the activities giving rise to such prosecution or the effects of such activities occur primarily within such county. The district attorney shall file with the Attorney General at least 30 days prior to the filing of any such action a copy of the proposed complaint together with a confidential memorandum and report explaining the facts giving rise to the proposed prosecution and supporting the filing of the new complaint. Prior to entering into any stipulated or consent judgment or other settlement of any such action, the district attorney shall file with the Attorney General at least 30 days prior to the execution thereof a copy of the proposed settlement together with a memorandum of explanation of the settlement. The Attorney General may waive any time requirements provided in this subdivision. In any investigation or action undertaken or brought by a district attorney pursuant to this section, if the Attorney General deems it necessary and in the public interest, the Attorney General may take full charge of any such investigation or prosecution, and the Attorney General shall have all the powers granted by Section 12550 of the Government Code in respect thereto.

(h) In any action prosecuted pursuant to the provisions of subdivision (g) a district attorney may exercise all of the powers conferred on the Attorney General by subdivision (e) provided that every contract or agreement entered into pursuant to this subdivision by a district attorney shall first be approved by the governing authority of the agency in his county.

(i) In any action brought pursuant to subdivision (g) a district attorney may represent any political subdivision located within his county directly, in which case he shall notify in writing such political subdivision of his intention to bring any such action on its behalf, and at any time within 30 days thereafter, such political subdivision may, by formal resolution of its governing body or as otherwise specifically provided by applicable law, withdraw the authority of the district attorney to bring the intended action. In any action in which a district attorney directly represents any political subdivision located within his county, the district attorney shall retain out of the proceeds, if any, resulting from such action, an amount equal to the expense incurred by the district attorney in the investigation and prosecution of such action or an amount equal to 10 percent of the total recovery obtained by the district attorney, whichever is greater. In any action brought pursuant to subdivision (g) in which the county, through the district attorney, is the class representative of political subdivisions located within such county, the district attorney shall retain the proceeds, if any, of any attorneys' fees awarded by the court in which such action is pending to the district attorney, resulting from such class representation. All proceeds retained by a district attorney pursuant to this subdivision shall be deposited in the appropriate account as provided by law.

(j) Nothing in this section shall be construed to authorize any

district attorney to exercise the powers conferred upon the Attorney General by an act of Congress of September 30, 1976, (P.L. 94-905; 90 Stat. 1983) also known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976, except at the direction of the Attorney General.

SEC. 2. The amendment of this section at the 1978 portion of the 1977–78 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

CHAPTER 537

An act to amend Sections 87200, 87202, and 87302 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Section 87200 of the Government Code is amended to read:

87200. This article is applicable to elected state officers, judges of courts of record, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of the board of supervisors, district attorneys and chief administrative officers of counties, mayors, city managers, chief administrative officers and members of city councils of cities, members of each of the six regional coastal commissions, and to candidates for any of these offices at any election.

SEC. 2. Section 87202 of the Government Code is amended to read:

87202. (a) Every person who is elected to an office specified in Section 87200 shall, within 30 days after assuming such office, file a statement disclosing his investments and his interests in real property. Every person who is appointed or nominated to an office specified in Section 87200 shall file such a statement not more than 10 days after assuming office, provided, however, that a person appointed or nominated to such an office who is subject to confirmation by the Commission on Judicial Appointments or the State Senate shall file such a statement no more than 10 days after the appointment or nomination.

Such statement shall not be required if the person has filed, within 60 days prior to his assuming office, a statement for the same jurisdiction pursuant to Section 87201 or 87203.

(b) Every elected state officer who assumes office during the month of December or January shall file a statement pursuant to

Section 87203 instead of this section except that the period covered for such a statement shall begin on the date the person filed his declaration of candidacy. This subdivision shall become effective on January 1, 1978.

SEC. 3. Section 87302 of the Government Code is amended to read:

87302. Each Conflict of Interest Code shall contain the following provisions:

(a) Specific enumeration of the positions within the agency which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest;

(b) Requirements that each designated employee file annual statements disclosing reportable investments, interests in real property and income. The Conflict of Interest Code shall set forth for each position or category of positions enumerated under subsection (a) of this section the specific types of investments, interests in real property and income which are reportable and the manner of reporting each item. An investment, interest in real property or income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his position. The manner of reporting reportable items shall be substantially equivalent to the requirements of Article 2 of this chapter. The first statement filed under this section by a designated employee shall disclose any reportable investments and interests in real property. Statements shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code. Thereafter, new civil service designated employees shall file statements within 30 days after assuming office. All other new designated employees shall file statements not more than 10 days after assuming office or, if subject to State Senate confirmation, 10 days after being appointed or nominated. The provisions of the Conflict of Interest Code adopted under this subsection shall not be applicable to any designated employee who is covered by Article 2 of this chapter.

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making or participating in the making of any decision. Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. No designated employee shall be required to disqualify himself with respect to any matter which could not legally be acted upon or decided without his participation.

SEC. 4. 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.

SEC. 5. The amendments made by this act shall not be construed to deprive any person or public agency of any substantial right which would have existed or hereafter exists had such amendments not been made.

CHAPTER 538

An act to amend Section 24807 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Section 24807 of the Education Code is amended to read:

24807. The balance of the assets delivered to the district pursuant to subdivision (c) of Section 24806, after the transfers, deposits and payments required by such section, or after establishment of reserves from which such deposits and payments shall be made, shall be allocated and distributed as follows:

(a) Sixty-five percent of such balance shall be distributed to the undistributed reserve of the general fund of the district to be reduced to cash as necessary and appropriated in any year by majority vote of the governing board. Until the balance of the assets has been reduced to cash, the governing board may invest and reinvest the assets in securities legal for the investment of funds of the State Teachers' Retirement System when in the judgment of the governing board any sale and reinvestment is advisable. Ten percent of this amount shall be used only for maintenance operation.

(b) Twenty percent of such balance shall be transferred to a special account in the undistributed reserve of the district's general fund to be reduced to cash as necessary in order to be used only for the purpose of reducing the tax collected pursuant to Section 23401 in order to provide the contributions required by Section 23400 to the Teacher's Retirement Fund. In the event that the special account is not wholly distributed for the purpose of making such contribution, the balance in the special account shall be released to the undistributed reserve. Until the balance of the assets has been reduced to cash, the governing board may invest and reinvest the assets in securities legal for the investment of funds of the State Teachers' Retirement System when in the judgment of the governing board any sale and reinvestment is advisable.

(c) Fifteen percent of such balance shall be held intact by the district in an annuity reserve fund from which shall be provided a supplementary annuity at time of retirement under any California

public retirement system to or on behalf of those members of the local district retirement system who were on the active roll or members on the retired roll of such local district retirement system as of June 30, 1972, and those members added to the active and retired rolls between June 30, 1972, and any later date of discontinuance, and those probationary or permanently certificated employees of the district holding memberships in California public retirement systems other than the local district retirement system who are making contributions to such systems on June 30, 1972, or on any later date of discontinuance. The supplement annuity may be paid in lump sum or in installments for the life of the person eligible, or his beneficiary, after his retirement.

No such participant in the annuity reserve fund shall have vested rights to the benefits of this annuity reserve fund until he has continued in active service for a period of five years from the date of discontinuance of the local district retirement system, except participants who have separated from service by reason of retirement, including deferred retirement, or death.

An account shall be opened in the name of each person eligible to participate in the benefits of the annuity reserve fund to which shall be credited his share of the annuity reserve fund. The individual participant's share of this fund shall bear the same ratio to the total of this fund as his annuity savings contributions, including interest earned, to the retirement system, to which he is making annuity contributions as of June 30, 1972, or any later date of discontinuance, or, if a retired member, the date of retirement prior to June 30, 1972, bears to the total annuity savings contributions, including interest earned, of all such participants in the retirement systems to which they are making contributions at the date of discontinuance, including total contributions to the local district retirement system previously made by living members on the retired roll. The fund shall include principal and interest in the account of any participant forfeited because said participant separated from service, except by reason of retirement, including deferred retirement, or death, within five years from June 30, 1972, or other date of discontinuance. Such forfeiture shall be treated as earnings of the fund.

As of June 30 each year, and on such other dates as the annuity reserve fund board may determine, the earnings of the fund less administrative expense shall be credited to the accounts of the remaining participants in the annuity reserve fund on the ratio that the participant's individual account balance bears to the total balance of the annuity reserve fund. The cost of administering the fund shall be charged against the assets of the fund, as approved by the governing board of the school district.

When a participant separates from service, the earnings since the preceding date on which the earnings of the fund, less administrative expenses, were credited to the accounts of the participants, shall remain in the fund. Any member whose accumulated contributions to the local retirement system exceed the amount required by law

to be deposited by the member in the State Teachers' Retirement System's Annuity Fund upon discontinuance of the local system may deposit to his credit all or part of such excess amount in the annuity reserve fund.

The governing board of the school district which maintained the discontinued local district retirement system shall establish an annuity reserve fund board of not more than seven members, the majority of whom shall be composed of certificated employees who are participants in the annuity reserve fund. The certificated employees on the annuity reserve fund board shall be elected by participants in the annuity reserve fund. The annuity reserve fund board shall have the authority to make rules and regulations necessary for the management of the annuity reserve fund in accordance with modern business practice. The local district retirement board shall continue to function as the annuity reserve board pending its establishment.

Annuity reserve fund board shall invest the funds in securities which are legal for the investment of funds of the State Teachers' Retirement System and shall sell the securities and reinvest the proceeds in securities legal for the investment of funds of the State Teachers' Retirement System when in the judgment of the annuity reserve fund board any sale and reinvestment is advisable.

All securities and cash of the annuity reserve fund shall be held in a trust fund in the county treasury. The county treasurer, as one of his official duties, shall be a member ex officio of the annuity reserve fund board established to invest the assets of this fund.

Any funds raised for the support of the local district retirement system and not appropriated to any specific account shall be transferred to the annuity reserve fund. All payments from the district's annuity reserve fund shall be made in the same manner as payments from school district funds. The annuity reserve fund board may, at its discretion, request the district governing board to hold an election among existing annuity reserve fund participants as to whether the board should distribute existing funds in the annuity fund. The annuity reserve fund board may prescribe all rules and regulations regarding such an election and is authorized to distribute such funds if a majority of such members so elect.

CHAPTER 539

An act to amend Section 300 of, and to add Section 300.5 to, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor August 24, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 300 of the Welfare and Institutions Code is amended to read:

300. Any person under the age of 18 years who comes within any of the following descriptions is within the jurdisdiction 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. No parent shall be found to be incapable of exercising proper and effective parental care or control solely because of a physical disability, including, but not limited to, a defect in the visual or auditory functions of his or her body, unless the court finds that the disability prevents the parent from 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.

SEC. 2. Section 300.5 is added to the Welfare and Institutions Code, to read:

300.5. In any case in which a minor is alleged to come within the provisions of Section 300 on the basis that he or she is in need of medical care, the court, in making such finding, shall give consideration to any treatment being provided to the minor by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof.

CHAPTER 540

An act to add Section 23428.26 to the Business and Professions Code, relating to alcoholic beverages, and making an appropriation therefor.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Section 23428.26 is added to the Business and Professions Code, to read:

23428.26. For the purposes of this article, " club" also means any

nonprofit property owners' association having at least 2,500 members. Such an association must have been in existence for at least five years as of October 1, 1975, and must engage in some volunteer action for the community of which it is a part.

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.

CHAPTER 541

An act to amend Section 789.10 of, and to add Section 798.74 to, the Civil Code, relating to mobilehomes.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Section 789.10 of the Civil Code is amended to read:

789.10. The ownership or management of a park, subdivision, cooperative, or condominium for mobilehomes shall not make as a condition or precondition of residency or tenancy that the mobilehome be prohibited from remaining in the mobilehome park in the event of a sale to a third party during the term of the tenant's lease or any renewal or extension thereof; provided, however, that the owner may, in the event of a sale to a third party, in order to upgrade the quality of his mobilehome park, require that any mobilehome less than 10 feet wide or more than 15 years old or 25 years old if manufactured after September 15, 1971, or both, or any mobilehome in a rundown condition or in disrepair be removed from the park. The ownership or management shall use reasonable discretion in determining the condition of the mobilehome and its accessory structures.

Nothing in this section shall be construed to deny the ownership or management the right to require prior approval of a purchaser if the mobilehome will remain located in the mobilehome park or other facility and the selling tenant or his agent shall give notice to the ownership or management of the sale prior to the close of the sale; provided, however, that the approval of a purchaser cannot be withheld if the purchaser as a prospective tenant has the financial ability to pay the rent and charges of the park unless the ownership or management reasonably determines that the prospective tenant will not, based upon prior tenancies, comply with the requirements of the rules and regulations of the mobilehome park. The ownership or management may require that the purchaser as a prospective tenant comply with any rule and regulation of the mobilehome park limiting residence within the park to adults only. If the ownership or

management rejects a purchaser as a prospective tenant, the ownership or management shall inform the tenant (seller) in writing of its reasons for such rejection.

A tenant shall be permitted to advertise the sale or exchange of his mobilehome, or the rental or lease of such mobilehome if rental or lease is not prohibited under terms of an agreement with the ownership or management of a park. Such sign may (1) advertise that the mobilehome is for sale or exchange, or that it is for rental or lease if rental or lease is not prohibited, by the owner or his agent; (2) state the owner's or agent's name, address and telephone number; (3) be of reasonable dimensions but may be at least 12 inches in width and 12 inches in length; and (4) be displayed in the window of the mobilehome.

No rental, lease, or sale agreement shall contain any provision by which the puurchaser or tenant waives his rights under this section, and any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

SEC. 2. Section 798.74 is added to the Civil Code, to read:

798.74. The management may require the right of prior approval of a purchaser of a mobilehome that will remain in the park and the selling tenant or his agent give notice of the sale to the management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he will not comply with the rules and regulations of the park. If the ownership or management rejects a purchaser as a prospective tenant, the ownership or management shall inform the selling tenant in writing of its reasons for such rejection.

SEC. 3. Section 798.74, as added to the Civil Code by Section 2 of this act, shall become operative only if Senate Bill No. 2119 is enacted and adds Section 798.74 to the Civil Code, in which case Section 1 of this act, and Section 798.74 as added to the Civil Code by Senate Bill No. 2119, shall not become operative.

CHAPTER 542

An act to add and repeal Article 4 (commencing with Section 89330) to Chapter 3 of Part 55 of the Education Code, relating to the California State University and Colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1978 Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Article 4 (commencing with Section 89330) is added to Chapter 3 of Part 55 of the Education Code, to read:

Article 4. Program for California Residents 60 Years of Age or Older

89330. The Trustees of the California State University and Colleges may authorize the continuation at two institutions of the California State University and Colleges of a pilot project which allows persons 60 years of age or older to enroll in regular credit courses without requiring the payment of the application for admission fee or regular session registration fees.

89331. The programs established pursuant to this article shall be maintained in accordance with the following standards:

(a) Enrollment shall be limited to qualified persons who are residents, as defined by Section 68017, and are 60 years of age or older on the residence determination date.

(b) Persons enrolling in the program shall be registered last, after regular students have been registered for classes.

(c) No special classes limited to, or designed particularly for, senior citizens shall be established.

89332. Fee waivers authorized pursuant to this article shall not be in place of fee waivers for disadvantaged students.

89333. The Trustees of the California State University and Colleges shall adopt regulations for the effective administration of this article.

89334. The Trustees of the California State University and Colleges shall make a final report after the final year of the pilot project to the Governor, the Legislature, and the California Postsecondary Education Commission on the operation of the pilot project, including, but not limited to, the characteristics of the students participating in the pilot project and a breakdown of the costs incurred.

89335. This article shall remain in effect only until July 1, 1979, and as of that date is repealed.

89336. The program authorized by this article is a continuation of a program authorized by Chapter 444 of the Statutes of 1975, which was repealed by the force of its own terms on July 1, 1978.

SEC. 2. The article added by this act shall be deemed to have taken effect on July 1, 1978.

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:

A critical need exists in this state to solve certain of the problems of older persons. Existing authority for a pilot program by the California State University and Colleges for older persons

terminated July 1, 1978. Immediate statutory authorization is needed to enable the California State University and Colleges to continue programs to meet this need.

CHAPTER 543

An act to add Section 25102.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 24, 1978. Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Section 25102.5 is added to the Vehicle Code, to read:

25102.5. (a) A school bus may be equipped with lamps mounted so as to be visible from the sides of the bus which may be lighted, in addition to other required lights, when, and only when, atmospheric conditions such as fog, rain, snow, smoke, or dust, reduce the visibility of other vehicles to less than 500 feet.

(b) The type and mounting requirements of such lamps shall be established by regulations adopted by the Department of the California Highway Patrol. Such regulations shall be adopted by January 1, 1980.

CHAPTER 544

An act to amend Sections 5.3, 11, 11.5, 12, 14, 15, 17, 21, 25, 26, and 35 of, to add Sections 13.1 and 17.1 to, to repeal Sections 16 and 24 of, and to repeal and add Sections 13 and 27 of, the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), relating to the Santa Barbara County Flood Control and Water Conservation District, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1978 Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Section 5.3 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 5.3. The district shall have, in addition to its other powers, the following powers:

(1) To acquire by purchase, lease, contract, condemnation, gift, devise, or any other means and in any manner whatsoever, all lands and water and water rights from sources outside the district and other property necessary or convenient for the construction, use, supply, maintenance, repair, and improvement of works necessary to secure a water supply for the district or any part thereof; to enter into and do any acts necessary or proper for the performance of any contract with the United States, the State of California, or any state, county, district of any kind, public or private corporation, association, firm, or individual, or any number of them; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch, tunnel, or conduit, whether or not owned, controlled, or constructed by the district; to enter into any contract or agreement with the United States, the State of California, any district or public and private agencies, or any number of them, for the transfer, delivery, use, or sale to the district, or any part of the district, of any water right, or any water pumped, stored, appropriated, or otherwise acquired or secured for the use of the district, or any part thereof, from sources outside of the district, or for the purpose of exchanging water, water rights, or water supply for water, water rights, or water supply to be delivered to the district by the other party pursuant to contract or agreement.

No action in eminent domain to acquire property or interests therein outside the boundaries of the County of Santa Barbara shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution.

(2) To acquire water or water rights within or without the state; to develop, store, and transport water; to provide, sell, and deliver water and water service to the United States, or to any board, department, or agency thereof, or to the State of California, or to any county, city, district, public or private corporation, association, firm, or individual, or any number of them, for any use or purpose.

(3) To join with one or more other public corporations for the purpose of carrying out any of its powers and, for that purpose, to contract with such other public corporation or corporations for the purpose of financing 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, constructions, 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 carry on such operations, and may provide in the powers and methods of procedure for such agency the method by which such agency may contract. Such contract may contain such other and further covenants and agreements as may be necessary and convenient to accomplish the purposes hereof. The term "public corporation," as used in this subdivision, shall be deemed to mean and include the United States, or any public agency thereof, or this, or any other state, or any political district or subdivision thereof.

SEC. 2. Section 11 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 11. The board may establish zones and may institute projects for single zones and joint projects for two or more zones, for the financing, constructing, maintaining, operating, extending, repairing, or otherwise improving any work or improvement of common benefit to such zone or participating zones. For the purpose of acquiring authority to proceed with any such project, the board shall adopt a resolution specifying its intention to undertake such project, together with the engineering estimates of the cost of the project to be borne by the particular zone and, in the case of participating zones, the proportionate cost to be borne by each of the participating zones and fixing a time and place for public hearing of the resolution and which shall refer to a map or maps showing the general location and general construction of the project. Notice of such hearing shall be given for a period of not less than 20 days. If there is a newspaper published in the district and of general circulation in the territory proposed to be formed into a zone, notice shall be given by publication once a week for two consecutive weeks prior to the hearing, the last publication of which must be at least seven days before the hearing. If there is no such newspaper, notice shall be given by posting notice of the hearing for a period of 14 days prior to the hearing in five public places in the territory designated by the board. The notice shall designate a public place in any such zone where a copy of the map of the project may be seen by any interested person.

At the time and place fixed for the hearing, or at any time to which the hearing may be continued, the board shall consider all written and oral objections to the proposed project. Upon the conclusion of the hearing, the board may abandon the proposed project or proceed with the project, unless, prior to the conclusion of the hearing, a written protest against the proposed project signed by a majority in number of the holders of title to real property, or assessable rights therein, or evidence of title thereto, representing one-half or more of the assessed valuation of the real property within such zone or within any of the participating zones for which the project was initiated, is filed with the board, in which event further proceedings relating to such project shall be suspended for not less than six months following the date of the conclusion of the hearing, or the proceeding may be abandoned in the discretion of the board.

At the hearing, or at any time to which it may be adjourned, the board may sustain any or all of the objections filed and change or alter the boundaries of the proposed zone to conform to the needs of the zone and to exclude any land that will not be benefited by the formation of the zone. Any owner of lands adjacent to the zone may, by written application filed with the board at or before the time of the hearing, in the discretion of the board, have such lands included within the proposed zone. Other lands not included in the proposed

zone by the original resolution may not be included in the zone.

In all matters referred to in this section, the last equalized assessment roll of the County of Santa Barbara next preceding the filing of the protest shall be prima facie evidence as to the ownership of real property, the names and number of the persons who are the holders of title or evidence of title, or assessable rights therein, and as to the assessed valuation of real property within the zone or within any of the participating zones for which the project was initiated.

Executors, administrators, special administrators, and guardians may sign the protest provided for in this act on behalf of the estate represented by them. If the property is assessed in the name of such representatives, that fact shall establish the right of such representatives to sign the protest; if assessed in the name of the decedent, minor, or incompetent person, certified copies of the letters or such other evidence as may be satisfactory to the board shall be produced.

Where real property appears to be owned in common or jointly or by a partnership, or where letters of representatives of decedents, minors, or guardians are joint, only one of the owners or representatives or partners may sign the protest for all joint owners or representatives or partners; provided, the party claiming the right to protest for all produces the written consent of his co-owners or representatives or partners so to do, duly acknowledged by the consenting co-owners or representatives or partners in the manner that deeds of real property are required to be acknowledged to entitle such deeds to be recorded in the recorder's office of the county.

Where real property is assessed in the name of a trustee or trustees, such trustee or trustees shall be deemed to be the person entitled to sign the protest, and, if assessed in the name of more than one trustee, the right to sign the protest shall be determined in like manner as above provided with respect to co-owners.

The protest of any public or quasi-public corporation, private corporation, or unincorporated association may be signed by any person authorized by the board of directors or trustees or other managing body thereof, which authorization shall be in writing; and a proxy executed by an officer or officers thereof, attested by its seal and duly acknowledged, shall constitute sufficient evidence of such authority and shall be filed with the board.

The owner of any real property or interest therein, appearing upon the assessment roll, which has been assessed in the wrong name or to unknown owners, or which has passed from the owner appearing as such on the last equalized assessment roll, since the roll was made, shall be entitled to sign the protest represented thereby, either by the production of a proxy from such former owner, or by furnishing evidence of his ownership by a conveyance duly acknowledged showing the title to be vested in the person claiming the right to sign the protest, accompanied by a certificate of a competent searcher of titles, certifying that a search of the official

records of the county, since the date of the conveyance, discloses no conveyance or transfer out from the grantee or transferee named in the conveyance.

Where the real property has been contracted to be sold, the vendee shall be entitled to sign the protest, unless such real property is assessed in the name of the vendor, in which event the vendor shall be entitled to so do.

The board shall likewise be entitled to inquire and take evidence for the purpose of identifying any person claiming the right to sign the protest as being the person shown on the assessment roll or otherwise as entitled thereto. Unless satisfactory evidence is furnished, the right to sign the protest may be denied.

This section shall apply only if a project is to be instituted in conjunction with the creation or establishment of one or more zones within which the project is to be instituted. Projects instituted, or to be instituted, for the common benefit of the district as a whole, or to be instituted within the boundaries of one or more zones previously established in accordance with the provisions of Section 3 or Section 11.1 of this act are not subject to this section.

SEC. 3. Section 11.5 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 11.5. Notwithstanding any other provision of this act, when any project for the benefit of any zone or zones of the district is set forth in the annual budget for the district and the zones thereof and such budget designates the projects and the estimated costs thereof, the public hearing required by law to be held on the budget for the district and the zones thereof, shall constitute the public hearing required by Section 11 of this act. Notice of such public hearing on the budget of the district and the zones thereof shall be published in a newspaper of general circulation in the district in a similar manner and the same number of times as is required by law of counties in giving public notice of hearings on the county budget.

Upon the conclusion of the hearing, the board may abandon the proposed project, or projects, or proceed with the same, unless, prior to the conclusion of the hearing, a written protest against any or all the proposed projects signed by a majority in number of the holders of title to real property, or assessable rights therein, or evidence of title thereto, representing one-half or more of the assessed valuation of the real property within such zone or within any of the participating zones for which the project, or projects, was initiated, to be filed with the board, in which event the project, or projects, shall be deleted from the budget and further proceedings relating to such project, or projects, shall be suspended for not less than six months following the date of the conclusion of the hearing, or the proceeding may be abandoned in the discretion of the board.

SEC. 4. Section 12 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 12. The board shall have power, in any year:

1. To levy ad valorem taxes or assessments upon all property in the district to pay the general administrative costs and expenses of the district, and to carry out any of the objects or purposes of this act of common benefit to the district; provided, however, that the ad valorem tax or assessment shall not exceed four cents ($0.04) on each one hundred dollars ($100) of assessed valuation, exclusive of the amounts necessary for interest and redemption of any bonds voted within the entire district and exclusive of the levy provided for in Section 12.2 of the act; and

2. To levy taxes or assessments in each or any of the zones and participating zones to pay the cost and expenses of carrying out, constructing, maintaining, operating, extending, repairing, or otherwise improving any or all works or improvements established, or to be established, within or on behalf of the respective zones, according to the benefits derived or to be derived by the respective zones, by the following method:

By a levy or assessment upon all taxable property within a zone or participating zone; provided, that the total amount of all taxes and assessments levied on property within any zone for the benefit of the zone shall not exceed twenty cents ($0.20) on each one hundred dollars ($100) of assessed valuation, exclusive of the amounts necessary for interest and redemption of any bonds voted within such zone and exclusive of the districtwide levy provided for in subdivision 1 of this section. It is declared that, for the purposes of any tax or assessment levied under this subdivision, the property so taxed or assessed within a given zone is equally benefited.

In the event of project cooperation with any of the governmental bodies as authorized in subdivision 6 of Section 5 of this act, and requiring the making of a contract with any such governmental body for the purposes set forth in that subdivision 6, by the terms of which work is to be performed by any such governmental body in any specified zone or participating zones, for the particular benefit thereof, and by the proposed contract the district is to pay to such governmental body, a sum of money in consideration or subvention for the performance of the work by such governmental body, the board may, after proceedings in the manner prescribed in Section 11 of this act, levy and collect a special tax or assessment upon the property in such zone or participating zones to raise funds to enable the district to make such payment, in addition to other taxes or assessments herein otherwise provided for.

The taxes or assessments shall be levied and collected together with, and not separately from taxes for county purposes, and the revenues derived from the district taxes or assessments shall be paid into the county treasury to the credit of the district, or the respective zones thereof, and the board shall have the power to control and order the expenditure thereof for such purposes; provided, however, that no revenues, or portions thereof, derived in any zone from the taxes or assessments levied under subdivision 2 of this section shall

be expended for constructing, maintaining, operating, extending, repairing, or otherwise improving any works or improvements located in any other zone, except in the case of joint projects, or for projects authorized or established outside such zone, or zones, but for the benefit thereof. In cases of projects joint to two or more zones, such zones shall become, and shall be referred to as, participating zones.

SEC. 5. Section 13 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is repealed.

SEC. 6. Section 13 is added to the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), to read:

Sec. 13. Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work or improvement for the common benefit of the district as a whole, it may, by resolution, call a special election in the district to submit to the qualified electors of the district the question of whether or not bonds shall be issued in the amount determined in the resolution and for the purpose or purposes stated therein. The bonds and the interest thereon, to the extent the income and revenues of the district are inadequate therefor, shall be paid from revenue derived from annual taxes levied as provided in this act.

The total amount of bonds issued under this section shall not exceed 8 percent of the taxable property of the district as shown by the last equalized assessment roll of the County of Santa Barbara.

The resolution calling the election shall state the maximum rate of interest to be paid on the bonds, which shall not exceed 8 percent per annum, shall fix the date on which the election shall be held and the form and content of the ballot to be used, and shall designate the precincts, polling places, and election officers, consisting of one inspector, one judge, and one clerk for each precinct, to conduct the election.

In all particulars not recited in the resolution, the election shall be held as nearly as practicable in conformity with the general election laws of the state.

Notice of the holding of the election shall be given by publishing, pursuant to Section 6066 of the Government Code, the resolution calling the election. No other notice of the election need be given.

No irregularities or informalities in conducting the bond election shall invalidate it, if the election has otherwise been fairly conducted.

Except as provided in Section 12944.5 of the Water Code, if at the election two-thirds of the votes cast on the proposition of incurring such bonded indebtedness are in favor thereof, bonds in an amount not exceeding the amount stated in the proposition may be issued and sold as provided in this act.

SEC. 7. Section 13.1 is added to the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), to read:

Sec. 13.1. Whenever the board determines that a bonded indebtedness should be incurred to pay the cost of any work or improvement in any zone or zones, the board may, by resolution, call a special bond election in the zone or participating zones to submit to the qualified electors of the zone or participating zones the question of whether or not bonds shall be issued in the amount determined in the resolution and for the purpose or purposes stated therein. The bonds and the interest thereon shall be paid from revenue derived from annual taxes levied as provided in this act.

The total amount of bonds issued to pay the cost of any work or improvement in any zone or zones shall not exceed 8 percent of the taxable property of such zone or zones as shown by the last equalized assessment roll of the County of Santa Barbara.

The resolution calling the election shall state the maximum rate of interest to be paid on the bonds, which shall not exceed 8 percent per annum, shall fix the date on which the election shall be held and the form and content of the ballot to be used, and shall designate the precincts, polling places, and election officers, consisting of one inspector, one judge, and one clerk for each precinct, to conduct the election.

In all particulars not recited in the resolution, the election shall be held as nearly as practicable in conformity with the general election laws of the state.

Notice of the holding of the election shall be given by publishing, pursuant to Section 6066 of the Government Code, the resolution calling the election in at least one newspaper published in each zone and participating zone. If there is no such newspaper, the resolution shall be posted in three public places in such zone for at least two weeks prior to the date of the election. No other notice of the election need be given.

No irregularities or informalities in conducting the bond election shall invalidate it, if the election has otherwise been fairly conducted.

Except as provided in Section 12944.5 of the Water Code, if at the election two-thirds of the votes cast in the zone on the proposition of incurring a bonded indebtedness are in favor thereof, bonds for the zone for the amount stated in the proposition shall be issued and sold as provided in this act and, where the incurring of bonded indebtedness by participating zones is to be determined at the election, no bonds for any of the participating zones shall be issued or sold unless two-thirds of the votes cast on the proposition in each of the participating zones are in favor of incurring the bonded indebtedness to be undertaken by each of the zones.

SEC. 8. Section 14 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 14. The board shall, subject to the provisions of this act, prescribe by resolution the form of the bonds, which, in the case of bonds issued pursuant to Section 13.1 of this act, shall include a designation of the zone or participating zones affected, and of the

interest coupons attached thereto. The bonds shall be payable on a day and date, and at a place to be fixed by the board, and designated in such bonds, together with the interest on all sums unpaid on such date until the whole of the indebtedness shall have been paid.

The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of any other series.

The bonds shall be issued in such denomination as the board may determine, and shall be payable on the days and at the place or places fixed in the bonds, and with interest at the rate specified in such bonds, which rate shall not be in excess of 8 per cent per annum, and the bonds shall be numbered consecutively and shall be signed by the chairman of the board, and countersigned by the auditor of the district, and the seal of the district shall be affixed thereto by the clerk of the board. Either or both such signatures may be printed, engraved, or lithographed. The interest coupons of the bonds shall be numbered consecutively and signed by the auditor by his printed, engraved, or lithographed signature. In case any such officers whose signatures or countersignatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds to the purchaser, such bonds and coupons, and signatures or countersignatures, shall nevertheless be valid and sufficient for all purposes as if such officers had remained in office until the delivery of the bonds.

SEC. 9. Section 15 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 15. The board may issue and sell the bonds authorized as provided, at public or private sale, at not less than 95 percent of their par value, and the proceeds of the sale of such bonds shall be placed in the Treasury of the County of Santa Barbara to the credit of the district and, in the case of bonds issued pursuant to Section 13.1 of this act, of the respective participating zones, for the uses and purposes for which the bonds were authorized; and the proper record of such transactions shall be placed upon the books of the county treasurer, and the respective funds shall be applied exclusively to the purposes and objects mentioned in the resolution calling for the special bond election, subject to the provisions in this act. Payments from the funds shall be made upon demands prepared, presented, allowed, and audited in the same manner as demands upon the funds of the County of Santa Barbara.

SEC. 10. Section 16 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is repealed.

SEC. 11. Section 17 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 17. If the income and revenues of the district are inadequate,

the board shall levy a tax each year sufficient to pay the interest and such portion of the principal of the bonds due or to become due before the time the proceeds from the next general tax levy are available. Such taxes shall be levied and collected in the district or, in the case of bonds issued pursuant to Section 13.1 of this act, in the respective zones of issuance together with and not separately from taxes for county purposes, and when collected shall be paid into the Treasury of the County of Santa Barbara to the credit of the district and, in the case of bonds issued pursuant to Section 13.1 of this act, of the zone of issuance, and, so long as any of the bonds are outstanding, be used for the payment of the principal and interest on the bonds and for no other purpose. The principal and interest on the bonds shall be paid by the County Treasurer of Santa Barbara County in the manner provided by law for the payment of principal and interest on bonds of that county.

SEC. 12. Section 17.1 is added to the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), to read:

Sec. 17.1. The district may borrow money in anticipation of the sale of, but not in excess of the principal amount of, authorized bonds of the district which have not yet been sold and delivered and, for that purpose, may issue and sell negotiable bond anticipation notes and may refund such notes from time to time. The maximum maturity of any such notes, as originally issued or as refunded, shall not exceed five years from the date of the original notes. The notes shall be sold in such manner as the board may determine. The notes, and the resolution authorizing the issuance of the notes, may contain any provision, condition, or limitation which a bond, or any resolution authorizing the issuance of bonds, may contain.

The interest on bond anticipation notes shall be payable at the time or times provided in the notes and may be represented by interest coupons attached to the notes and shall be payable from the same funds from which the interest on bonds of the district are payable. The principal of such notes may be paid from any moneys of the district available for such purpose. If such notes, or any portion thereof, have not been previously paid, they shall be paid from the proceeds of the next sale of bonds in anticipation of which the notes were issued.

Notwithstanding any other provision of law, the resolution authorizing the issuance of bond anticipation notes may provide that, if for any reason bonds of the district are not sold in time to provide funds to pay any unpaid note and if other funds of the district are not available for such payment, taxes shall be levied for such payment in the manner provided in Section 17 of this act for the payment of bonds in such amount each year for such period of years as may be set forth in the resolution.

SEC. 13. Section 21 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 21. The bonds of the district issued pursuant to this act shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the state school funds. Whenever any money or funds may by law, now or hereafter enacted, be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the State of California, such money or funds may be invested in the bonds of the district issued in accordance with the provisions of this act. Whenever bonds of cities, cities and counties, counties, school districts, or municipalities, may by any law, now or hereafter enacted, be used as security for the performance of any act, such bonds of the district may be so used.

This section of this act is intended to be, and shall be considered, the latest enactment with respect to the matters herein contained and any and all acts or parts of acts in conflict with this section are hereby repealed.

SEC. 14. Section 24 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is repealed.

SEC. 15. Section 25 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 25. Whenever bonds have been authorized and issued pursuant to this act, and the board by resolution determines that additional bonds should be issued for carrying out the work of flood control or for any of the purposes of this act, the board may again proceed as provided in this act and submit to the qualified voters of the district, or of the zone or participating zone, the question of issuing additional bonds in the same manner and with like procedure as hereinbefore provided. All the provisions of this act for the issuing and sale of bonds, and for the expenditure of the proceeds thereof, shall be deemed to apply to such issue of additional bonds.

SEC. 16. Section 26 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec. 26. If a proposition for issuing bonds submitted at any election under this act fails to receive the requisite number of votes of the qualified electors voting at such election to incur the indebtedness for the purpose specified, the district shall not, for six months after such election, hold another election for incurring indebtedness and issuing bonds under the terms of this act for the same objects and purposes.

SEC. 17. Section 27 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is repealed.

SEC. 18. Section 27 is added to the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955), to read:

Sec. 27. The board may authorize the issuance and sale of

refunding bonds in the manner prescribed in, and subject to the limitations of, Article 9 (commencing with Section 53550), Chapter 3, Part 1, Division 2, Title 5 of the Government Code.

SEC. 19. Section 35 of the Santa Barbara County Flood Control and Water Conservation District Act (Chapter 1057 of the Statutes of 1955) is amended to read:

Sec 35. Notwithstanding any provisions of this act, in the event the proceeds from the sale of bonds are invested temporarily in United States bonds, notes, or certificates of indebtedness, or in other legal investments, pending the expenditure of the funds for the purpose or purposes for which the indebtedness was incurred, any revenue or interest received or accruing therefrom may be used to pay the principal and interest on the bonds as they become due.

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:

The Santa Barbara County Flood Control and Water Conservation District has entered into a contract with the state to provide a water supply for Santa Barbara County, and desires to call a special districtwide election on November 7, 1978, to authorize bonds for the purpose of constructing the necessary facilities to distribute that water throughout the county. In order that the necessary funds be available as soon as possible to finance such construction, it is necessary that this act take effect immediately.

CHAPTER 545

An act to amend Section 14872 of, and to repeal Section 11558.5 of, the Government Code, relating to the State Printer.

[Approved by Governor August 24, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 11558.5 of the Government Code is repealed.

SEC. 2. Section 14872 of the Government Code is amended to read:

14872. There is in the Department of General Services a State Printer, who shall be appointed by the Governor, upon recommendation of the director, and shall serve at the pleasure of the director. His salary shall be fixed by the director in accordance with law. Such officer shall have such duties as may be assigned to him by, and shall be responsible to, the director for the performance of those duties. Nothing herein contained shall be construed as rendering inapplicable to the State Printer any conflict of interest

statutes.

The State Printer shall not engage in a managing capacity in any private business or enterprise.

CHAPTER 546

An act to add Section 12640.025 to the Insurance Code, relating to mortgage guaranty insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 12640.025 is added to the Insurance Code, to read:

12640.025. Notwithstanding the other loan or security requirements or definitions under subdivision (b) of Section 12640.02, a mortgage guaranty insurer shall be permitted to insure any type of loan which a bank, savings and loan association, mortgage banker, credit union, or an insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make, or would be authorized to make disregarding any requirement applicable to such an institution that the amount of the loan not exceed a certain percentage of the value of the real estate.

A loan insured by a mortgage guaranty insurer shall not exceed 95 percent of the fair market value of the real estate. However, if the loan is secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate in conjunction with a pledge or lien on personal property in the form of cash, or equivalent, or is a loan of a type authorized by Section 1237 or 7153.9 of the Financial Code, the loan insured shall not exceed 100 percent of the fair market value of the real estate.

Nothing herein contained shall be deemed to permit mortgage guaranty insurance on a loan secured by a mortgage, deed of trust, or other instrument unless it is (a) a first lien or charge, and (b) the improvement is on real estate and consists of a residential building or buildings designed for occupancy by not more than four families.

The Commissioner may adopt, pursuant to the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules and regulations as may be necessary to limit the amount of mortgage guaranty insurance in force on loans of the type authorized by Section 1237 or 7153.9 of the Financial Code. Such rules and regulations, if adopted, shall apply to any insurer authorized to write and writing mortgage guaranty insurance in this state and shall be

predicated on the total volume of such insurance written anywhere. Full compliance with such rules and regulations shall be a condition for the renewal of the insurer's certificate of authority.

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:

Existing law permits the Savings and Loan Commissioner to prescribe rules and regulations which permit savings and loan associations to make loans and advances of credit on the security of residential real property upon the execution of mortgage payment instruments which are not otherwise authorized. The instruments approved by regulation cannot be implemented without additional legislation. To permit the public to take immediate advantage of this type of loan with mortgage insurance, it is therefore necessary that this act take effect immediately.

CHAPTER 547

An act to add Sections 49409 and 76409 to the Education Code, relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 24, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 49409 is added to the Education Code, to read:

49409. Notwithstanding any provision of any law, no physician and surgeon who in good faith and without compensation renders voluntary emergency medical assistance to a participant in a school athletic event or contest at the site thereof, or during transportation to a health care facility, for an injury suffered in the course of the event or contest, shall be liable for any civil damages as a result of any acts or omissions by the physician and surgeon in rendering the emergency medical care. The immunity granted by this paragraph shall not apply in the event of an act or omission constituting gross negligence.

SEC. 2. Section 76409 is added to the Education Code, to read:

76409. Notwithstanding any provision of any law, no physician and surgeon who in good faith and without compensation renders voluntary emergency medical assistance to a participant in a community college athletic event or contest at the site thereof, or during transportation to a health care facility, for an injury suffered in the course of the event or contest, shall be liable for any civil damages as a result of any acts or omissions by the physician and

surgeon in rendering the emergency medical care. The immunity granted by this paragraph shall not apply in the event of an act or omission constituting gross negligence.

SEC. 3. It is the intent and purpose of the Legislature, in enacting Sections 49409 and 76409 of the Education Code, to facilitate the volunteer efforts of licensed physicians acting as athletic team physicians for public school and community college districts of this state.

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:

Medical malpractice actions against licensed doctors acting as team physicians are increasing. Such actions deter the voluntary participation of doctors in sporting events. Because such deterrence has an adverse effect on the health and safety of those students participating in such events, it is necessary that this act take effect immediately.

CHAPTER 548

An act to amend Section 25 of, to add Chapter 2.6 (commencing with Section 139) to Part 4 of, and to add Chapter 1.7 (commencing with Section 239.5) to Part 5 of, the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), relating to metropolitan water districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 25 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969) is amended to read:

Sec. 25. Metropolitan water districts may be organized for the purpose of developing, storing, and distributing water for domestic and municipal purposes and may provide, generate, and deliver electric power within or without the state for the purpose of developing, storing, and distributing water for such district.

SEC. 2. Chapter 2.6 (commencing with Section 139) is added to Part 4 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), to read:

CHAPTER 2.6. ELECTRIC POWER

Sec 139. A district may acquire, construct, operate, and maintain any and all works, facilities, improvements, and property to provide,

generate, and deliver electric power within or without the state necessary or convenient to carry out the objects or purposes of the district.

Sec. 139.1. A district may (a) pursuant to contract, provide, sell, exchange, and deliver electric power to the United States of America or any board, department or agency thereof; to the State of California for the purposes of the State Water Resources Development System; and to any public agency defined in subdivision (c) of Section 131, private corporation or other person or entity, or any combination thereof, engaged in the sale of electric power at retail, or (b) use all or any part of such electric power directly or by exchange.

SEC. 3. Chapter 1.7 (commencing with Section 239.5) is added to Part 5 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), to read:

CHAPTER 1.7. ELECTRIC REVENUE BONDS

Sec. 239.5. Whenever the board, by ordinance adopted by a vote of two-thirds of the total vote of the board, determines that the interests of the district require the use of electric revenue bonds to finance the acquisition, construction, or completion of any public improvement or works of the district, or the payment of funds for any part of the capital costs of any improvement or works of any public or private entity necessary for providing, generating, or delivering electric power or the incurring of any preliminary and incidental expenses, or any combination of such purposes necessary or convenient to carry out the objects or purposes of the district, the cost of which will be too great to be paid out of the ordinary annual income and revenue of the district, the board may provide for the issuance and sale of electric revenue bonds for any or all of the above purposes, upon such terms and conditions as the board may deem necessary, convenient or desirable, and, in connection therewith, the board may pledge, place a charge upon, and assign all or any part of the electric revenues of the district and any other funds, including contributions from any source, which the district may legally apply to such purposes, excepting, however, any and all proceeds derived from the levy of taxes.

Sec. 239.6. The procedure for the issuance and sale of electric revenue bonds pursuant to this chapter shall be the procedure set forth in the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1, Division 2, Title 5 of the Government Code); provided that the provisions of Section 54310 and Sections 54380 to 54387, inclusive, of the Government Code shall not be applicable to such issuance and sale

Sec. 239.7. The district may borrow money in anticipation of the sale of, but not in excess of the principal amount of, electric revenue bonds of the district, which have been duly authorized by ordinance pursuant to Section 239.5 but which have not yet been sold and

delivered, and for that purpose may issue and sell negotiable electric revenue bond anticipation notes, and may refund such notes from time to time, but the maximum maturity of any such notes, as originally issued or as refunded, shall not exceed five years from the date of the original notes. The notes shall be sold in such manner as the board may determine, and such notes and the resolution providing for their issuance may contain any provision, condition, or limitation which an electric revenue bond or any resolution providing for the issuance of electric revenue bonds may contain. The interest on such notes shall be payable from the same funds from which the interest on electric revenue bonds is payable. The principal of such notes may also be paid from such funds and, to the extent not so paid, shall be payable from the proceeds of the next sale of electric revenue bonds in anticipation of which the notes were issued.

The powers conferred by this section are in addition and supplemental to, and are not in substitution for, and the limitations imposed by this section shall not affect the powers conferred by, the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1, Division 2, Title 5 of the Government Code) or any other law.

SEC. 4. It is the intent of the Legislature that the powers conferred by this act are in addition and supplemental to, and are not in substitution for, and the limitations imposed by this act shall not affect, the powers conferred by, Chapter 2.5 (commencing with Section 137) of Part 4, and Chapter 1.6 (commencing with Section 235) of Part 5 of the Metropolitan Water District Act (Chapter 209 of the Statutes of 1969), or any other law.

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 Metropolitan Water District of Southern California, comprising substantial portions of the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura, requires an enormous amount of electric power to pump its supply of water from the Colorado River and to assure the availability of power to pump water to Southern California from the State Water Resources Development System. Since the district's present contract for firm power from Hoover Dam and the state's power contract will terminate in the near future, the district is now considering some specific proposals regarding alternate power sources, including participation in new electric generating facilities, and it will be necessary for the district to make commitments on such facilities prior to the time this act would otherwise go into effect. It is necessary, therefore, that this act go into immediate effect.

CHAPTER 549

An act to amend Section 9884.9 of the Business and Professions Code, relating to automotive repair.

[Approved by Governor August 25, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 9884.9 of the Business and Professions Code is amended to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer which shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. If such consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall either:

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order; or

(2) Upon completion of repairs shall obtain the customer's signature or initials to an acknowledgment of notice and consent, where there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

_____

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service which, if required to be done, will be done by someone other than the dealer or his employees. No service shall be done by other than the dealer or his employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any such service in the same manner as if he or his employees had done the 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 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 550

An act to amend Section 35541.9 of the Health and Safety Code, relating to housing.

[Approved by Governor August 25, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 35541.9 of the Health and Safety Code is amended to read:

35541.9. The Housing Authority of the City of Pleasanton need not demolish the temporary housing project in its jurisdiction commonly known as "Komandorski Village" until January 1, 1981.

The Legislature finds and declares that Komandorski Village, located in Pleasanton Township, Alameda County, has been maintained as reasonably safe and sanitary places in which to live, and that the voters of the area have approved construction of 150 low-income housing units in an election held pursuant to Article XXXIV of the Constitution of the State of California.

The Legislature further finds and declares that the provisions of this section are intended to aid in relieving a critical shortage of low-rental housing in the eastern portion of Alameda County for members of low-income families and low-income military families, and that removal of Komandorski Village before said date would place an extreme hardship on these people.

The Legislature further finds that the Housing Authority of the City of Pleasanton has made diligent efforts to secure replacement housing through the United States Department of Housing and Urban Development (HUD) for the tenants of Komandorski Village, that the inability of local governmental agencies to provide connections to waste water treatment plants has restricted development of low-and moderate-income housing at other locations, that program reservation from HUD has been received for the construction of 50 units of replacement housing for the tenants of Komandorski Village and that application has recently been made to HUD for an additional 100 units of program reservation available in the 1978–79 fiscal year.

This section shall not be construed to relieve any governmental agency of any existing duty under the present housing program.

CHAPTER 551

An act to amend Section 84101 of the Government Code, relating to elections.

[Approved by Governor August 25, 1978 Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Section 84101 of the Government Code is amended to read:

84101. Every committee which is a committee by virtue of Section 82013(a) shall file with the Secretary of State a statement of organization within 10 days after it is formed as a committee. The Secretary of State shall assign a number to each committee which files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the clerk of each county which he deems appropriate.

SEC. 2. The Legislature finds and declares that the changes made in the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code) by this act are in furtherance of the purposes of the Political Reform Act.

SEC. 3. The amendments effected by this act shall not be construed to deprive any person or public agency of any substantial right or duty which would have existed or hereafter exists had such amendments not been effected.

CHAPTER 552

An act to add Chapter 2e (commencing with Section 2995) to Title 14 of Part 4 of Division 3 of the Civil Code, and to amend Section 17003 of the Financial Code, relating to escrows, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1978 Filed with Secretary of State August 25, 1978.]

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

SECTION 1. Chapter 2e (commencing with Section 2995) is added to Title 14 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 2e. CONTROLLED ESCROWS

2995. No real estate developer shall require as a condition precedent to the transfer of real property containing a single family

residential dwelling that escrow services effectuating such transfer shall be provided by an escrow entity in which the real estate developer has a financial interest.

A real estate developer who violates the provisions of this section shall be liable to the purchaser of the real property in the amount of three times the amount charged for the escrow services, but in no event less than two hundred fifty dollars ($250), plus reasonable attorney's fees and costs.

For purposes of this section "financial interest" means ownership or control of 5 percent or more of an escrow entity.

For purposes of this section "real estate developer" means a person or entity having an ownership interest in real property which is improved by such person or entity with single family residential dwellings which are offered for sale to the public.

For purposes of this section "escrow entity" includes a person, firm or corporation.

Any waiver of the prohibition contained in this section shall be against public policy and void.

SEC 2. Section 17003 of the Financial Code is amended to read:

17003. "Escrow" means any transaction wherein one person, for the purpose of effecting the sale, transfer, encumbering, or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agent or employee of any of the latter.

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:

Due to problems in interpretation of legislation passed last year it is necessary to clarify the law as soon as possible so the affected parties may know how the law is to be applied. It is therefore necessary that this act take effect immediately.

CHAPTER 553

An act to amend Section 18300 of the Health and Safety Code, relating to mobilehomes.

[Approved by Governor August 25, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 18300 of the Health and Safety Code is amended to read:

18300. The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. The commission may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state Upon 30 days written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part and the regulations adopted pursuant thereto following approval by the department for such assumption.

The commission shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations shall relate solely to the ability of local agencies to enforce properly the regulations relating to mobilehome parks promulgated pursuant to this part. The regulations shall not set standards for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county.

In the event of nonenforcement of this part or the regulations adopted pursuant thereto, the provisions of this part and the regulations adopted pursuant thereto shall be enforced by the department in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of such notice.

Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal such a decision to the commission.

Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of such notice, shall assume such responsibility within 30 days.

Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part and the regulations adopted pursuant thereto, as they relate to mobilehomes and to mobilehome accessory buildings or structures located outside of mobilehome

parks.

The provisions of this part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers:

(a) From establishing certain zones for mobilehomes or mobilehome parks, travel trailers, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps within such city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within such city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing standards of lot, yards, or park area, landscaping, walls or enclosures, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps; or

(b) From regulating the construction and use of equipment and facilities located outside of a mobilehome or camp car used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when such facilities are located outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part, or the regulations adopted pursuant thereto; or

(c) From requiring a permit to use a mobilehome or camp car outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of mobilehomes and camp cars, which permit may be refused or revoked if such use violates any provisions of this part or Part 2 (commencing with Section 18000) of this division, any regulations adopted pursuant thereto, or any local ordinance applicable to such use; or

(d) From requiring a local building permit to construct an accessory structure for a mobilehome when such mobilehome is located outside a mobilehome park, travel trailer park, recreational trailer park or temporary trailer park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) of this division and the regulation adopted pursuant thereto do not require the issuance of a permit therefor by the department.

SEC. 2. Nothing in this act shall be construed to require, or to impose any requirement on, any city, county, or city and county to establish, maintain, or repeal zones for any or all of the uses set forth in Section 1 of this act.

CHAPTER 554

An act to amend Section 13354 of the Vehicle Code, relating to chemical tests.

[Approved by Governor August 25, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 13354 of the Vehicle Code is amended to read:

13354. (a) Only a physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory bioanalyst, or certified paramedic acting at the request of a peace officer may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of breath specimens. An emergency call for paramedic services shall take precedence over a peace officer's request for a paramedic to withdraw blood for determining its alcoholic content. A certified paramedic shall not withdraw blood for such purpose unless authorized by his or her employer to do so.

(b) The person tested may, at his own expense, have a physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory bioanalyst or any other person of his own choosing administer a test, in addition to any administered at the direction of a peace officer, for the purpose of determining the amount of alcohol in his blood at the time alleged as shown by chemical analysis of his blood, breath or urine. The failure or inability to obtain an additional test by a person shall not preclude the admissibility in evidence of the test taken at the direction of a peace officer.

(c) Upon the request of the person tested full information concerning the test taken at the direction of the peace officer shall be made available to him or his attorney.

(d) No physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory bioanalyst, or certified paramedic, or hospital, laboratory or clinic employing or utilizing the services of such physician, registered nurse, licensed vocational nurse, duly licensed laboratory technologist or clinical laboratory bioanalyst, or certified paramedic, owning or leasing the premises on which such tests are performed, shall incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a peace officer to administer such a test.

(e) If the test given under Section 13353 is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will insure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

(f) The Department of the California Highway Patrol, in cooperation with the State Department of Health Services or any other appropriate agency, shall adopt uniform standards for the withdrawal, handling, and preservation of blood samples prior to analysis.

(g) As used in this section, "certified paramedic" does not include any employee of a fire department.

CHAPTER 555

An act to amend Section 18956 of the Health and Safety Code, relating to historical buildings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1978 Filed with Secretary of State August 25, 1978]

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

SECTION 1. Section 18956 of the Health and Safety Code is amended to read:

18956 The application of the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 and of Part 5.5 (commencing with Section 19955) of Division 13 of this code, Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code, Division 15 (commencing with Section 25000) of the Public Resources Code, and of any other statute or regulation, as they may apply to qualified historical buildings or structures, shall be governed by this part.

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 rehabilitation, preservation, restoration, and relocation of public historical buildings is being delayed by confusion as to the application to such buildings of requirements of various other statutes and regulations.

In order that this confusion may be resolved without delay, it is imperative that this act take effect immediately.

CHAPTER 556

An act to add Section 31536 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Became law without Governor's signature August 28, 1978 Filed with Secretary of State August 28, 1978]

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

SECTION 1. Section 31536 is added to the Government Code, to read:

31536. If a superior court reverses the denial by the board of an application for a retirement allowance, or for a survivor's allowance based on such allowance, or for a claim based on a claimed pension right or benefit, the superior court in its discretion may award reasonable attorney's fees as costs to the member or beneficiary of the member who successfully appealed the denial of such application. Such costs shall be assessed against the board, shall be considered a cost of administration, and shall in no event become a personal liability of any member of the board.

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 557

An act to repeal Chapter 2 (commencing with Section 12100) of Division 3 of Title 2 of, and to add Chapter 2 (commencing with Section 12100) to Division 3 of Title 2 of, the Government Code, relating to the Lieutenant Governor.

[Approved by Governor August 27, 1978 Filed with Secretary of State August 28, 1978]

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

SECTION 1. Chapter 2 (commencing with Section 12100) of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 2 (commencing with Section 12100) of Division 3 of Title 2 is added to the Government Code, to read:

CHAPTER 2. THE LIEUTENANT GOVERNOR

Article 1. Duties

12100. The annual salary of the Lieutenant Governor is provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

12101. The Lieutenant Governor may appoint and, subject to the approval of the Director of Finance, fix the salaries of one secretary and such clerical assistants as the Lieutenant Governor deems

necessary for his office.

Article 2. California Advisory Commission on Youth

12102. The California Advisory Commission on Youth is hereby created. The California Advisory Commission on Youth, hereinafter referred to as "commission", shall consist of 21 members selected and appointed by the Lieutenant Governor. Members of the commission shall be representative of youth throughout the state in terms of geographical location, ethnic origin, and sex. Members of the commission shall be residents of California and not older than 25 years of age. Commissioners initially appointed shall serve staggered two- or three-year terms, as designated by the Lieutenant Governor; thereafter they shall serve two-year terms with eligibility for reappointment, provided the commissioner(s) has not attained the age of 25 years.

Notwithstanding any other provision of law, eligibility for the California Advisory Commission on Youth shall not be denied to youths under 18 years of age. An appointee under the age of 18 shall, however, obtain the written consent of his or her parents which shall be filed with the Lieutenant Governor within thirty days of appointment, or prior to the discharge of any of the duties of the commissioner, whichever occurs first. The Lieutenant Governor shall file a copy of the parental consent form with the Secretary of State, who shall maintain the consent form with the oath of office filed by any appointee under the age of 18 years.

Vacancies shall be filled by the Lieutenant Governor for the unexpired term of the member whom the appointee succeeds. The Lieutenant Governor may remove any member of the commission for neglect of duty or other just cause.

12103. The Lieutenant Governor shall appoint a chairperson and vice chairperson for the commission. The chairperson and vice chairperson shall serve one-year terms. The appointment to office is renewable for another one-year term provided the chairperson or vice-chairperson has not attained 25 years of age.

12104. Within thirty days of appointment, the members of the commission shall take and subscribe to the oath of office pursuant to the Government Code and shall file the same with the Secretary of State.

12105. The commission shall meet at least once every three months at places to be specified by the commission. The first meeting of the commission shall be held in Sacramento.

12106. The purposes of the commission shall be as follows:

(a) To coordinate information regarding youth activities in the state.

(b) To foster greater involvement of youth in all areas of government, encourage the formation of local youth commissions and councils, and assist existing youth commissions and councils with efforts to become more effective.

(c) To conduct forums on areas of concern in which governmental and nongovernmental agencies and community organizations may be invited to participate.

(d) To study problems, activities and concerns of youth in California.

(e) To serve as the advisory group on youth affairs to the State Legislature and the executive branch of government, making such recommendations as the commission may find necessary and desirable to carry out the purposes for which it was created.

12107. Members of the commission shall serve solely in an advisory capacity and shall not be deemed to be officers of the state. Members shall serve without compensation, but each member of the commission shall be reimbursed for actual and necessary expenses incurred in attending any meeting of the commission held more than twenty-five miles from his or her headquarters, as designated pursuant to Board of Control's rules and regulations. In addition, each member shall be allowed reimbursement for actual and necessary expenses incurred in the discharge of his or her duties, including travel expenses, when prior authorization for the expenditure has been approved by the Lieutenant Governor or the Lieutenant Governor's designee.

12108. The Lieutenant Governor shall have responsibility for administering the activities of the California Advisory Commission on Youth. Necessary staff services, offices and support for the commission shall be provided by the Office of the Lieutenant Governor.

SEC. 3. 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 558

An act to amend Section 87483 of the Education Code, relating to community college employees.

[Approved by Governor August 29, 1978 Filed with Secretary of State August 29, 1978]

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

SECTION 1. Section 87483 of the Education Code is amended to read:

87483. Notwithstanding any other provision, the governing board of a community college district may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22724 or Section 20815 of the Government Code:

(a) The employee must have reached the age of 55 prior to reduction in workload.

(b) The employee must have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment.

(c) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(d) The employee shall be paid a salary which is the pro rata share of the salary he would be earning had he not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he makes the payments that would be required if he remained in full-time employment.

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee.

(e) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his final year of service in a full-time position.

(f) Notwithstanding the provisions of Section 22724 of the Government Code, the following contributions, shall be made to the Teachers' Retirement Fund:

(1) The member shall contribute the amount that would have been contributed if the member was employed full-time.

(2) The employer shall contribute 13 percent of the salary that would have been paid the member had the member been employed full time.

CHAPTER 559

An act to amend Section 26671 of the Water Code, relating to irrigation districts.

[Approved by Governor August 29, 1978 Filed with Secretary of State August 29, 1978]

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

SECTION 1. Section 26671 of the Water Code is amended to read:

26671. Any district may enter into a contract with any public agency which provides in effect as follows:

1. The public agency shall:

a. Collect for the district assessments levied by the district against all or part of the lands within the district and shall collect such assessments and pay the amount thereof over to the district at such times and in the manner agreed upon between the district and the public agency; or, in the alternative,

b. Pay to the district in lieu of assessments by the district upon all or any part of the lands within the district a sum of money which shall not be less than the total amount of assessments which would have been levied by the district against those lands in the absence of such contract calculated upon the same basis as assessments made upon an acreage basis against other land in the district receiving gravity water service. Such payment shall be made at such time and in the manner agreed upon between the district and the public agency.

2. If the contract provides for the payment of a water charge in addition to the assessment upon district lands, then in determining the sum of money which may be paid to the district in lieu of assessments by the district under paragraph b of subdivision 1, the district may determine that a lesser rate of assessment or no assessment would be appropriate upon lands covered by the contract and, if such determination is made, may so provide in the contract and adjust or eliminate the assessment.

3 The district shall make available to the public agency each year for distribution and use upon the lands within the district covered by the contract, such a quantity of water as may be agreed upon by the district and the public agency.

4. The owner of lands within the district covered by such a contract shall each year be entitled to receive and use from the water so made available by the district to the public agency, or from other water available to the public agency, an amount of water sufficient to supply his reasonable and beneficial needs, limited however to his proportionate share of such water made available by the district based upon the ratio which the number of acres owned by him bears to the total number of acres within the district receiving a surface supply of water from the district and the public agency.

5. The public agency may charge such rates as it may determine for the service of water to any lands covered by the contract unless such rates are limited by agreement between the district and the public agency.

CHAPTER 560

An act to amend Sections 5106 and 9410 of the Vehicle Code, relating to vehicles, and making an appropriation therefor

[Approved by Governor August 29, 1978 Filed with Secretary of State August 29, 1978]

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

SECTION 1. Section 5106 of the Vehicle Code is amended to read:

5106. (a) In addition to the regular registration fee, the applicant shall be charged a fee of twenty-five dollars ($25).

(b) In addition to the regular renewal fee, for the vehicle to which such plates are assigned, the applicant for a renewal of such plates shall be charged an additional fee of ten dollars ($10).

(c) Notwithstanding the provisions of subdivision (b) of this section, when payment of renewal fees is not required as specified in Section 4000, the holder of any environmental license plate may retain the plate upon payment of an annual fee of ten dollars ($10). Such fee shall be due at the expiration of the registration year of the vehicle to which the environmental license plate was last assigned.

SEC. 2. Section 9410 of the Vehicle Code is amended to read:

9410. (a) One commercial vehicle weighing less than 6001 pounds unladen, which displays the distinguishing license plate designated in, and is registered to a person who qualifies for the exemption provided by, Section 22511.5, or one commercial vehicle weighing less than 6001 pounds unladen, which is not registered to a disabled person who qualifies for such exemption but which has been assigned and displays a distinguishing license plate and is used primarily for the transportation of such disabled person, is exempted from the weight fees provided for in Section 9400.

(b) A commercial vehicle displaying a distinguishing placard pursuant to subdivision (d) of Section 22511.5 shall not be exempted from weight fees.

CHAPTER 561

An act to amend Section 13104 of the Health and Safety Code, relating to fires

[Approved by Governor August 29, 1978 Filed with Secretary of State August 29, 1978]

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

SECTION 1 Section 13104 of the Health and Safety Code is amended to read:

13104. The State Fire Marshal shall aid in the enforcement of all laws and ordinances and any rules and regulations adopted under the provisions of Division 11 (commencing with Section 12000) of, and Part 1 (commencing with Section 13000) and Part 2 (commencing with Section 13100) of Division 12 of, the Health and Safety Code relating to fires or to fire prevention and protection

The State Fire Marshal shall, if possible, attend, and take charge of

and protect all property which may be imperiled by any fire other than:

(a) A forest, brush, or grain fire.

(b) A fire occurring within any city or town maintaining a fire department, within a fire protection district, or within a county where there is a regularly appointed county fire warden.

CHAPTER 562

An act to amend Section 13111.1 of the Health and Safety Code, relating to the office of the State Fire Marshal.

[Approved by Governor August 29, 1978 Filed with Secretary of State August 29, 1978]

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

SECTION 1. Section 13111.1 of the Health and Safety Code is amended to read:

13111.1. (a) The office of the State Fire Marshal may expend money appropriated for the administration of the laws, the enforcement of which is committed to the office. Such expenditures by the office shall be made in accordance with law in carrying on the work for which such appropriations were made.

(b) A sum, not to exceed five thousand dollars ($5,000) in each fiscal year, may be withdrawn for investigative purposes from General Fund money appropriated in support of the office of the State Fire Marshal, without at the time furnishing vouchers and itemized statements. This sum shall be used as a revolving fund where cash advances are necessary, and at the close of each fiscal year, or any other time, upon demand of the Department of Finance, shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the State Controller.

CHAPTER 563

An act to amend Sections 1425 and 1428 of the Water Code, relating to water.

[Approved by Governor August 29, 1978 Filed with Secretary of State August 29, 1978]

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

SECTION 1. Section 1425 of the Water Code is amended to read:

1425 (a) When the board finds that an applicant has an urgent but only temporary need to divert and use water for a period not to

exceed six months, and that such water may be diverted and used without injury to any lawful user of water, and without unreasonable effect upon fish, wildlife, or other instream beneficial uses, the board may issue to the applicant a conditional, temporary permit, without requiring compliance with other procedures or provisions of this division, but subject to all requirements of this chapter.

(b) When the board finds that a person who is an applicant for a permit under the provisions of this division other than this chapter has a need to divert and use water under unforeseen emergency conditions, and that such water may be diverted and used without injury to any lawful user of water, and without unreasonable effect upon beneficial uses, the board may issue to such person, upon application made pursuant to this chapter, a conditional, temporary permit, without requiring compliance with other procedures or provisions of this division, but subject to all requirements of this chapter.

(c) No temporary permit may be issued pursuant to the provisions of this chapter unless it is first determined that unappropriated water is available and that the diversion and use could not adversely affect the rights of downstream users The board may delegate to any employee of the board all or any of its functions under this chapter; provided, that the board shall, at its next regular meeting, review and validate any temporary or emergency permit issued by an employee.

(d) "Unforeseen emergency conditions," for the purposes of this section, shall be found to exist when there have been unexpected circumstances requiring immediate action by an applicant to divert and use water so as to protect the public health, welfare, or safety. It is not necessary that the emergency conditions be such that they could not have been anticipated or prepared for but only that in the normal course of events they would seldom be expected

SEC. 2 Section 1428 of the Water Code is amended to read:

1428. The board may issue a temporary permit in advance of the notice required by this section In all cases, whether or not a temporary permit has been issued, the board shall, as soon as practicable after the receipt of an application, issue and deliver to the applicant or permittee a notice of the application or permit, which includes the information required by Section 1301. Publication or posting of the notice shall be as follows:

(a) If the application or permit is for more than three cubic feet per second or for more than 200 acre-feet of storage, and if the permit is to remain in effect for more than 30 days, the notice shall be published by and at the expense of the applicant or permittee at the earliest practicable time, not to exceed 20 days from the date of issuance of the notice, in a newspaper having a general circulation and published within the county wherein the point of diversion lies. Proof of publication shall be by copy of the notice as published and made part of an affidavit filed with the board within 10 days of publication.

(b) In all other cases, unless the permit is to be in effect less than

10 days:

(1) The applicant or permittee shall post the notice in at least two conspicuous places in the locality to be affected by the diversion and use. Notices shall be posted not later than two days after receipt of the notice by the applicant or permittee. An affidavit containing proof of posting shall be filed with the board within seven days of the date of notice.

(2) The board shall send a copy of the notice by registered mail to each person who, in the judgment of the board, could be adversely affected by the temporary diversion and use.

(c) Regardless of the rate of diversion or the amount of storage, if the permit is to be in effect less than 10 days, the board shall exercise its discretion with respect to requiring notice, both before and after issuance of the temporary permit, and may require such proof of notice as it deems appropriate.

(d) Any interested person may file objection to the temporary diversion and use with the board and shall send a copy to the applicant or permittee

(e) The board shall give prompt consideration to any objection, and may hold a hearing thereon, after notice to all interested persons.

(f) Failure of the permittee to comply with any requirement of this section shall result in the automatic termination of the temporary permit.

CHAPTER 564

An act to amend Section 31000 of the Government Code, relating to county contracts for services.

[Approved by Governor August 29, 1978 Filed with Secretary of State August 29, 1978]

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

SECTION 1. Section 31000 of the Government Code is amended to read:

31000. The board of supervisors may contract for special services on behalf of the following public entities: the county, any county officer or department, or any district or court in the county. Such contracts shall be with persons specially trained, experienced, expert and competent to perform the special services. The special services shall consist of services, advice, education or training for such public entities or the employees thereof The special services shall be in financial, economic, accounting (including the preparation and issuance of payroll checks or warrants), engineering, legal, medical, therapeutic, administrative, architectural, airport or building security matters, laundry services or linen services. They may

include maintenance or custodial matters if the board finds that the site is remote from available county employee resources and that the county's economic interests are served by such a contract rather than by paying additional travel and subsistence expenses to existing county employees. The board may pay from any available funds such compensation as it deems proper for these special services The board of supervisors may, by ordinance, direct the purchasing agent to enter into contracts authorized by this section within the monetary limit specified in Section 25502.5 of the Government Code.

CHAPTER 565

An act to amend Section 2985.6 of the Civil Code, relating to prepayment of obligations.

[Approved by Governor August 29, 1978 Filed with Secretary of State August 29, 1978]

The people of the State of California do enact as follows

SECTION 1. Section 2985.6 of the Civil Code is amended to read·

2985.6. (a) A buyer shall be entitled to prepay all or any part of the balance due on any real property sales contract with respect to the sale of land which has been subdivided into a residential lot or lots which contain a dwelling for not more than four families entered into on or after January 1, 1969; provided, however, that the seller, by an agreement in writing with the buyer, may prohibit prepayment for up to a 12-month period following the sale.

(b) Any waiver by the buyer of the provisions of this section shall be deemed contrary to public policy and shall be unenforceable and void; provided, however, that any such waiver shall in no way affect the validity of the remainder of the contract.

CHAPTER 566

An act to amend Section 91005 and to repeal Section 83117.6 of the Government Code, relating to the Political Reform Act of 1974

[Approved by Governor August 29, 1978 Filed with Secretary of State August 29, 1978]

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

SECTION 1 Section 83117.6 of the Government Code is repealed

SEC. 2 Section 91005 of the Government Code is amended to read:

91005 (a) Any person who makes or receives a contribution, gift or expenditure in violation of Section 84300, 84304, 86202, 86203 or 86204 is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to five hundred dollars ($500) or three times the amount of the unlawful contribution, gift or expenditure, whichever is greater

(b) Any designated employee who realizes an economic benefit as a result of a violation of a disqualification provision of a Conflict of Interest Code is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction for an amount up to three times the value of the benefit

SEC 3 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

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CHAPTER 567

An act to amend the heading of Division 2 (commencing with Section 5000) of Title 1 of, to add Sections 5000 and 5001, and Part 1 (commencing with Section 5002), Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), Part 4 (commencing with Section 9110), and Part 5 (commencing with Section 9910) to, and to repeal Part 1 (commencing with Section 9000) of, Division 2 of Title 1 of the Corporations Code, relating to corporations

[Approved by Governor August 29, 1978 Filed with Secretary of State August 30, 1978]

The people of the State of California do enact as follows

SECTION 1 The heading of Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code is amended to read

DIVISION 2 NONPROFIT CORPORATION LAW

SEC 2 Section 5000 is added immediately following the heading of Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code, to read

5000 This division shall be known and may be cited as the Nonprofit Corporation Law.

SEC 3 Section 5001 is added to the Corporations Code, to read

5001 This division of the Nonprofit Corporation Law, or any part, chapter, article or section thereof, may at any time be amended or repealed

SEC 4 Part 1 (commencing with Section 5002) is added to Division 2 of Title 1 of the the Corporations Code, to read

PART 1 GENERAL PROVISIONS AND DEFINITIONS GOVERNING PARTS 1 THROUGH 5

5002 Unless the provisions or the context otherwise requires, the general provisions and definitions set forth in this part govern the construction of this part and of Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), Part 4 (commencing with Section 9110), and Part 5 (commencing with Section 9910) of this division

5003 (a) The provisions of this part apply to

(1) Corporations organized under Part 2, Part 3, and Part 4 of this division,

(2) Corporations expressly subject to Part 2, Part 3 or Part 4 of this division pursuant to a particular provision of this division or Division 3 (commencing with Section 12000) or other specific statutory provision,

(3) Corporations which pursuant to the express provisions of Part 1, Division 2 (commencing with Section 9000) in effect immediately prior to January 1, 1980, are subject to the provisions of Part 1 of Division 2 and which, on or after January 1, 1980, are subject to the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law or the Nonprofit Religious Corporation Law, pursuant to Section 9912

(4) Corporations expressly subject to Part 1, Division 2 (commencing with Section 9000) in effect immediately prior to January 1, 1980, pursuant to a particular provision of this division or Division 3 (commencing with Section 12000) or other specific statutory provision in effect immediately prior to January 1, 1980, and which, on or after January 1, 1980, are subject to the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law, or the Nonprofit Religious Corporation Law, pursuant to Section 9912, and

(5) Corporations incorporated pursuant to subdivision (d) of Section 9911

(b) The existence of corporations formed or existing on the date of enactment or reenactment of this part, Part 2, Part 3, Part 4 or Part 5 shall not be affected by the enactment or reenactment of such parts nor by any change in the requirements for the formation of corporations nor by the amendment or repeal of the laws under which they were formed or created

(c) Neither the repeals effected by the enactment or reenactment of this part or of Part 2, Part 3, Part 4 or Part 5, nor the amendment thereof shall impair or take away any existing liability or cause of action against any corporation, its members, directors or officers incurred prior to the time of such enactment, reenactment or amendment

5004 A corporation may be sued as provided in the Code of Civil Procedure

5005 Any corporation shall, as a condition of its existence as a

corporation, be subject to the provisions of the Code of Civil Procedure authorizing the attachment of corporate property

5006 The fees of the Secretary of State for filing instruments by or on behalf of corporations are prescribed in Article 3 (commencing with Section 12180) of Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code.

5007 Any agreement, certificate or other instrument relating to a domestic corporation, a foreign corporation, or a foreign business corporation filed pursuant to the provisions of this part, Part 2, Part 3, Part 4 or Part 5 may be corrected with respect to any misstatement of fact contained therein, any defect in the execution thereof or any other error or defect contained therein, by filing a certificate of correction entitled "Certificate of Correction of _____ (insert here the title of the agreement, certificate or other instrument to be corrected and name(s) of the corporation or corporations)", provided, however, that no such certificate of correction shall alter the wording of any resolution which was in fact adopted by the board or the members or effect a corrected amendment of articles which amendment as so corrected would not in all respects have complied with the requirements of this part, Part 2, Part 3, Part 4 or Part 5 at the time of filing of the agreement, certificate or other instrument being corrected Such certificate of correction shall be signed and verified or acknowledged as provided in this part with respect to the agreement, certificate or other instrument being corrected It shall set forth the following

(a) The name or names of the corporation or corporations

(b) The date the agreement, certificate or other instrument being corrected was filed

(c) The provision in the agreement, certificate or other instrument as corrected and, if the execution was defective, wherein it was defective.

The filing of the certificate of correction shall not alter the effective time of the agreement, certificate or instrument being corrected, which shall remain as its original effective time, and such filing shall not affect any right or liability accrued or incurred before such filing, except that any right or liability accrued or incurred by reason of the error or defect being corrected shall be extinguished by such filing if the person having such right has not detrimentally relied on the original instrument

5008 (a) Upon receipt of any instrument by the Secretary of State for filing pursuant to this part, Part 2, Part 3, Part 4 or Part 5, if it conforms to law, it shall be filed by, and in the office of the Secretary of State and the date of filing endorsed thereon Except for instruments filed pursuant to Section 6210, Section 8210 or Section 9660 the date of filing shall be the date the instrument is received by the Secretary of State unless withheld from filing for a period of time pursuant to a request by the party submitting it for filing or unless in the judgment of the Secretary of State the filing is intended to be coordinated with the filing of some other corporate document which

cannot be filed The Secretary of State shall file a document as of any requested future date not more than 90 days after its receipt, including a Saturday, Sunday or legal holiday, if the document is received in the Secretary of State's office at least one business day prior to the requested date of filing. An instrument does not fail to conform to law because it is not accompanied by the full filing fee if the unpaid portion of such fee does not exceed the limits established by the policy of the Secretary of State for extending credit in such cases

(b) If the Secretary of State determines that an instrument submitted for filing or otherwise submitted does not conform to law and returns it to the person submitting it, the instrument may be resubmitted accompanied by a written opinion of a member of the State Bar of California submitting the instrument, or representing the person submitting it, to the effect that the specific provision of the instrument objected to by the Secretary of State does conform to law and stating the points and authorities upon which the opinion is based The Secretary of State may rely, with respect to any disputed point of law (other than the application of Section 5122, Section 7122 or Section 9122), upon such written opinion in determining whether the instrument conforms to law The date of filing in such case shall be the date the instrument is received on resubmission

(c) Any instrument filed with respect to a corporation (other than original articles) may provide that it is to become effective not more than 90 days subsequent to its filing date In case such a delayed effective date is specified, the instrument may be prevented from becoming effective by a certificate stating that by appropriate corporate action it has been revoked and is null and void, executed in the same manner as the original instrument and filed before the specified effective date In the case of a merger agreement, such certificate revoking the earlier filing need only be executed on behalf of one of the constituent corporations. If no such revocation certificate is filed, the instrument becomes effective on the date specified

5009. Except as otherwise required, any reference in this part, Part 2, Part 3, Part 4 or Part 5 to mailing means first-, second-, or third-class mail, postage prepaid, unless registered mail is specified Registered mail includes certified mail

5010 If the articles or bylaws provide for more or less than one vote for any membership on any matter, the references in Sections 5033 and 5034 to a majority or other proportion of memberships mean, as to such matters, a majority or other proportion of the votes entitled to be cast Whenever in Part 2 or Part 3 members are disqualified from voting on any matter, their memberships shall not be counted for the determination of a quorum at any meeting to act upon, or the required vote to approve action upon, that matter under any other provision of Part 2 or Part 3 or the articles or bylaws

5011 All references in Part 3 to the voting of memberships

include the voting of securities given voting rights in the articles pursuant to subdivision (a), paragraph (3), of Section 7132

5012 All references in this part, Part 2, Part 3 or Part 4 to financial statements of a corporation mean statements prepared in conformity with generally accepted accounting principles or some other basis of accounting which reasonably sets forth the assets and liabilities and the income and expenses of the corporation and discloses the accounting basis used in their preparation.

5013. As used in this part, Part 2, Part 3 or Part 4, "independent accountant" means a certified public accountant or public accountant who is independent of the corporation as determined in accordance with generally accepted auditing standards and who is engaged to audit financial statements of the corporation or perform other accounting services

5014. Any requirement in Part 3 for a vote of each class of members means such a vote regardless of limitations or restrictions upon the voting rights thereof, unless expressly limited to voting memberships.

5015. Any reference in this part, Part 2, Part 3, Part 4 or Part 5 to the time a notice is given or sent means, unless otherwise expressly provided, the time a written notice by mail is deposited in the United States mails, postage prepaid, or the time any other written notice is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient; or the time any oral notice is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the recipient

5016 A notice or report mailed as part of a newsletter, magazine or other organ regularly sent to members shall constitute written notice or report pursuant to this division when addressed to the member, or in the case of members who are residents of the same household and who have the same address on the books of the corporation, when addressed to one of such members, at the address appearing on the books of the corporation

5030 "Acknowledged" means that an instrument is either

(a) Formally acknowledged as provided in Article 3 (commencing with Section 1180) of Chapter 4 of Title 4 of Part 4 of Division 2 of the Civil Code, or

(b) Accompanied by a declaration in writing signed by the persons executing the same that they are such persons and that the instrument is the act and deed of the person or persons executing the same

Any certificate of acknowledgment taken without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated

5031 A corporation is an "affiliate" of, or a corporation is "affiliated" with, another specified corporation if it directly, or

indirectly through one or more intermediaries, controls, is controlled by or is under common control with the other specified corporation.

5032 "Approved by (or approval of) the board" means approved or ratified by the vote of the board or by the vote of a committee authorized to exercise the powers of the board, except as to matters not within the competence of the committee under Section 5212, Section 7212, or Section 9212

5033 "Approval by (or approval of) a majority of all members" means approval by an affirmative vote (or written ballot in conformity with Section 5512, Section 7513, or Section 9413) of a majority of the votes entitled to be cast Such approval shall include the affirmative vote of a majority of the outstanding memberships of each class entitled, by any provision of the articles or bylaws or of Part 2, Part 3, Part 4 or Part 5 to vote as a class on the subject matter being voted upon and shall also include the affirmative vote of such greater proportion, including all, of the votes of the memberships of any class if such greater proportion is required by the bylaws (subdivision (e) of Section 5151, subdivision (e) of Section 7151, or subdivision (e) of Section 9151) or Part 2, Part 3, Part 4 or Part 5.

5034 "Approval by (or approval of) the members" means approved or ratified by the affirmative vote (or written ballot in accord with Section 5513, Section 7513, or Section 9413) of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) or by the affirmative vote or written ballot of such greater proportion, including all of the votes of the memberships of any class as may be provided in the bylaws (subdivision (e) of Section 5151, subdivision (e) of Section 7151, or subdivision (e) of Section 9151) or in Part 2, Part 3, Part 4 or Part 5 for all or any specified member action.

5035 "Articles" includes the articles of incorporation, amendments thereto, amended articles, restated articles, and certificates of incorporation

5036 (a) Except as provided in subdivision (b) or (c), "authorized number" means 5 percent of the voting power.

(b) Where (disregarding any provision for cumulative voting which would otherwise apply) the total number of votes entitled to be cast for a director is 1,000 or more, but less than 5,000 then

(1) The authorized number shall be 2½ percent of the voting power, but not less than 50.

(c) Where (disregarding any provision for cumulative voting which would otherwise apply) the total number of votes entitled to be cast for a director is 5,000 or more, then the authorized number shall be one-twentieth of 1 percent of the voting power, but not less than 125

(d) Any right under Part 2, Part 3, or Part 4 which may be exercised by the authorized number, or some multiple thereof, may be exercised by a member with written authorizations obtained within any 11-month period from members who, in the aggregate,

hold the equivalent voting power. Any such authorization shall specify the right to be exercised thereunder and the duration thereof (which shall not exceed three years).

(e) Where any provision of Part 2, Part 3, or Part 4 specifies twice the authorized number, that means two times the number calculated according to subdivision (a) or (b)

5037 "Bylaws" includes amendments thereto and amended bylaws.

5038. "Board" means the board of directors of the corporation.

5039. "Business corporation" means a corporation as defined in Section 162 of the General Corporation Law

5040. "Chapter" refers to a chapter of Part 2, Part 3 or Part 4 unless otherwise expressly stated.

5041. "Class" refers to memberships which have the same rights upon dissolution and merger.

5042 "Common memberships," as used in Part 3, means memberships which have no preference over any other memberships with respect to distribution of assets on liquidation.

5043. "Common shares," as used in Part 3, means shares which have no preference over any other shares with respect to distribution of assets on liquidation or with respect to payment of dividends.

5044. "Constituent corporation" means a corporation which is merged with one or more other corporations and includes the surviving corporation.

5045. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a corporation.

5046. (a) "Corporation" as used in this part and Part 5, refers to corporations defined in subdivisions (b), (c), and (d) of this section.

(b) "Corporation," as used in Part 2 (commencing with Section 5110), means a nonprofit public benefit corporation as defined in Section 5060

(c) "Corporation," as used in Part 3 (commencing with Section 7110) means a nonprofit mutual benefit corporation as defined in Section 5059

(d) "Corporation," as used in Part 4 (commencing with Section 9110) including those provisions of Part 2 made applicable pursuant to Chapter 6 (commencing with Section 9610) of Part 4, means a nonprofit religious corporation as defined in Section 5061.

5047 Except where otherwise expressly provided, "directors" means natural persons, designated in the articles or bylaws or elected by the incorporators, and their successors and natural persons designated, elected or appointed by any other name or title to act as members of the governing body of the corporation.

5048. "Disappearing corporation" means a constituent corporation which is not the surviving corporation.

5049 (a) "Distribution," as used in Part 2 and Part 4 means the transfer of cash or property by the corporation to any member without adequate consideration other than in conformity with its

public, charitable or religious purposes and includes the redemption or purchase of memberships

(b) (i) Except as provided in subparagraph (ii), "distribution," as used in Part 3, means the transfer of cash or property by the corporation to any member without adequate consideration and includes the redemption or purchase of memberships

(ii) Distribution does not include

(1) Contributions to charitable organizations whether or not such organizations are members of the corporation;

(2) The sale or furnishing to members of newsletters, newspapers, magazines or any other periodic report;

(3) Payments of reasonable compensation to members for services actually rendered; or

(4) The sale or furnishing of goods or services to members.

5050 "Domestic corporation" means a corporation formed under the laws of this state.

5051. "Filed," unless otherwise expressly provided, means filed in the office of the Secretary of State

5052 "Foreign business corporation," as used in Part 3, means a foreign corporation as defined in Section 171 except that it does not include a foreign corporation as defined in Section 5053

5053 "Foreign corporation" means any corporation incorporated in a jurisdiction other than California pursuant to that jurisdiction's nonprofit or not-for-profit law; except that as used in subdivision (b) of Section 5122, in subdivision (c) of Section 7122, and in subdivision (b) of Section 9122, "foreign corporation" means a corporation described in Section 171

5054 "Incentive and benefit plans," as used in Section 5140, in Section 7140, and in Section 9140 includes, but is not limited to, any plan or agreement under which the compensation of officers or employees is fixed, in full or in part, by reference to the financial performance of the corporation

5055 "Liquidating price" or "liquidation preference," as used in Part 3, means amounts payable on memberships of any class upon voluntary or involuntary dissolution, winding up or distribution of the entire assets of the corporation in priority to amounts payable to members of another class or classes.

5056 (a) "Member" means any person who, pursuant to a specific provision of a corporation's articles or bylaws, has the right to vote for the election of a director or directors or on a disposition of all or substantially all of the assets of a corporation or on a merger or on a dissolution unless the provision granting such right to vote is only effective as a result of paragraph (3) of subdivision (a) of Section 7132

(b) The articles or bylaws may confer some or all of the rights of a member, set forth in this part and in Parts 2 through 5 of this division, upon any person or persons who do not have the right to vote for the election of a director or directors.

(c) Where a member of a corporation is not a natural person, such

member may authorize in writing one or more of its employees or partners to vote on its behalf on any or all matters which may require a vote of the members.

5057 A "membership" refers to the rights a member has pursuant to a corporation's articles or bylaws

5058 "Membership certificate," as used in Part 3, means a document evidencing a transferable property interest in a corporation

5059 "Nonprofit mutual benefit corporation" or "mutual benefit corporation" means a corporation which is

(a) Organized under Part 3 (commencing with Section 7110), or subject to Part 3 under the provisions of subdivision (a) of Section 5003, and

(b) Operated for any lawful purpose which does not contemplate the distribution of gains, profits or dividends to members, except upon dissolution

5060 "Nonprofit public benefit corporation" or "public benefit corporation" means a corporation which is

(a) Organized under Part 2 (commencing with Section 5110) or subject to Part 2 under the provisions of subdivision (a) of Section 5003, and

(b) Operated for any public or charitable purpose which does not contemplate the distribution of gains, profits or dividends to members other than in conformity with its purposes

5061 "Nonprofit religious corporation" or "religious corporation" means a corporation which is

(a) Organized under Part 4 (commencing with Section 9110) or subject to Part 4 pursuant to subdivision (a) of Section 5003, and

(b) Operated primarily or exclusively for religious purposes

5062 "Officers' certificate" means a certificate signed and verified by the chairman of the board, the president or any vice president and by the secretary, the chief financial officer, the treasurer or any assistant secretary or assistant treasurer

5063 "On the certificate," as used in Part 3, means that a statement appears on the face of a certificate or on the reverse thereof with a reference thereto on the face

5064 A "parent" of a specified corporation is an affiliate controlling such corporation directly or indirectly through one or more intermediaries

5065 "Person," in addition to those entities specified in Section 18 and unless otherwise expressly provided, includes any association, business corporation, company, corporation, corporation sole, domestic corporation, estate, foreign corporation, foreign business corporation, individual, joint stock company, joint venture, mutual benefit corporation, public benefit corporation, religious corporation, partnership, government or political subdivision, agency or instrumentality of a government

5066 "Preferred membership," as used in Part 3, means a membership other than a common membership

5067 "Preferred shares," as used in Part 3, means shares other than common shares

5068 (a) "Proper county" means the county where the principal office of the corporation is located or, if the principal office of the corporation is not located in this state, or the corporation has no such office, the County of Sacramento

(b) For the purpose of subdivision (a), the principal office of the corporation is the residence or business office of an officer or director, if the corporation has no other principal office, and such residence or business office is the place at which the corporation customarily holds meetings of the board, keeps its books or records, or otherwise conducts its affairs Any office so designated by the corporation on the latest form filed pursuant to Section 6210, Section 8210, or Section 6210 as made applicable to Section 9660 shall also be considered the principal office of the corporation for the purpose of subdivision (a)

5069 "Proxy" means a written authorization signed by a member or the member's attorney in fact giving another person or persons power to vote on behalf of such member. "Signed" for the purpose of this section means the placing of the member's name on the proxy (whether by manual signature, typewriting, telegraphic transmission or otherwise) by the member or such member's attorney in fact

5070 "Proxyholder" means the person or persons to whom a proxy is given

5071. "Shareholder," as used in Part 3, means one who is a holder of record of shares

5072 "Shares," as used in Part 3, means the units into which the proprietary interests in a business corporation or foreign business corporation are divided in the articles

5073 (a) Except as provided in subdivision (b), "subsidiary" of a specified corporation means a corporation more than 50 percent of the voting power of which is owned directly, or indirectly through one or more subsidiaries, by the specified corporation

(b) For the purpose of Section 7315, "subsidiary" of a specified corporation means a corporation, a membership or memberships of which possessing more than 25 percent of the voting power are owned directly or indirectly through one or more subsidiaries as defined in subdivision (a) by the specified corporation.

5074 "Surviving corporation" means a corporation into which one or more other corporations are merged

5075 "Vacancy" when used with respect to the board means any authorized position of director which is not then filled and whether the vacancy is caused by death, resignation, removal, change in the number of directors authorized in the articles or bylaws (by the board or the members) or otherwise

5076 "Verified" means that the statements contained in a certificate or other document are declared to be true of the own knowledge of the persons executing the same in either:

(a) An affidavit signed by them under oath before an officer authorized by the laws of this state or of the place where it is executed to administer oaths; or

(b) A declaration in writing executed by them under penalty of perjury and stating the date and place (whether within or without this state) of execution

Any affidavit sworn to without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated

5077 "Vote" includes, but is not limited to, authorization by written consent pursuant to subdivision (b) of Section 5211, subdivision (b) of Section 7211, or subdivision (b) of Section 9211 and authorization by written ballot pursuant to Section 5513, Section 7513, or Section 9413

5078 "Voting power" means the total number of votes entitled to be cast for the election of directors at the time any determination of voting power is made and does not include the right to vote upon the happening of some condition or event which has not yet occurred In any case where different classes of memberships are entitled to vote as separate classes for different members of the board, the determination of percentage of voting power shall be made on the basis of the percentage of the total number of authorized directors which the memberships in question (whether of one or more classes) have the power to elect in an election at which all memberships then entitled to vote for the election of any directors are voted

5079 "Written" or "in writing" includes facsimile and telegraphic communication

5080 "Written ballot" does not include a ballot distributed at a special or regular meeting of members.

SEC 5 Part 2 (commencing with Section 5110) is added to Division 2 of Title 1 of the Corporations Code, to read:

PART 2 NONPROFIT PUBLIC BENEFIT CORPORATIONS

CHAPTER 1 ORGANIZATION AND BYLAWS

Article 1 Title and Purposes

5110 This part shall be known and may be cited as the Nonprofit Public Benefit Corporation Law

5111 Subject to any other provision of law of this state applying to the particular class of corporation or line of activity, a corporation may be formed under this part for any public or charitable purpose

Article 2 Formation

5120 (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation.

(b) Each incorporator and each director named in the articles shall sign and acknowledge the articles

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles

(d) At the time of filing pursuant to this section, a corporation shall furnish an additional copy of its articles to the Secretary of State who shall forward that copy to the Attorney General

5121 (a) In the case of an existing unincorporated association, the association shall not change its status to that of a corporation except upon a proper authorization for such by the association in accordance with its rules and procedures.

(b) Upon the change of status of an unincorporated association to a corporation pursuant to subdivision (a), the property of the association becomes the property of the corporation and the members of the association become members of the corporation.

(c) All rights of creditors and all liens upon the property of the association shall be preserved unimpaired Any action or proceeding pending by or against the unincorporated association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place

(d) If a corporation is organized by a person who is or was an officer, director or member of an unincorporated association and such corporation is not organized pursuant to subdivision (a), the unincorporated association may continue to use its name and the corporation may not use a name which is the same as or similar to the name of the unincorporated association.

5122 (a) The Secretary of State shall not file articles setting forth a name in which "bank," "trust," "trustee" or related words appear, unless the certificate of approval of the Superintendent of Banks is attached thereto

(b) The Secretary of State shall not file articles which set forth a name which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name which a foreign corporation has assumed under subdivision (b) of Section 2106 or a name which will become the record name of a domestic or foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to subdivision (c) of Section 110, or subdivision (c) of Section 5008, or a name which is under reservation pursuant to this section, Section 201, Section 7122, or Section 9122, except that a corporation may adopt a name that is substantially the same as an existing domestic or foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, upon proof of consent by such corporation and a finding by the Secretary of State that under the circumstances the public is not likely to be misled

The use by a corporation of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State

(c) Any applicant may, upon payment of the fee prescribed therefor in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by subdivision (b), and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days The Secretary of State shall not, however, issue certificates reserving the same name for two or more consecutive 60-day periods to the same applicant or for the use or benefit of the same person; nor shall consecutive reservations be made by or for the use or benefit of the same person of names so similar as to fall within the prohibitions of subdivision (b)

Article 3. Articles of Incorporation

5130 The articles of incorporation of a corporation formed under this part shall set forth

(a) The name of the corporation

(b) The following statement·

"This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person It is organized under the Nonprofit Public Benefit Corporation Law for (public or charitable [insert one or both]) purposes."

[If the purposes include "public" purposes, the articles shall, and in all other cases the articles may, describe the purposes of the corporation in an additional sentence]

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 6210

5131 The articles of incorporation may set forth a further statement limiting the purposes or powers of the corporation.

5132 (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) A provision limiting or restricting the activities in which the corporation may engage or the powers which the corporation may exercise or both.

(3) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following.

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (3), clause (i), of this section, or, in the event of its dissolution for any reason, any assets

of the corporation after compliance with the applicable provisions of Chapters 15 (commencing with Section 6510), 16 (commencing with Section 6610) and 17 (commencing with Section 6710) shall be distributed to the head organization

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy

(c) The articles of incorporation may set forth any or all of the following provisions

(1) The names and addresses of the persons appointed to act as initial directors

(2) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class

(3) A provision which would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote

(4) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws

5133 For all purposes other than an action in the nature of quo warranto, a copy of the articles of a corporation duly certified by the Secretary of State is conclusive evidence of the formation of the corporation and prima facie evidence of its corporate existence

5134 If initial directors have not been named in the articles, the incorporator or incorporators, until the directors are elected, may do whatever is necessary and proper to perfect the organization of the corporation, including the adoption and amendment of bylaws of the corporation and the election of directors and officers

Article 4 Powers

5140 (a) A corporation, subject to limitations contained in its articles or bylaws, shall have the power to.

(1) Adopt, use, and at will alter a corporate seal, but failure to affix a seal does not affect the validity of any instrument

(2) Adopt, amend, and repeal bylaws

(3) Qualify to conduct its activities in any other state, territory, dependency or foreign country

(4) Issue, purchase, redeem, receive, take or otherwise acquire, own, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own bonds, debentures, notes and debt securities

(5) Issue memberships

(6) Pay pensions, and establish and carry out pension, deferred compensation, saving, thrift and other retirement, incentive and benefit plans, trusts and provisions for any or all of its directors, officers, employees, and persons providing services to it or any of its

subsidiary or affiliated corporations, and to indemnify and purchase and maintain insurance on behalf of any fiduciary of such plans, trusts, or provisions

(7) Levy dues, assessments, and admission fees.

(b) A corporation, subject to limitations contained in its articles or bylaws, shall also have all of the powers of a natural person in carrying out its activities, including, without limitation, the power to:

(1) Make donations for the public welfare or for community funds, hospital, charitable, educational, scientific, civic, religious or similar purposes

(2) Subject to the provisions of Sections 5233, 5234, 5236, and 5237, assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow or lend money or otherwise use its credit, and secure any of its obligations, contracts or liabilities by mortgage, pledge or other encumbrance of all or any part of its property and income.

(3) Participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind whether or not such participation involves sharing or delegation of control with or to others

(4) Act as trustee under any trust incidental to the purposes of the corporation, and receive, hold, administer, and expend funds and property subject to such trust.

(5) Carry on a business at a profit and apply any profit that results from the business activity to any activity in which it may lawfully engage

(6) Pay the reasonable value of services rendered in this state to the corporation before January 1, 1975, and not previously paid, by any person who performed such services on a full-time basis under the direction of a religious organization in connection with the religious tenets of the organization Such person shall have relied solely on the religious organization for his or her financial support for a minimum of five years. A payment shall not be made if such person or religious organization waives the payment or receipt of compensation for such services in writing Payment may be made to such religious organization to reimburse it for maintenance of any person who rendered such services and to assist it in providing future support and maintenance; however, payment shall not be made from any funds or assets acquired with funds donated by or traceable to gifts made to the corporation by any person, organization or governmental agency other than the members, immediate families of members and affiliated religious organizations of the religious organization under whose direction the services were performed

(c) The powers which a corporation may exercise pursuant to this section shall be subject to compliance with other provisions of this part and any other applicable laws

5141 Subject to Section 5142·

(a) No limitation upon the activities, purposes, or powers of the corporation or upon the powers of the members, officers, or

directors, or the manner of exercise of such powers, contained in or implied by the articles or by Chapters 15 (commencing with Section 6510), 16 (commencing with Section 6610), and 17 (commencing with Section 6710) shall be asserted as between the corporation or member, officer or director and any third person, except in a proceeding (1) by a member or the state to enjoin the doing or continuation of unauthorized activities by the corporation or its officers, or both, in the cases where third parties have not acquired rights thereby, (2) to dissolve the corporation, or (3) by the corporation or by a member suing in a representative suit against the officers or directors of the corporation for violation of their authority.

(b) Any contract or conveyance made in the name of a corporation which is authorized or ratified by the board or is done within the scope of authority, actual or apparent, conferred by the board or within the agency power of the officer executing it, except as the board's authority is limited by law other than this part, binds the corporation, and the corporation acquires rights thereunder whether the contract is executed or wholly or in part executory

5142. (a) Notwithstanding Section 5141, any of the following may bring an action to enjoin, correct, obtain damages for or to otherwise remedy a breach of a charitable trust·

(1) The corporation, or a member in the name of the corporation pursuant to Section 5710

(2) An officer of the corporation.

(3) A director of the corporation.

(4) A person with a reversionary, contractual, or property interest in the assets subject to such charitable trust.

(5) The Attorney General, or any person granted relator status by the Attorney General

The Attorney General shall be given notice of any action brought by the persons specified in paragraphs (1) through (4), and may intervene

(b) In an action under this section, the court may rescind or enjoin the performance of a contract unless

(1) All of the parties to the contract are not parties to the action;

(2) A party to the contract without actual notice of the trust restriction has, in good faith, parted with value, under the contract or in reliance upon it, or

(3) It is not equitable to do so

Article 5 Bylaws

5150 (a) Bylaws may be adopted, amended or repealed by approval of the members (Section 5034) or the board, except as provided in subdivision (b). The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws, subject to subdivision (e) of Section 5151

(b) The power of the board to adopt, amend or repeal bylaws is subject to the powers of members set forth in Sections 5151, 5220,

5224, 5512, 5613, and 5616. In any case where such sections require, for adoption, amendment, or repeal of a bylaw, approval of the members (Section 5034) or approval of a majority of all members (Section 5033), equivalent approval by the members of a class must also be obtained if the amendment, adoption, or repeal of the bylaw would do any of the things specified in Section 5813

5151 (a) The bylaws shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation, or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 5151 The number or minimum number of directors may be one or more

(b) Once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034), provided, however, that a bylaw or amendment of the articles reducing the fixed number or the minimum number of directors to a number less than five cannot be adopted, in a corporation which has chosen to allow cumulative voting pursuant to Section 5616, if the votes cast against its adoption at a meeting, or the votes which members not consenting are entitled to cast in the case of action by written consent exceed 16⅔ percent of the votes the members are entitled to cast

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation, including but not limited to

(1) Any provision referred to in subdivision (c) of Section 5132

(2) The time, place and manner of calling, conducting and giving notice of members', directors' and committee meetings, or of conducting mail ballots

(3) The qualifications, duties and compensation of directors; the time of their election, and the requirements of a quorum for directors' and committee meetings

(4) The appointment and authority of committees

(5) The appointment, duties, compensation and tenure of officers

(6) The mode of determination of members of record

(7) The making of reports and financial statements to members

(8) Setting, imposing and collecting dues, assessments and admission fees

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members, consistent with the requirements of Section 5341

(e) The bylaws may require, for any or all corporate actions (except as provided in Sections 5222, subdivision (c) of 5616, and 6610), the vote of a larger proportion of, or of all of, the members of

any class, or the vote or quorum for taking action of a larger proportion of, or all of, the directors, than is otherwise required by this part. Once members have been admitted, such a bylaw requirement may be changed with approval of the members (Section 5034)

(f) A provision limiting the number of members, in total or of any class, which the corporation is authorized to admit

5152 A corporation may provide in its bylaws for delegates having some or all of the authority of members. Where delegates are provided for, the bylaws shall set forth delegates' terms of office, any reasonable method for delegates' selection and removal, and any reasonable method for calling, noticing and holding meetings of delegates Delegates may only act personally at a meeting and may not act by proxy, written consent, or written ballot. Delegates may be given a name other than "delegates."

Article 6 Location and Inspection of Articles and Bylaws

5160. Every corporation shall keep at its principal office in this state the original or a copy of its articles and bylaws as amended to date, which shall be open to inspection by the members at all reasonable times during office hours. If the corporation has no office in this state, it shall upon the written request of any member furnish to such member a copy of the articles or bylaws as amended to date

Chapter 2 Directors and Management

Article 1 General Provisions

5210 Subject to the provisions of this part and any limitations in the articles or bylaws relating to action required to be approved by the members (Section 5034), or by a majority of all members (Section 5033), the activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board The board may delegate the management of the activities of the corporation to any person or persons, management company, or committee however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board

5211 (a) Unless otherwise provided in the articles or (subject to subdivision (e) of Section 5151) in the bylaws

(1) Meetings of the board may be called by the chairman of the board or the president or any vice president or the secretary or any two directors

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or

by telephone or telegraph. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum

(8) Subject to the provisions of Sections 5233, 5234, 5235, and subdivision (e) of Section 5238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division or the articles

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action Such written consent or consents shall be filed with the minutes of the proceedings of the board Such action by written consent shall have the same force and effect as the unanimous vote of such directors

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis

5212 (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. Appointments to such committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in the articles or bylaws The bylaws may authorize one or more committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of such committee or committees The board may appoint one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Any such committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to

(1) The approval of any action for which this division also requires approval of the members

(2) The filling of vacancies on the board or in any committee

(3) The fixing of compensation of the directors for serving on the board or on any committee

(4) The amendment or repeal of bylaws or the adoption of new bylaws

(5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable

(6) The appointment of committees of the board or the members thereof.

(7) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected

(8) The approval of any self-dealing transaction (Section 5233).

(b) Subdivision (a) shall not apply to any committee which does not exercise the authority of the board

(c) Unless the bylaws otherwise provide, the board may delegate to any committee powers as authorized by Section 5210, but may not delegate the powers set forth in paragraphs (1) through (8) of subdivision (a) of this section

5213 (a) A corporation shall have a chairman of the board or a president or both, a secretary, a chief financial officer and such other officers with such titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments The president, or if there is no president the chairman of the board, is the general manager and chief executive officer of the corporation, unless otherwise provided in the articles or bylaws Any number of offices may be held by the same person unless the articles or bylaws provide otherwise, except that neither the

secretary nor the chief financial officer may serve concurrently as the president or chairman of the board.

(b) Except as otherwise provided by the articles or bylaws, officers shall be chosen by the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment Any officer may resign at any time upon written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

5214 Subject to the provisions of subdivision (a) of Section 5141 and Section 5142, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between any corporation and any other person, when signed by the chairman of the board, the president, or any vice president, and the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation, is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same

5215 The original or a copy of the bylaws or of the minutes of any incorporators', members', directors', committee or other meeting or of any resolution adopted by the board or a committee thereof, or members, certified to be a true copy by a person purporting to be the secretary or an assistant secretary of the corporation, is prima facie evidence of the adoption of such bylaws or resolution or of the due holding of such meeting and of the matters stated therein

Article 2 Selection, Removal and Resignation of Directors

5220 (a) Except as provided in subdivision (e), corporations with members shall elect directors for such terms, not longer than three years, as are fixed in the articles or bylaws In the absence of any provision in the articles or bylaws, the term shall be one year No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).

(b) Except as provided in subdivision (e), corporations without members shall elect directors annually at a meeting of the directors

(c) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified

(d) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(e) Subdivisions (a) through (d) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation without members and up to one-third of the directors authorized in the articles or bylaws of a corporation with members,

may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by the members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 5222 A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034), subject, if so provided in the bylaws, to the consent of the person or persons entitled to designate or select any such director or directors

(f) A corporation may provide in its articles or bylaws for voting by its members on the basis of chapter or other organizational unit or by region or other geographic grouping

(g) Directors designated or selected by a government office, board, commission, department, agency or political subdivision are not subject to the one-third limit in subdivision (e)

5221 The board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Article 3 (commencing with Section 5230)

5222 (a) Subject to subdivision (b) of this section, any or all directors may be removed without cause if.

(1) In a corporation with fewer than 50 members, such removal is approved by a majority of all members (Section 5033); or

(2) In a corporation with 50 or more members, such removal is approved by the members (Section 5034).

(b) Except for a corporation having no members pursuant to Section 5310

(1) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 5616, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected, and

(2) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(c) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office

(d) Except as provided in this section and Sections 5221 and 5222, a director may not be removed prior to the expiration of such

director's term of office.

(e) Where a director removed under this section was chosen by designation pursuant to subdivision (e) of Section 5220, then.

(1) Where a different person may be designated pursuant to governing article or bylaw provision, such new designation shall be made

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

5223 (a) The superior court of the proper county may, at the suit of a director, or twice the authorized number (Section 5036) of members, remove from office any director in case of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the corporation or breach of any duty arising under Article 3 (commencing with Section 5230) of this chapter, and may bar from reelection any director so removed for a period prescribed by the court. The corporation shall be made a party to such action.

(b) The Attorney General may bring an action under subdivision (a), may intervene in such an action brought by any other party and shall be given notice of any such action brought by any other party

5224 (a) Unless otherwise provided in the articles or bylaws and except for a vacancy created by the removal of a director, vacancies on the board may be filled by a majority of the directors then in office, whether or not less than a quorum, or by a sole remaining director Unless the articles or a bylaw approved by the members (Section 5034) provide that the board may fill vacancies occurring in the board by reason of the removal of directors, or unless the corporation has no members pursuant to Section 5310, such vacancies may be filled only by approval of the members (Section 5034)

(b) The members may elect a director at any time to fill any vacancy not filled by the directors

(c) Any director may resign effective upon giving written notice to the chairman of the board, the president, the secretary or the board of directors of the corporation, unless the notice specifies a later time for the effectiveness of such resignation If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective

5225. (a) If a corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property, activities, or business will be impaired or lost, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws and whether or not an action is pending for an involuntary winding up or dissolution of the corporation, appoint a provisional director pursuant to this section Action for such appointment may be brought by the Attorney General, by any director, or by members holding 33⅓ percent of the voting power

(b) If a corporation has an uneven number of directors and the

members are deadlocked so that they cannot elect successor directors at the time prescribed therefor, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws, upon petition of members holding 50 percent of the voting power, appoint a provisional director or directors pursuant to this section or order such other equitable relief as the court deems appropriate

(c) Any person bringing an action under subdivision (a) or (b) shall give notice to the Attorney General, who may intervene.

(d) The Attorney General may bring an action under subdivision (a) or (b)

(e) A provisional director shall be an impartial person, who is neither a member nor a creditor of the corporation, nor related by consanguinity or affinity within the third degree according to the common law to any of the other directors of the corporation or to any judge of the court by which such provisional director is appointed A provisional director shall have all the rights and powers of a director until the deadlock in the board or among members is broken or until such provisional director is removed by order of the court or by approval of a majority of all members (Section 5033) Such person shall be entitled to such compensation as shall be fixed by the court unless otherwise agreed with the corporation

5226 Except upon notice to the Attorney General, no director may resign where the corporation would then be left without a duly elected director or directors in charge of its affairs

5227 (a) Any other provision of this part notwithstanding, not more than 49 percent of the persons serving on the board of any corporation may be interested persons

(b) For the purpose of this section, "interested persons" means either

(1) Any person currently being compensated by the corporation for services rendered to it within the previous 12 months, whether as a full- or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director, or

(2) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

(c) The provisions of this section shall not affect the validity or enforceability of any transaction entered into by a corporation.

Article 3 Standards of Conduct

5230 (a) Any duties and liabilities set forth in this article shall apply without regard to whether a director is compensated by the corporation

(b) Article 2 (commencing with Section 2228) of Chapter 1 and Article 2 (commencing with Section 2258) of Chapter 2 of Title 8 of Part 4 of Division 3 of the Civil Code shall not apply to the directors

of any corporation

5231 (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented,

(2) Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence, or

(3) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence,

so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted

(c) A person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any failure or alleged failure to discharge the person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which a corporation, or assets held by it, are dedicated

5232 (a) Section 5231 governs the duties of directors as to any acts or omissions in connection with the election, selection, or nomination of directors.

(b) This section shall not be construed to limit the generality of Section 5231

5233 (a) Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction

(1) To which the corporation is a party and in which one or more directors has a material financial interest; or

(2) Between a corporation and one or more of its directors or between a corporation and any person in which one or more of its directors has a material financial interest

Such director or person is an "interested person" for the purpose of subdivision (f)

(b) A mere common directorship does not constitute a material financial interest within the meaning of subdivision (a) A resolution of the board fixing the compensation of directors or officers of the corporation is not governed by this section

(c) The Attorney General, or if the Attorney General is joined as an indispensable party, any of the following may bring an action in the superior court of the proper county for the remedies specified in subdivision (h)

(1) The corporation, or a member asserting the right in the name of the corporation pursuant to Section 5710,

(2) A director of the corporation,

(3) An officer of the corporation, or

(4) Any person granted relator status by the Attorney General.

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if either:

(1) The Attorney General, or the court in an action in which the Attorney General is an indispensable party, has approved the transaction before or after it was consummated, or

(2) The person asserting the validity of the transaction sustains the burden of proving that

(A) The corporation entered into the transaction for its own benefit,

(B) The transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction,

(C) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction Any other provision of this part notwithstanding, no action by a committee of the board shall satisfy this paragraph; and

(D) Prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or the corporation in fact could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

(e) Except as provided in subdivision (f), an action under subdivision (c) must be filed within two years after written notice setting forth the material facts of the transaction and the director's interest in the transaction is filed with the Attorney General pursuant to regulations adopted by the Attorney General or if no such notice is filed, 10 years after the cause of action has accrued.

(f) The fact that a transaction is a self-dealing transaction not approved as provided in paragraph (1) or (2) of subdivision (d) may be raised as a defense to any action brought for breach of any obligation of the corporation owed to an interested person arising from a self-dealing transaction, notwithstanding the expiration of the applicable period specified in subdivision (e)

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes,

approves or ratifies a contract or transaction

(h) Except as provided in subdivision (i), a director who engaged in a self-dealing transaction which has not been approved as provided in paragraph (1) or (2) of subdivision (d) shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation. Without limiting the generality of the foregoing, the court may order the director to do any or all of the following.

(1) Account for any profits made from such transaction, and pay them to the corporation;

(2) Pay the corporation the value of the use of any of its property used in such transaction, and

(3) Return or replace any property lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the corporation together with interest at the legal rate.

In exercising its discretion the court shall take into account any benefit received by the corporation in the self-dealing transaction and may award prejudgment interest to the extent allowed in Section 3287 or 3288 of the Civil Code In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section.

(i) Anything in Section 5231 notwithstanding, a director who in good faith and with intent to further the best interests of the corporation engages in a self-dealing transaction not approved as provided in paragraph (1) or (2) of subdivision (d) shall be liable only to compensate the corporation for any loss it has suffered thereby

5234 (a) No contract or other transaction between a corporation and any domestic or foreign corporation, firm or association of which one or more of its directors are directors is either void or voidable because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the contract or transaction, if·

(1) The material facts as to the transaction and as to such director's other directorship are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common director or directors; or

(2) As to contracts or transactions not approved as provided in paragraph (1) of this subdivision, the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified

(b) This section does not apply to transactions covered by Section 5233

5235 (a) The board may fix the compensation of a director, as director or officer, and no obligation, otherwise valid, to pay such

compensation shall be voidable merely because the persons receiving the compensation participated in the decision to pay it, unless it was not just and reasonable as to the corporation at the time it was authorized, ratified or approved.

(b) In the absence of fraud, any liability under this section shall be limited to the amount by which the compensation exceeded what was just and reasonable, plus interest from the date of payment.

5236. A corporation shall not make any loan of money or property to or guarantee the obligation of any director or officer, unless approved by the Attorney General; provided, however, that a corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such officer or director, provided that in the absence of such advance, such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent, or any subsidiary.

5237 (a) Subject to the provisions of Section 5231, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation for:

(1) The making of any distribution.

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapters 15 (commencing with Section 6510), 16 (commencing with Section 6610) and 17 (commencing with Section 6710).

(3) The making of any loan or guaranty contrary to Section 5236.

(b) A director who is present at a meeting of the board, or any committee thereof, at which action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce the liability:

(1) Under paragraph (1) of subdivision (a) against any or all directors liable by the persons entitled to sue under subdivision (b) of Section 5420;

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment.

(3) Under paragraph (1), (2) or (3) of subdivision (a), by the Attorney General.

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guaranty.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or

in an independent action against directors not joined in that action.

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation:

(1) With respect to paragraph (1) of subdivision (a), against members who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the members who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guaranty.

Any director sued under this section may file a cross-complaint against the person or persons who are liable to such director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action.

5238. (a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (3) of subdivision (e).

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section 5233, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any

threatened, pending or completed action by or in the right of the corporation, or brought under Section 5233, or brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances No indemnification shall be made under this subdivision

(1) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine,

(2) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(3) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless it is settled with the approval of the Attorney General

(d) To the extent that an agent of a corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith

(e) Except as provided in subdivision (d), any indemnification under this section shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subdivision (b) or (c), by:

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding;

(2) Approval of the members (Section 5034), with the persons to be indemnified not being entitled to vote thereon, or

(3) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation

(f) Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the

agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this section.

(g) No provision made by a corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the articles, bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this section Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

(h) No indemnification or advance shall be made under this section, except as provided in subdivision (d) or paragraph (3) of subdivision (e), in any circumstance where it appears:

(1) That it would be inconsistent with a provision of the articles, bylaws, a resolution of the members or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(2) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

(i) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this section; provided, however, that a corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the corporation for a violation of Section 5233

(j) This section does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent as defined in subdivision (a) of the employer corporation. A corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207.

Article 4 Investments

5240 (a) This section applies only to assets held by the corporation for investment. Assets held for use or used directly in carrying out a public or charitable program of the corporation are not subject to the limitations of this section

(b) Except as provided in subdivision (c) or (d), in investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the corporation's investments, the board shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the corporation's capital. In implementing this policy, each

director shall act as required by subdivision (a) of Section 5231, may rely upon others as permitted by subdivision (b) of Section 5231 and shall have the benefit of subdivision (c) of Section 5231.

(c) Unless limited by the articles, the corporation may continue to hold property properly acquired or contributed to it if and as long as the board, in the exercise of good faith and of reasonable prudence, discretion and intelligence, may consider that retention is in the best interests of the corporation. No retention of donated assets violates this section, where such retention was required by the donor in the instrument under which the assets were received by the corporation, except that no such requirement may be effective more than 10 years after the death of the donor.

(d) No investment violates this section by virtue of its speculative character, where it conforms to provisions authorizing such investment contained in the instrument or agreement under which the assets were contributed to the corporation.

(e) No provision of the articles may vary the standard set forth in subdivision (b)

5241. Nothing in Section 5240 shall abrogate or restrict the power of the appropriate court in proper cases to direct or permit a corporation to deviate from the terms of a trust or agreement regarding the making or retention of investments.

Article 5 Examination by Attorney General

5250. A corporation is subject at all times to examination by the Attorney General, on behalf of the state, to ascertain the condition of its affairs and to what extent, if at all, it fails to comply with trusts which it has assumed or has departed from the purposes for which it is formed. In case of any such failure or departure the Attorney General may institute, in the name of the state, the proceeding necessary to correct the noncompliance or departure.

Article 6. Compliance With Internal Revenue Code

5260. Any other provision of law notwithstanding, every corporation, during any period or periods such corporation is deemed to be a "private foundation" as defined in Section 509 of the Internal Revenue Code of 1954 as amended by Section 101 of the Tax Reform Act of 1969 (all references in this section to the Internal Revenue Code shall refer to such code as amended by such act), shall distribute its income for each taxable year (and principal, if necessary) at such time and in such manner as not to subject such corporation to tax under Section 4942 of such code, (as modified by paragraph 3 of subsection (1) of Section 101 of the Tax Reform Act of 1969), and such corporation shall not engage in any act of self-dealing as defined in subsection (d) of Section 4941 of such code (as modified by paragraph (2) of subsection (1) of Section 101 of the Tax Reform Act of 1969), retain any excess business holdings as

defined in subsection (c) of Section 4943 of such code, make any investments in such manner as to subject such corporation to tax under Section 4944 of such code, or make any taxable expenditure as defined in subsection (d) of Section 4945 of such code (as modified by paragraph (5) of subsection (1) of Section 101 of the Tax Reform Act of 1969)

This section shall apply to any such corporation and any provision contained in its articles of incorporation or other governing instrument inconsistent with this section or to the contrary thereof shall be without effect

CHAPTER 3 MEMBERS

Article 1. Issuance of Memberships

5310 (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members

(b) In the case of a corporation which has no members

(1) Any action which would otherwise require a vote of members shall require only a vote of the directors, and no meeting of members shall be required, any provision of this part or the articles or bylaws to the contrary notwithstanding

(2) All rights which would otherwise vest in the members shall vest in the directors

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members

5311 (a) Memberships may be issued by a corporation for no consideration or for such consideration as is specified in the articles or bylaws or, absent such specification, for such consideration as is determined by the board

(b) Except as provided in subdivision (d), and subject to Section 5351, memberships issued as provided in this section shall be declared and taken to be fully paid memberships and not liable to any further call nor shall the member be liable for any further payments for such membership

(c) In the absence of fraud in the transaction, the judgment of the directors as to the value of the consideration for memberships shall be conclusive

(d) A corporation may issue the whole or any part of its memberships as partly paid and subject to call for the remainder of the consideration to be paid therefor

5312 No person may hold more than one membership, and no fractional memberships may be held, provided, however, that

(a) Two or more persons may have an indivisible interest in a single membership when authorized by, and in such manner or under the circumstances prescribed by, the articles or bylaws subject

to Section 5612, and

(b) If the articles or bylaws provide for classes of membership and if the articles or bylaws permit a person to be a member of more than one class, a person may hold one membership in any class

5313 Except as provided in its articles or bylaws, a corporation may admit any person to membership

Article 2 Transfer of Memberships

5320 Subject to Section 5613

(a) No member may transfer for value a membership or any right arising therefrom; and

(b) Unless otherwise provided in the corporation's articles or bylaws, all rights of membership cease upon the member's death or dissolution

Article 3 Types of Memberships

5330 A corporation may issue memberships having different voting or other rights

5331 Except as provided in or authorized by the articles or bylaws, all memberships shall have the same voting and other rights

5332 (a) A corporation may refer to persons affiliated with it as "members" even though such persons are not members within the meaning of Section 5056, but references to members in this part mean members as defined in Section 5056

(b) A corporation may benefit, serve, or assist persons who are not members within the meaning of Section 5056 for such consideration, if any, as the board may determine or as is authorized or provided for in the articles or bylaws

Article 4 Termination of Memberships

5340 (a) A member may resign from membership at any time

(b) This section shall not relieve the resigning member from any obligation for charges incurred, services or benefits actually rendered, dues, assessments or fees, or arising from contract or otherwise, and this section shall not diminish any right of the corporation to enforce any such obligation or obtain damages for its breach

(c) A membership issued for a period of time terminates upon the expiration of such period of time

5341 (a) No member may be expelled or suspended, and no membership or membership rights may be terminated or suspended, except according to procedures satisfying the requirements of this section An expulsion, termination or suspension not in accord with this section shall be void and without effect.

(b) Any expulsion, suspension or termination must be done in good faith and in a fair and reasonable manner Any procedure which

conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered

(c) A procedure is fair and reasonable when

(1) The provisions of the procedure have been set forth in the articles or bylaws;

(2) It provides the giving of 15 days prior notice of the expulsion, suspension or termination and the reasons therefor; and

(3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice Any notice given by mail must be given by first-class or registered mail sent to the last address of the member shown on the corporation's records.

(e) Any action challenging an expulsion, suspension or termination of membership including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination In the event such an action is successful the court may order any relief, including reinstatement, it finds equitable under the circumstances, but no vote of the members or of the board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.

(f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefor An expulsion, suspension or termination based upon substantive grounds which violate contractual or other rights of the member or are otherwise unlawful, is not made valid by compliance with this section

Article 5 Rights and Obligations of Members and Creditors

5350. (a) A member of a corporation is not, as such, personally liable for the debts, liabilities, or obligations of the corporation

(b) No person is liable for any obligation arising from membership unless the person was admitted to membership upon the person's application or with the person's consent

5351 A corporation may levy dues, assessments or fees upon its members pursuant to its articles or bylaws, but a member upon learning of them may avoid liability for them by promptly resigning from membership, except where the member is, by contract or

otherwise, liable for them. Article or bylaw provisions authorizing such dues, assessments or fees do not, of themselves, create such liability

5352 (a) No action shall be brought by or on behalf of any creditor to reach and apply the liability, if any, of a member to the corporation to pay the amount due on such member's membership or otherwise due to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless such proceedings would be useless

(b) All creditors of the corporation, with or without reducing their claims to judgment, may intervene in any such creditor's action to reach and apply unpaid amounts due the corporation and any or all members who owe amounts to the corporation may be joined in such action Several judgments may be rendered for and against the parties to the action or in favor of a receiver for the benefit of the respective parties thereto.

(c) All amounts paid by any member in any such action shall be credited on the unpaid balance due the corporation by such member.

5353. Nothing in this part shall be construed as in derogation of any rights or remedies which any creditor or member may have against any promoter, member, director, officer or the corporation because of participation in any fraud or illegality practiced upon such creditor or member by any such person or by the corporation in connection with the issue or sale of memberships or securities or in derogation of any rights which the corporation may have by rescission, cancellation or otherwise because of any fraud or illegality practiced on it by any such person in connection with the issue or sale of memberships or securities

5354 A person holding a membership as executor, administrator, guardian, trustee, receiver or in any representative or fiduciary capacity is not personally liable for any unpaid balance of the purchase price of the membership, or for any amounts owing to the corporation by the member, because the membership is so held; but the estate and funds in the hands of such fiduciary are liable therefor.

CHAPTER 4. DISTRIBUTIONS

Article 1 Limitations

5410 No corporation shall make any distribution to any member or members

Article 2 Liability of Members

5420 (a) Any member who receives any distribution is liable to the corporation for the amount so received by such member with interest thereon at the legal rate on judgments until paid

(b) Suit may be brought in the name of a corporation by a creditor, a director. the Attorney General, or, subject to meeting the requirements of Section 5710, a member In any such action in addition to the remedy provided in subdivision (a), the court may award punitive damages for the benefit of the corporation against any director, officer, member or other person who with intent to defraud the corporation caused, received or aided and abetted in the making of any distribution

(c) Any member sued under this section may implead all other members or persons liable under this section and may in the absence of fraud by such member compel contribution, either in that action or in an independent action against members not joined in the action.

(d) Nothing contained in this section affects any liability which any member may have under Sections 3439 to 3439.12, inclusive, of the Civil Code

CHAPTER 5 MEETINGS AND VOTING

Article 1 General Provisions

5510 (a) Meetings of members may be held at a place within or without the state that is stated in or fixed in accordance with the bylaws If no other place is so stated or fixed, meetings of members shall be held at the principal office of the corporation.

(b) Regular meetings of members shall be held on a date and time, and with the frequency stated in or fixed in accordance with the bylaws, but not less often than every third year If the bylaws make no provision, then annual meetings shall be held. Except for elections pursuant to subdivision (e), directors shall be elected at a regular meeting of members unless they are elected by written ballot pursuant to subdivision (e) of Section 5513 Any other proper business may be transacted at a regular meeting.

(c) If a corporation with members fails to hold the regular meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the formation of the corporation, or if the corporation fails to hold a written ballot for a period of 60 days after the date designated therefor, then the superior court of the proper county may summarily order the meeting to be held or the ballot to be conducted upon the application of a member, or the Attorney General, after notice to the corporation giving it an opportunity to be heard.

(d) The votes represented, either in person or by proxy, at a meeting called or written ballot ordered pursuant to subdivision (c), and entitled to be cast on the business to be transacted at the meeting, constitute a quorum for the purpose of the meeting, notwithstanding any provision of the articles or bylaws or in this part to the contrary The court may issue such orders as may be appropriate including, without limitation, orders designating the

time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice of the meeting

(e) Special meetings of members may be called by the board, the chairman of the board, the president, or such other persons, if any, as are specified in the bylaws In addition, special meetings of members for the purpose of removal of directors and election of their replacements may be called by 5 percent or more of the members

5511 (a) Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each member entitled to vote thereat, provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered, or certified mail, that notice shall be given not less than 20 days before the meeting. Subject to subdivision (f), and subdivision (b) of Section 5512, such notice shall state the place, date and time of the meeting and (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) in the case of the regular meeting, those matters which the board, at the time of the mailing of the notice, intends to present for action by the members, but, except as provided in subdivision (b) of Section 5512, any proper matter may be presented at the meeting for such action The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is sent to members

(b) Notice of a members' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to the member at the address of such member appearing on the books of the corporation or given by the member to the corporation for purpose of notice, or if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located An affidavit of giving of any notice or report in accordance with the provisions of this part, executed by the secretary, assistant secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report

If any notice or report addressed to a member at the address of such member appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the member at such address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the member upon written demand of the member at the principal office of the corporation for a period of one year from the date of the giving of the notice or report to all other members

(c) Upon request in writing to the chairman of the board president, vice president or secretary by any person (other than the

board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the board, not less than 35 nor more than 90 days after the receipt of the request If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote and the form of notice

(d) When a members' meeting is adjourned to another time or place, unless the bylaws otherwise require and except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting

(e) The transactions of any meeting of members, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this part to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, unless otherwise provided in the articles or bylaws, except as provided in subdivision (f)

(f) Any member approval required under Section 5222, 5224, 5812, or 6610, other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice

(g) A court may find that notice not given in conformity with this

section is still valid, if it was given in a fair and reasonable manner.

(h) In the absence of fraud, the failure to give notice in accordance with this section may not be raised, whether by way of claim or defense, in any proceeding commenced more than nine months after the date of the meeting of which the allegedly defective notice was given

5512. (a) A majority of the voting power, represented in person, by written ballot, or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw approved by the members (Section 5034) or by the incorporators or by the board if there are no members may set a lower quorum Any such bylaw may be amended or repealed only by approval of the members (Section 5034) or the board if there are no members. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members, unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws

(b) Where a bylaw approved by the members (Section 5034) authorizes a corporation to conduct a meeting with a quorum, fixed in such bylaw, of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 5511.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c)

5513 (a) Subject to subdivision (e), and unless otherwise provided in the articles, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the written ballot of every member is solicited, if the required number of signed approvals in writing, setting forth the action so taken, is received, and if the requirements of subdivision (b) are satisfied.

(b) Approval by written ballot pursuant to this section shall be valid only when the number of ballots cast within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of ballots cast

(c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 5511, and Section 5514. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted The solicitation must specify the time by which the ballot must be received in order to be counted.

(d) Subject to Sections 5611 and 5613, any member casting a ballot or the proxyholders of a member may revoke the ballot, or substitute another, by a writing received by the corporation prior to the time specified pursuant to subdivision (c), but may not do so thereafter Such revocation is effective upon its receipt by the secretary of the corporation.

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to the articles and Section 5616

5514 (a) Any form of proxy or written ballot distributed to 10 or more members of a corporation with 100 or more members shall afford an opportunity on the proxy or form of written ballot to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy is solicited or by such written ballot, and shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter the vote shall be cast in accordance therewith

(b) Every form of proxy or written ballot, which provides an opportunity to specify approval or disapproval with respect to any proposal, shall also contain an appropriate space marked "abstain," whereby a member may indicate a desire to abstain from voting on the proposal A proxy marked "abstain" by the member 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 or written ballot in which the directors to be voted upon are named therein as candidates and which is marked by a member "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

(d) 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 member

5515 (a) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper

county, upon petition of a director, officer, member or the Attorney General, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws and this part.

Article 2. Additional Provisions Relating to Election of Directors

5520 As to directors elected by members, there shall be available to the members reasonable nomination and election procedures given the nature, size and operations of the corporation. The procedures shall include

(a) A reasonable means of nominating persons for election as directors

(b) A reasonable opportunity for a nominee to communicate to the members the nominee's qualifications and the reasons for the nominee's candidacy

(c) A reasonable opportunity for all nominees to solicit votes

(d) A reasonable opportunity for all members to choose among the nominees

5521 Except for directors who are elected as authorized by

Section 5152, or subdivision (f) of Section 5220, and except as provided in Section 5522, any person who is qualified to be elected to the board of directors of a corporation with 500 or more members may be nominated:

(a) By any method authorized by the bylaws, or if no method is set forth in the bylaws by any method authorized by the board,

(b) By petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by members representing the following number of votes:

Number of Votes Eligible to be Cast for Director Disregarding Any Provision for Cumulative Voting	*Number of Votes*
Under 5,000	2 percent of voting power
5,000 or more	one-twentieth of 1 percent of voting power but not less than 100, nor more than 500

(c) If there is a meeting to elect directors, by any member present at the meeting in person or by proxy if proxies are permitted.

5522 (a) The provisions of this section shall apply to any election of a director or directors by members of a corporation with 5,000 or more members except for an election authorized by Section 5152 or subdivision (f) of Section 5220

(b) The corporation's articles or bylaws shall set a date for the close of nominations for the board The date shall not be less than 50 nor more than 120 days before the day directors are to be elected. No nominations for the board can be made after the date set for the close of nominations

(c) If more people are nominated for the board than can be elected, the election shall take place by means of a procedure which allows all nominees a reasonable opportunity to solicit votes and all members a reasonable opportunity to choose among the nominees

(d) If after the close of nominations the number of people nominated for the board is not more than the number of directors to be elected, the corporation may without further action declare that those nominated and qualified to be elected have been elected.

5523 Where a corporation with 500 or more members publishes any material soliciting a vote for any nominee for director in any publication owned or controlled by the corporation, it shall make available to all other nominees, in the same issue of the publication, an equal amount of space, with equal prominence, to be used by the nominee for a purpose reasonably related to the election.

5524 Upon written request by any nominee for election to the board and the payment with such request of the reasonable costs of mailing (including postage) a corporation shall within 10 business

days after such request (provided payment has been made) mail to all members, or such portion of them as the nominee may reasonably specify, any material, which the nominee may furnish and which is reasonably related to the election, unless the corporation within five business days after the request allows the nominee, at the corporation's option, the rights set forth in either paragraph (1) or (2) of subdivision (a) of Section 6330.

5525 (a) Except as provided in subdivision (c), no corporation may decline to publish or mail material, otherwise required to be published or mailed on behalf of any nominee under this article, on the basis of the content of such material.

(b) Neither the corporation, nor its agents, officers, directors, or employees, may be held criminally liable, liable for any negligence (active or passive) or otherwise liable for damages to any person on account of any material which is supplied by a nominee for director and which it mails or publishes pursuant to Section 5523 or 5524, but the nominee on whose behalf such material was published or mailed shall be liable and shall indemnify and hold the corporation, its agents, officers, directors and employees and each of them harmless from all demands, costs, including reasonable legal fees and expenses, claims, damages and causes of action arising out of such material or any such mailing or publication.

(c) Nothing in this section shall prevent a corporation or any of its agents, officers, directors, or employees from seeking a court order relieving the corporation from its obligation under Sections 5523 and 5524 on the ground the material will expose the moving party to liability.

5526 Without authorization of the board, no corporate funds may be expended to support a nominee for director after there are more people nominated for director than can be elected.

5527. An action attacking the validity of any election, appointment or removal of a director or directors must be commenced within nine months after the election, appointment or removal

Chapter 6 Voting of Memberships

5610. Except as provided in a corporation's articles or bylaws or Section 5616, each member shall be entitled to one vote on each matter submitted to a vote of the members Single memberships in which two or more persons have any indivisible interest shall be voted as provided in Section 5612.

5611 (a) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to notice of any meeting of members or entitled to exercise any rights in respect to any lawful action Such record date shall not be more than 60 nor less than 10 days before the date of the meeting, nor more than 60 days prior to any other action

(b) Any member in good standing, otherwise eligible to vote, is entitled to vote at any meeting of members, except that the bylaws may provide or, in the absence of such bylaw provision, the board may fix a date as the record date for the purpose of determining the members entitled to vote or for the purpose of determining members entitled to exercise any rights in respect to any lawful action. Such record date shall not be more than 60 nor less than 10 days before the date of the meeting, nor more than 60 days prior to any other action.

(c) If no record date is fixed:

(1) The record date for determining members entitled to notice of a meeting of members shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.

(2) The record date for determining members entitled to cast written ballots (Section 5513), when no prior action by the board has been taken, shall be the day on which the first written ballot is mailed or solicited, whichever is first.

(3) The record date for determining members for any other purpose (except voting at a meeting shall be at the close of business on the day on which the board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later

(d) A determination of members entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the board fixes a new record date for the adjourned meeting.

5612 If a membership stands of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, or otherwise, or if two or more persons (including proxyholders) have the same fiduciary relationship respecting the same membership, unless the secretary of the corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect·

(a) If only one votes, such act binds all;

(b) If more than one vote, the act of the majority so voting binds all.

5613. (a) Every person entitled to vote a membership may authorize another person or persons to act by proxy with respect to such membership, except that this right may be limited or withdrawn by the articles or bylaws, subject to subdivision (e) Any proxy purported to be executed in accordance with the provisions of this part shall be presumptively valid

(b) No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date

of execution Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

(c) A proxy is not revoked by the death or incapacity of the maker or the termination of a membership as a result thereof unless, before the vote is counted, written notice of such death or incapacity is received by the corporation

(d) The proxy of a member may not be irrevocable.

(e) Subdivision (a) notwithstanding, no amendment of the articles or bylaws repealing, restricting, creating or expanding proxy rights may be adopted without approval by the members (Section 5034).

(f) Anything to the contrary notwithstanding, any proxy covering matters requiring a vote of the members pursuant to Section 5222, Section 5224, subdivision (e) of Section 5613, Section 5812, paragraph (2) of subdivision (a) of Section 5911, Section 6014, subdivision (a) of Section 6015, or Section 6610 is not valid as to such matters unless it sets forth the general nature of the matter to be voted on, or, in the event of a vote pursuant to Section 5220, unless the proxy lists those nominated at the time of the notice of the vote is given to members

5614 Voting agreements between members of a corporation shall not be enforced.

5615 (a) In advance of any meeting of members the board may appoint inspectors of election to act at the meeting and any adjournment thereof. If inspectors of election are not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairman of any meeting of members may, and on the request of any member or a member's proxy shall, appoint inspectors of election (or persons to replace those who so fail or refuse) at the meeting The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more members or proxies, the majority of members represented in person or by proxy shall determine whether one or three inspectors are to be appointed.

(b) The inspectors of election shall determine the number of memberships outstanding and the voting power of each, the number represented at the meeting, the existence of a quorum and the authenticity, validity and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do such acts as may be proper to conduct the election

or vote with fairness to all members

(c) The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical. If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein

5616. (a) If the articles or bylaws authorize cumulative voting, but not otherwise, every member entitled to vote at any election of directors may cumulate such member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit An article or bylaw provision authorizing cumulative voting may be repealed or amended only by approval of a majority of all members (Section 5033), except that the governing article or bylaw provision may require the vote of a greater proportion of the members, or of the members of any class, for its repeal.

(b) No member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and a member has given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any one member has given such notice, all members may cumulate their votes for candidates in nomination

(c) In any election of directors, the candidates receiving the highest number of votes are elected, subject to any lawful provision specifying election by classes

(d) Elections for directors need not be by ballot unless a member demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

(e) Subdivision (a) shall not apply to a corporation, having no members pursuant to Section 5310, in which the directors are elected by the directors

5617 (a) Upon the filing of an action therefor by any director or member, or by any person who had the right to vote in the election at issue, the superior court of the proper county shall determine the validity of any election or appointment of any director of any corporation

(b) Any person bringing an action under this section shall give notice of the action to the Attorney General, who may intervene.

(c) Upon the filing of the complaint, and before any further proceedings are had, the court shall enter an order fixing a date for the hearing, which shall be within five days unless for good cause shown a later date is fixed, and requiring notice of the date for the hearing and a copy of the complaint to be served upon the corporation and upon the person whose purported election or

appointment is questioned and upon any person (other than the plaintiff) whom the plaintiff alleges to have been elected or appointed, in the manner in which a summons is required to be served, or, if the court so directs, by registered mail; and the court may make such further requirements as to notice as appear to be proper under the circumstances

(d) The court, consistent with the provisions of this part and in conformity with the articles and bylaws to the extent feasible, may determine the person entitled to the office of director or may order a new election to be held or appointment to be made, may determine the validity of the issuance of memberships and the right of persons to vote and may direct such other relief as may be just and proper

CHAPTER 7 MEMBERS' DERIVATIVE ACTIONS

5710 (a) Subdivisions (c) through (f) notwithstanding, no motion to require security shall be granted in an action brought by 100 members or the authorized number (Section 5036), whichever is less

(b) No action may be instituted or maintained in the right of any corporation by any member of such corporation unless both of the following conditions exist.

(1) The plaintiff alleges in the complaint that plaintiff was a member at the time of the transaction or any part thereof of which plaintiff complains; and

(2) The plaintiff alleges in the complaint with particularity plaintiff's efforts to secure from the board such action as plaintiff desires, or the reasons for not making such effort, and alleges further that plaintiff has either informed the corporation or the board in writing of the ultimate facts of each cause of action against each defendant or delivered to the corporation or the board a true copy of the complaint which plaintiff proposes to file

(c) Subject to subdivision (a), in any action referred to in subdivision (b), at any time within 30 days after service of summons upon the corporation or upon any defendant who is an officer or director of the corporation, or held such office at the time of the acts complained of, the corporation or such defendant may move the court for an order, upon notice and hearing, requiring the plaintiff to furnish security as hereinafter provided The motion shall be based upon one or both of the following grounds

(1) That there is no reasonable possibility that the prosecution of the cause of action alleged in the complaint against the moving party will benefit the corporation or its members, economically or otherwise

(2) That the moving party, if other than the corporation, did not participate in the transaction complained of in any capacity

The court on application of the corporation or any defendant may, for good cause shown, extend the 30-day period for an additional period or periods not exceeding 60 days

(d) At the hearing upon any motion pursuant to subdivision (c), the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material (1) to the ground or grounds upon which the motion is based, or (2) to a determination of the probable reasonable expenses, including attorneys' fees, of the corporation and the moving party which will be incurred in the defense of the action If the court determines, after hearing the evidence adduced by the parties, that the moving party has established a probability in support of any of the grounds upon which the motion is based, the court shall fix the nature and amount of security, not to exceed fifty thousand dollars ($50,000), to be furnished by the plaintiff for reasonable expenses, including attorneys' fees, which may be incurred by the moving party and the corporation in connection with the action, including expenses for which the corporation may become liable pursuant to Section 5238. A ruling by the court on the motion shall not be a determination of any issue in the action or of the merits thereof The amount of the security may thereafter be increased or decreased in the discretion of the court upon a showing that the security provided has or may become inadequate or is excessive, but the court may not in any event increase the total amount of the security beyond fifty thousand dollars ($50,000) in the aggregate for all defendants. If the court, upon any such motion, makes a determination that security shall be furnished by the plaintiff as to any one or more defendants, the action shall be dismissed as to such defendant or defendants, unless the security required by the court shall have been furnished within such reasonable time as may be fixed by the court. The corporation and the moving party shall have recourse to the security in such amount as the court shall determine upon the termination of the action.

(e) If the plaintiff shall, either before or after a motion is made pursuant to subdivision (c), or any order or determination pursuant to such motion, post good and sufficient bond or bonds in the aggregate amount of fifty thousand dollars ($50,000) to secure the reasonable expenses of the parties entitled to make the motion, the plaintiff has complied with the requirements of this section and with any order for security theretofore made pursuant hereto, and any such motion then pending shall be dismissed and no further or additional bond or other security shall be required.

(f) If a motion is filed pursuant to subdivision (c), no pleadings need be filed by the corporation or any other defendant and the prosecution of the action shall be stayed until 10 days after the motion has been disposed of.

CHAPTER 8 AMENDMENT OF ARTICLES

5810 (a) By complying with the provisions of this chapter, a corporation may amend its articles from time to time, in any and as many respects as may be desired, so long as its articles as amended contain only such provisions as it would be lawful to insert in original

articles filed at the time of the filing of the amendment and, if a change in the rights of members or an exchange, reclassification or cancellation of memberships is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation. It is the intent of the Legislature in adopting this section to exercise to the fullest extent the reserve power of the state over corporations and to authorize any amendment of the articles covered by the preceding sentence regardless of whether any provision contained in the amendment was permissible at the time of the original incorporation of the corporation.

(b) A corporation shall not amend its articles to alter any statement which may appear in the original articles of the names and addresses of the first directors, nor the name and address of the initial agent, except to correct an error in the statement or to delete either after the corporation has filed a statement under Section 6210.

5811. Any amendment of the articles may be adopted by a writing signed by a majority of the incorporators, so long as:

(a) No directors were named in the original articles;

(b) No directors have been elected; and

(c) The corporation has no members

5812. (a) Except as provided in this section, amendments may be adopted if approved by the board and approved by the members (Section 5034) and approved by such other person or persons, if any, as required by the articles. The approval by the members or other person or persons may be before or after the approval by the board.

(b) Notwithstanding subdivision (a), the following amendments may be adopted by approval of the board alone·

(1) An amendment extending the corporate existence or making the corporate existence perpetual, if the corporation was organized prior to August 14, 1929

(2) An amendment deleting the names and addresses of the first directors or the name and address of the initial agent

(3) Any amendment, at a time the corporation has no members; provided, however, that if the articles require approval by any person for an amendment, that an amendment may not be adopted without such approval

(c) Whenever the articles or bylaws require for corporate action the approval of a particular class of members or of a larger proportion of, or of all of, the votes of any class, or of a larger proportion of, or of all of, the directors, than is otherwise required by this part, the provision in the articles requiring such greater vote shall not be altered, amended or repealed except by such class or such greater vote, unless otherwise provided in the articles or bylaws

5813. (a) A proposed amendment must be approved by the members (Section 5034) of a class, whether or not such class is entitled to vote thereon by the provisions of the articles, if the amendment would change the voting rights of that class or the rights of that class upon merger

(b) In addition to approval by a class as provided in subdivision

(a), a proposed amendment must also be approved by the members (Section 5034) and approved by such other person or persons, if any, as required by the articles

5814 Except for amendments adopted by the incorporators pursuant to Section 5811, upon adoption of an amendment, the corporation shall file a certificate of amendment, which shall consist of an officers' certificate stating:

(a) The wording of the amendment or amended articles in accordance with Section 5817;

(b) That the amendment has been approved by the board;

(c) If the amendment is one for which the approval of the members (Section 5034) is required, that the amendment was approved by the required vote of members; and

(d) If the amendment is one which may be adopted with approval by the board alone, a statement of the facts entitling the board alone to adopt the amendment. In the event of an amendment of the articles pursuant to a merger, the filing of the officers' certificate and agreement pursuant to Section 6014 shall be in lieu of any filing required under this chapter.

(e) If the amendment is one for which the approval of a person or persons other than the incorporators, directors, or members is required, that the approval of such person or persons has been obtained

5815 In the case of amendments adopted by the incorporators under Section 5811, the corporation shall file a certificate of amendment signed and verified by a majority of the incorporators which shall state that the signers thereof constitute at least a majority of the incorporators, that the corporation has no members and that they adopt the amendment or amendments therein set forth

5816 The certificate of amendment shall establish the wording of the amendment or amended articles by one or more of the following means

(a) By stating that the articles shall be amended to read as therein set forth in full

(b) By stating that any provision of the articles, which shall be identified by the numerical or other designation given it in the articles or by stating the wording thereof, shall be stricken from the articles or shall be amended to read as set forth in the certificate

(c) By stating that the provisions set forth therein shall be added to the articles

If the purpose of the amendment is to reclassify, cancel, exchange, or otherwise change outstanding memberships, the amended articles shall state the effect thereof on outstanding memberships

5817 Upon the filing of the certificate of amendment, the articles shall be amended in accordance with the certificate and any change, reclassification or cancellation of memberships shall be effected, and a copy of the certificate, certified by the Secretary of State, is prima facie evidence of the performance of the conditions necessary to the adoption of the amendment

5818. A corporation formed for a limited period may at any time subsequent to the expiration of the term of its corporate existence, extend the term of its existence by an amendment to its articles removing any provision limiting the term of its existence and providing for perpetual existence If the filing of the certificate of amendment providing for perpetual existence would be prohibited if it were original articles by the provisions of Section 5122, the Secretary of State shall not file such certificate unless, by the same or a concurrently filed certificate of amendment, the articles of such corporation are amended to adopt a new available name For the purpose of the adoption of any such amendment, persons who have been functioning as directors of such corporation shall be considered to have been validly elected even though their election may have occurred after the expiration of the original term of the corporate existence

5819 (a) A corporation may restate in a single certificate the entire text of its articles as amended by filing an officers' certificate entitled "Restated Articles of Incorporation of (insert name of corporation)" which shall set forth the articles as amended to the date of filing of the certificate, except that the signatures and acknowledgments of the incorporators and any statements regarding the effect of any prior amendment upon memberships and any provisions of agreements of merger (other than amendments to the articles of the surviving corporation) and the names and addresses of the first directors and of the initial agent for service of process shall be omitted. Such omissions are not alterations or amendments of the articles The certificate may also itself alter or amend the articles in any respect, in which case the certificate must comply with Section 5814 or 5815, as the case may be, and Section 5816

(b) If the certificate does not itself alter or amend the articles in any respect, it shall be approved by the board and shall be subject to the provisions of this chapter relating to an amendment of the articles not requiring approval of the members (Section 5034). If the certificate does itself alter or amend the articles, it shall be subject to the provisions of this chapter relating to the amendment or amendments so made.

(c) Restated articles of incorporation filed pursuant to this section shall supersede for all purposes the original articles and all amendments filed prior thereto

5820 (a) Amendment of the articles of a corporation, pursuant to this chapter, does not, of itself, abrogate any requirement or limitation imposed upon the corporation, or any property held by it, by virtue of the trust under which such property is held by the corporation

(b) The Attorney General may, at the corporation's request, and pursuant to such regulations as the Attorney General may issue, give rulings as to whether the Attorney General will or may oppose a proposed action, or article amendment, as inconsistent with or proscribed by the requirements of a charitable trust

CHAPTER 9. SALES OF ASSETS

5910. Any mortgage, deed of trust, pledge or other hypothecation of all or any part of the corporation's property, real or personal, for the purpose of securing the payment or performance of any contract or obligation may be approved by the board. Unless the articles or bylaws otherwise provide, no approval of the members (Section 5034) shall be necessary for such action.

5911. (a) Subject to the provisions of Section 5142, a corporation may sell, lease, convey, exchange, transfer or otherwise dispose of all or substantially all of its assets when the principal terms are:

(1) Approved by the board; and

(2) Unless the transaction is in the usual and regular course of its activities, approved by the members (Section 5034) or by any other person or persons whose approval is required by the articles, either before or after approval by the board and before or after the transaction.

(b) Notwithstanding approval by the members (Section 5034) or such other person, the board may abandon the proposed transaction without further action by the members, subject to the contractual rights, if any, of third parties.

(c) Subject to the provisions of Section 5142, such sale, lease, conveyance, exchange, transfer or other disposition may be made upon such terms and conditions and for such consideration as the board may deem in the best interests of the corporation The consideration may be money, property, or securities of any domestic or foreign corporation

5912. Any deed or instrument conveying or otherwise transferring any assets of a corporation may have annexed to it the certificate of the secretary or an assistant secretary of the corporation, setting forth that the transaction has been validly approved by the board, that the notice, if any, required by Section 5913 has been given and (a) stating that the property described in such deed or instrument is less than substantially all of the assets of the corporation or that the transfer is in the usual and regular course of the business of the corporation, if such be the case, or (b) if such property constitutes all or substantially all of the assets of the corporation and the transfer is not in the usual and regular course of the business of the corporation, stating the fact of approval thereof by the members (Section 5034). Such certificate is prima facie evidence of the existence of the facts authorizing such conveyance or other transfer of the assets and conclusive evidence in favor of any purchaser or encumbrancer for value who, without notice of any trust restriction applicable to the property or any failure to comply therewith, in good faith parted with value.

5913 A corporation must give written notice to the Attorney General 20 days before it sells, leases, conveys, exchanges, transfers or otherwise disposes of all or substantially all of its assets unless the transaction is in the usual and regular course of its activities or unless

the Attorney General has given the corporation a written waiver of this section as to the proposed transaction.

CHAPTER 10 MERGERS

Article 1 Merger

6010 (a) Without the prior written consent of the Attorney General, a public benefit corporation may only merge with another public benefit corporation or a religious corporation or a foreign nonprofit corporation the articles of which provide that its assets are irrevocably dedicated to charitable, religious, or public purposes.

(b) At least 20 days prior to consummation of any merger allowed by subdivision (a), the Attorney General must be provided with a copy of the proposed agreement of merger.

(c) Without the prior written consent of the Attorney General, when a merger occurs pursuant to subdivision (a), each member of a constituent corporation may only receive or keep a membership in the surviving corporation for or as a result of such member's membership in the constituent corporation

6011 The board of each corporation which desires to merge shall approve an agreement of merger. The constituent corporations shall be parties to the agreement of merger and other persons may be parties to the agreement of merger. The agreement shall state:

(a) The terms and conditions of the merger,

(b) The amendments, subject to Sections 5810 and 5816, to the articles of the surviving corporation to be effected by the merger, if any; if any amendment changes the name of the surviving corporation, the new name may be the same as or similar to the name of a disappearing corporation, subject to subdivision (b) of Section 5122;

(c) The amendments to the bylaws of the surviving corporation to be effected by the merger, if any;

(d) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation,

(e) The manner, if any, of converting all memberships of the constituent corporations into the memberships of the surviving corporation, and

(f) Such other details or provisions as are desired, if any.

6012 The principal terms of the merger shall be approved by the board and by the members (Section 5034) of each class of each corporation which desires to merge and by each other person or persons whose approval of an amendment of articles is required by the articles, and the approval by the members (Section 5034) or such other person or persons required by this section may be given before or after the approval by the board

6013 Each constituent corporation shall sign the agreement by the chairman of its board, president or a vice president and secretary

or an assistant secretary acting on behalf of their respective corporations

6014 After approval of a merger by the board and any approval by the members (Section 5034) or other person or persons required by Section 6012, the surviving corporation shall file a copy of the agreement of merger with an officers' certificate of each constituent corporation attached stating the total number of memberships of each class entitled to vote on the merger, identifying any other person or persons whose approval is required, and stating that the principal terms of the agreement in the form attached were duly approved by the required vote of the members and (if applicable) such other person or persons. The merger and any amendment of the articles of the surviving corporation contained in the merger agreement shall thereupon be effective (subject to subdivision (c) of Section 5008 and subject to the provisions of Section 6018) and the several parties thereto shall be one surviving corporation. The agreement shall not be filed, however, until there has been filed by or on behalf of each constituent corporation taxed under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), the existence of which is terminated by the merger, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by such law have been paid or secured. The Secretary of State may certify a copy of the merger agreement separate from the officers' certificates attached thereto

6015 (a) Any amendment to the agreement may be adopted and the agreement so amended may be approved by the board and by the members (Section 5034) or other person or persons, as required by Section 6012, of any constituent corporation in the same manner as the original agreement

(b) If the agreement so amended is approved as provided in subdivision (a), the agreement so amended shall then constitute the agreement of merger

6016 The board may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other constituent corporations, without further approval by the members (Section 5034) or other persons entitled to approve the merger at any time before the merger is effective

6017 A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving corporation and the performance of the conditions necessary to the adoption of any amendment to the articles contained in the agreement of merger

6018 (a) Subject to the provisions of Section 6010, the merger of any number of corporations or with any number of foreign corporations may be effected if the foreign corporations are

authorized by the laws under which they are formed to effect such a merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a public benefit corporation or a religious corporation, the merger proceedings with respect to that corporation and any disappearing corporation shall conform to the provisions of this chapter governing the merger of corporations, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and Section 6012, the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a public benefit corporation or a religious corporation, the agreement and the officers' certificate of each constituent corporation shall be filed as provided in Section 6014 and thereupon, subject to subdivision (c) of Section 5008, the merger shall be effective as to each corporation; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall by virtue of the filing automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any disappearing corporation as of the time of effectiveness in such foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations a copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original or, in lieu thereof, an executed counterpart of such agreement, certificate or other document; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall automatically by such filing surrender its right to transact intrastate business

Article 2. Effect of Merger

6020 (a) Upon merger pursuant to this chapter the separate existence of the disappearing corporations ceases and the surviving corporation shall succeed, without other transfer, to all the rights and property of each of the disappearing corporations and shall be subject to all the debts and liabilities of each and trust obligations upon the property of a disappearing corporation in the same manner as if the surviving corporation had itself incurred them.

(b) All rights of creditors and all liens and trusts upon or arising from the property of each of the constituent corporations shall be preserved unimpaired, provided that such liens and trust obligations upon property of a disappearing corporation shall be limited to the

property affected thereby immediately prior to the time the merger is effective

(c) Any action or proceeding pending by or against any disappearing corporation may be prosecuted to judgment, which shall bind the surviving corporation, or the surviving corporation may be proceeded against or substituted in its place

6021. Whenever a domestic or foreign corporation having any real property in this state merges with another domestic or foreign corporation pursuant to the laws of this state or of the state or place in which any constituent corporation was incorporated, and the laws of the state or place of incorporation (including this state) of any disappearing corporation provide substantially that the making and filing of the agreement of merger vests in the surviving corporation all the real property of any disappearing corporation, the filing for record in the office of the county recorder of any county in this state in which any of the real property of such disappearing corporation is located of either (a) a certificate prescribed by the Secretary of State, or (b) a copy of the agreement of merger or certificate of merger, certified by the Secretary of State or an authorized public offical of the state or place pursuant to the laws of which the merger is effected, shall evidence record ownership in the surviving corporation of all interest of such disappearing corporation in and to the real property located in that county

6022 Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, which is made to a constituent corporation and which takes effect or remains payable after the merger, inures to the surviving corporation.

CHAPTER 11. BANKRUPTCY REORGANIZATIONS AND ARRANGEMENTS

6110 Any proceeding, initiated with respect to a corporation, under any applicable statute of the United States, as now existing or hereafter enacted, relating to reorganizations or arrangements of corporations, shall be governed by the provisions of Chapter 14 (commencing with Section 1400) of Division 1 of Title 1.

CHAPTER 12 REQUIRED FILINGS BY CORPORATION OR ITS AGENT

6210 (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing. (1) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer; (2) the street address of its principal office, if any.

(b) The statement required by subdivision (a) shall also designate, as the agent of such corporation for the purpose of service

of process, a natural person residing in this state or any domestic or foreign or foreign business corporation which has complied with Section 1505, 6213, or 8213 and whose capacity to act as such agent has not terminated If a natural person is designated, the statement shall set forth such person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b) In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

6211. An agent designated for service of process pursuant to Section 6210 may file a signed and acknowledged written statement of resignation as such agent. Thereupon the authority of the agent to act in such capacity shall cease and the Secretary of State forthwith shall give written notice of the filing of the statement of resignation by mail to the corporation addressed to its principal office.

6212 If a natural person who has been designated agent for service of process pursuant to Section 6210 dies or resigns or no longer resides in the state or if the corporate agent for such purpose resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers and privileges suspended or ceases to exist, the corporation shall forthwith file a designation of a new agent conforming to the requirements of Section 6210

6213 (a) Any domestic or foreign or foreign business corporation, before it may be designated as the agent for the purpose of service of process of a corporation pursuant to Section 1502, 6210,

or 8210, shall file a certificate executed in its name by an officer thereof stating:

(1) The complete address of its office or offices in this state, wherein any corporation designating it as such agent may be served with process.

(2) The name of each person employed by it at each such office to whom it authorizes the delivery of a copy of any such process.

(3) Its consent that delivery thereof to any such person at the office where such person is employed shall constitute delivery of any such copy to it, as such agent

(b) Any corporation which has filed the certificate provided for in subdivision (a) may file any number of supplemental certificates containing all the statements provided for in subdivision (a), which, upon the filing thereof, shall supersede the statements contained in the original or in any supplemental certificate previously filed.

(c) No domestic or foreign or foreign business corporation may file a certificate pursuant to this section unless it is currently authorized to engage in business in this state and is in good standing on the records of the Secretary of State

6214 Upon request of an assessor, a corporation or foreign corporation owning, claiming, possessing or controlling property in this state subject to local assessment shall make available at the corporation's or foreign corporation's principal office in California or at a place mutually acceptable to the assessor and the corporation or foreign corporation a true copy of business records relevant to the amount, cost and value of all property that it owns, claims, possesses or controls within the county

6215 Any officers, directors, employees or agents of a corporation who do any of the following are liable jointly and severally for all the damages resulting therefrom to the corporation or any person injured thereby who relied thereupon or to both.

(a) Make, issue, deliver or publish any report, circular, certificate, financial statement, balance sheet, public notice or document respecting the corporation or its memberships, assets, liabilities, business, earnings or accounts which is false in any material respect, knowing it to be false, or participate in the making, issuance, delivery or publication thereof with knowledge that the same is false in a material respect

(b) Make or cause to be made in the books, minutes, records or accounts of a corporation any entry which is false in any material particular knowing such entry is false.

(c) Remove, erase, alter or cancel any entry in any books or records of the corporation, with intent to deceive

6216 (a) The Attorney General, upon complaint of a member, director or officer, that a corporation is failing to comply with the provisions of this chapter, Chapter 5 (commencing with Section 5510), Chapter 6 (commencing with Section 5610) or Chapter 13 (commencing with Section 6310), may, in the name of the people of the State of California, send to the principal office of such

corporation, (or, if there is no such office, to the office or residence of the chief executive officer or secretary, of the corporation, as set forth in the most recent statement filed pursuant to Section 6210) notice of the complaint If the answer is not satisfactory, or if there is no answer within 30 days, the Attorney General may institute, maintain or intervene in such suits, actions, or proceedings of any type in any court or tribunal of competent jurisdiction or before any administrative agency for such relief by way of injunction, the dissolution of entities, the appointment of receivers or any other temporary, preliminary, provisional or final remedies as may be appropriate to protect the rights of members or to undo the consequences of failure to comply with such requirements. In any such action, suit or proceeding there may be joined as parties all persons and entities responsible for or affected by such activity.

(b) The Attorney General may bring an action under subdivision (a) without having received a complaint, and without first giving notice of a complaint

CHAPTER 13 RECORDS, REPORTS, AND RIGHTS OF INSPECTION

Article 1 General Provisions

6310 If any record subject to inspection pursuant to this chapter is not maintained in written form, a request for inspection is not complied with unless and until the corporation at its expense makes such record available in written form.

6311 Any inspection under this chapter may be made in person or by agent or attorney and the right of inspection includes the right to copy and make extracts

6312 Any right of inspection created by this chapter extends to the records of each subsidiary of a corporation.

6313 The rights of members provided in this chapter may not be limited by contract or the articles or bylaws.

Article 2 Required Records, Reports to Directors and Members

6320 (a) Each corporation shall keep:

(1) Adequate and correct books and records of account;

(2) Minutes of the proceedings of its members, board and committees of the board, and

(3) A record of its members giving their names and addresses and the class of membership held by each

(b) Minutes shall be kept in written form Other books and records shall be kept either in written form or in any other form capable of being converted into written form

6321 (a) Except as provided in subdivision (c) (c), (d), or (f), the board shall cause an annual report to be sent to the members not later than 120 days after the close of the corporation's fiscal year Such report shall contain in appropriate detail the following:

(1) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year.

(2) The principal changes in assets and liabilities, including trust funds, during the fiscal year.

(3) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year.

(4) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year.

(5) Any information required by Section 6322.

(b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

(c) This section does not apply to corporations which do not have more than 100 members or ten thousand dollars ($10,000) in assets at any time during the fiscal year.

(d) Where a corporation has provided, pursuant to Section 5510, for regular meetings of members less often than annually, then the report required by subdivision (a) need be made to members only with the frequency with which regular membership meetings are required, unless the articles or bylaws require a report more often

(e) Subdivisions (c) and (d) notwithstanding, a report with the information required by subdivision (a) shall be furnished annually to

(1) All directors of the corporation, and

(2) Any member who requests it in writing.

(f) A corporation which in writing solicits contributions from 500 or more persons need not send the report otherwise required by subdivision (a) if it does all of the following:

(i) Includes with any written material used to solicit contributions a written statement that its latest annual report will be mailed upon request and that such request may be sent to the corporation at a name and address which is set forth in the statement.

The term "annual report" as used in this subdivision refers to the report required by subdivision (a)

(ii) Promptly mails a copy of its latest annual report to any person who requests a copy thereof; and

(iii) Causes its annual report to be published not later than 120 days after the close of its fiscal year in a newspaper of general circulation in the county in which its principal office is located.

6322 (a) Any provision of the articles or bylaws notwithstanding, every corporation shall furnish annually to its members a statement of any transaction or indemnification of a kind described in subdivision (d) or (e), if any such transaction or indemnification took place If the corporation issues an annual report to all members, this subdivision shall be satisfied by including the required information in the annual report A corporation which does not issue an annual report to all members, pursuant to subdivision (c)

or (d) of Section 6321, shall satisfy this section by mailing or delivering to its members the required statement within 120 days after the close of the corporation's fiscal year.

(b) Except as provided in subdivision (c), a covered transaction under this section is a transaction in which the corporation, its parent, or its subsidiary was a party, and in which either of the following had a direct or indirect material financial interest:

(1) Any director or officer of the corporation, or its parent or subsidiary

(2) Any holder of more than 10 percent of the voting power of the corporation, its parent or its subsidiary

For the purpose of subdivision (d), an "interested person" is any person described in paragraph (1) or (2) of this subdivision.

(c) For the purpose of subdivision (b), a mere common directorship is not a material financial interest.

(d) The statement required by subdivision (a) shall describe briefly·

(1) Any covered transaction during the previous fiscal year involving more than forty thousand dollars ($40,000), or which was one of a number of covered transactions in which the same interested person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than forty thousand dollars ($40,000).

(2) The names of the interested persons involved in such transactions, stating such person's relationship to the corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

(e) The statement required by subdivision (a) shall describe briefly the amount and circumstances of any indemnifications or advances aggregating more than ten thousand dollars ($10,000) paid during the fiscal year to any officer or director of the corporation pursuant to Section 5238, provided that no such report need be made in the case of indemnification approved by the members (Section 5034) under paragraph (2) of subdivision (e) of Section 5238

6323 (a) The superior court of the proper county shall enforce the duty of making and mailing or delivering the information and financial statements required by this article and, for good cause shown, may extend the time therefor.

(b) In any action or proceeding under this section, if the court finds the failure of the corporation to comply with the requirements of this article to have been without justification, the court may award the member reasonable expenses, including attorneys' fees, in connection with such action or proceeding.

6324 (a) Nothing in this part relieves a corporation from the requirements of Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of the Government Code If a report sent to the Attorney General in compliance with the requirements

of Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of the Government Code includes the information required in the annual report, then the corporation may furnish a copy of its report to the Attorney General in lieu of the annual report, whenever it is required to furnish an annual report.

(b) A corporation shall furnish any member who so requests a copy of any report filed by the corporation pursuant to Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of the Government Code The corporation may impose reasonable charges for copying and mailing a report furnished under this subdivision

Article 3 Rights of Inspection

6330 (a) Subject to Sections 6331 and 6332, and unless the corporation provides a reasonable alternative pursuant to subdivision (c), a member may do either or both of the following as permitted by subdivision (b):

(1) Inspect and copy the record of all the members' names, addresses and voting rights, at reasonable times, upon five business days' prior written demand upon the corporation which demand shall state the purpose for which the inspection rights are requested; or

(2) Obtain from the secretary of the corporation, upon written demand and tender of a reasonable charge, a list of the names, addresses and voting rights of those members entitled to vote for the election of directors, as of the most recent record date for which it has been compiled or as of a date specified by the member subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The membership list shall be made available on or before the later of 10 business days after the demand is received or after the date specified therein as the date as of which the list is to be compiled.

(b) The rights set forth in subdivision (a) may be exercised by:

(1) Any member, for a purpose reasonably related to such person's interest as a member. Where the corporation reasonably believes that the information will be used for another purpose, or where it provides a reasonable alternative pursuant to subdivision (c), it may deny the member access to the list In any subsequent action brought by the member under Section 6336, the court shall enforce the rights set forth in subdivision (a) unless the corporation proves that the member will allow use of the information for purposes unrelated to the person's interest as a member or that the alternative method offered reasonably achieves the proper purpose set forth in the demand

(2) The authorized number of members for a purpose reasonably related to the members' interest as members.

(c) The corporation may, within 10 business days after receiving a demand under subdivision (a), deliver to the person or persons

making the demand a written offer of an alternative method of achieving the purpose identified in such demand without providing access to or a copy of the membership list. An alternative method which reasonably and in a timely manner accomplishes the proper purpose set forth in a demand made under subdivision (a) shall be deemed a reasonable alternative, unless within a reasonable time after acceptance of the offer the corporation fails to do those things which it offered to do Any rejection of the offer shall be in writing and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand made pursuant to subdivision (a).

6331. (a) Where the corporation, in good faith, and with a substantial basis, believes that the membership list, demanded under Section 6330 by the authorized number (Section 5036), will be used for a purpose unrelated to an interest of the person or persons making the demand (hereinafter called the requesting parties) as members or provides a reasonable alternative pursuant to subdivision (c) of Section 6330, it may petition the superior court of the proper county for an order setting aside the demand

(b) Except as provided in subdivision (c), a petition for an order to show cause why a protective order pursuant to subdivision (d) should not issue shall be filed within 10 business days after the demand by the authorized number under Section 6330 or receipt of a written rejection by the authorized number of an offer made pursuant to subdivision (c) of Section 6330, whichever is later. The petition shall be accompanied by an application for a hearing on the petition. Upon the filing of the petition, the court shall issue a protective order staying production of the list demanded until the hearing on the order to show cause The court shall set the hearing on the order to show cause not more than 20 days from the date of the filing of the petition The order to show cause shall be granted unless the court finds that there is no reasonable probability that the corporation will make the showing required under subdivision (f)

(c) A corporation may file a petition under this section more than 10 business days after the demand or rejection under Section 6330, but only upon a showing the delay was caused by excusable neglect. In no event, however, may any petition under this section be considered if filed more than 30 days after the requesting parties' demand or rejection, whichever is later.

(d) Upon the return day of the order to show cause, the court may issue a protective order staying production of the list demanded until final adjudication of the petition filed pursuant to this section. No protective order shall issue under this subdivision unless the court finds that the rights of the requesting parties can reasonably be preserved and that the corporation is likely to make the showing required by subdivision (f) or the court is likely to issue a protective order pursuant to subdivision (g)

(e) If the corporation fails to file a petition within the time allowed by subdivision (b) or (c), whichever is applicable, or fails to

obtain a protective order under subdivision (d), then the corporation shall comply with the demand, and no further action may be brought by the corporation under this section.

(f) The court shall issue the final order setting aside the demand only if the corporation proves:

(1) That there is a reasonable probability that the requesting parties will permit use of the membership list for a purpose unrelated to their interests as members; or

(2) That the method offered by the corporation is a reasonable alternative in that it reasonably achieves the proper purpose set forth in the requesting parties' demand and that the corporation intends and is able to effectuate the reasonable alternative

(g) In the final order, the court may, in its discretion, order an alternative mechanism for achieving the proper purposes of the requesting parties, or impose just and proper conditions upon the use of the membership list which reasonably assures compliance with Sections 6330 and 6338

(h) The court shall award reasonable costs and expenses, including reasonable attorneys' fees, to requesting parties who successfully oppose any petition or application filed pursuant to this section.

(i) Where the corporation has neither, within the time allowed, complied with a demand by the authorized number (Section 5036) under Section 6330, nor obtained a protective order staying production of the list, or a final order setting aside the demand, which is then in effect, the requesting parties may petition the superior court of the proper county for a writ of mandamus pursuant to Section 1085 of the Code of Civil Procedure compelling the corporation to comply with the demand At the hearing, the court shall hear the parties summarily, by affidavit or otherwise, and shall issue a peremptory writ of mandamus unless it appears that the demand was not made by an authorized number (Section 5036), that the demand has been complied with, that the corporation, pursuant to subdivision (c) of Section 6330, made an offer which was not rejected in writing within a reasonable time, or that a protective or final order properly issued under subdivision (d), (f) or (g) is then in effect. No inquiry may be made in such proceeding into the use for which the authorized number seek the list. The court shall award reasonable costs and expenses, including reasonable attorneys' fees, to persons granted an order under this subdivision

(j) Nothing in this section shall be construed to limit the right of the corporation to obtain damages for any misuse of a membership list obtained under Section 6330, or otherwise, or to obtain injunctive relief necessary to restrain misuse of a member list A corporation shall be entitled to recover reasonable costs and expenses, including reasonable attorneys' fees, incurred in successfully bringing any such action

6332 (a) Upon petition of the corporation or any member, the superior court of the proper county may limit or restrict the rights

set forth in Section 6330 where, and only where such limitation or restriction is necessary to protect the rights of any member under the Constitution of the United States or the Constitution of the State of California. An order issued pursuant to this subdivision shall provide, insofar as possible, for alternative mechanisms by which the persons seeking to exercise rights under Section 6330 may communicate with members for purposes reasonably related to their interests as members

(b) Upon the filing of a petition under subdivision (a), the court may, if requested by the person making the petition, issue a temporary order suspending the running of any time limit specified in Section 6330 for compliance with that section. Such an order may be extended, after notice and hearing, until final adjudication of the petition, wherever it appears that the petitioner may prevail on the merits, and it is otherwise equitable to do so.

6333. The accounting books and records and minutes of proceedings of the members and the board and committees of the board shall be open to inspection upon the written demand on the corporation of any member at any reasonable time, for a purpose reasonably related to such person's interests as a member.

6334. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation of which such person is a director.

6335 Where the proper purpose of the person or persons making a demand pursuant to Section 5330 is frustrated by (1) any delay by the corporation in complying with a demand under Section 6330 beyond the time limits specified therein, or (2) any delay caused by the filing of a petition under Section 6331 or Section 6332, or (3) any delay caused by the alternative proposed under subdivision (c) of Section 6330, the person or persons properly making the demand shall have, in the discretion of the court, a right to obtain from the superior court an order postponing any members' meeting previously noticed for a period equal to the period of such delay. The members may obtain such an order in a proceeding brought pursuant to Section 6331 upon the filing of a verified complaint in the proper county and after a hearing, notice of which shall be given to such persons and in such manner as the court may direct. Such right shall be in addition to any other legal or equitable remedies to which the member may be entitled

6336. (a) Upon refusal of a lawful demand for inspection under this chapter, or a lawful demand pursuant to Section 6330 or Section 6333, the superior court of the proper county, or the county where the books or records in question are kept, may enforce the demand or right of inspection with just and proper conditions or may, for good cause shown, appoint one or more competent inspectors or independent accountants to audit the financial statements kept in this state and investigate the property, funds and affairs of any corporation or any foreign corporation keeping records in this state

and of any subsidiary corporation thereof, domestic or foreign, keeping records in this state and to report thereon in such manner as the court may direct

(b) All officers and agents of the corporation shall produce to the inspectors or accountants so appointed all books and documents in their custody or power, under penalty of punishment for contempt of court

(c) All expenses of the investigation or audit shall be defrayed by the applicant unless the court orders them to be paid or shared by the corporation

6337. In any action or proceeding under this article, and except as required by Section 6331, if the court finds the failure of the corporation to comply with a proper demand thereunder was without justification, the court may award the member reasonable costs and expenses, including reasonable attorneys' fees, in connection with such action or proceeding

6338 (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be.

(1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation; or

(2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation, or

(3) Used for any commercial purpose or purpose in competition with the corporation; or

(4) Sold to or purchased by any person.

(b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and shall account for and pay to the corporation any profit derived as a result of such violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a).

(c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list.

(d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys' fees, in connection with such action or proceeding

(e) As used in this section, the term "membership list" means the record of all the members' names and addresses.

CHAPTER 14 SERVICE OF PROCESS

6410 Service of process upon a corporation shall be governed by Chapter 17 (commencing with Section 1700) of Division 1 of Title 1

CHAPTER 15. INVOLUNTARY DISSOLUTION

6510 (a) A complaint for involuntary dissolution of a corporation on any one or more of the grounds specified in subdivision (b) may be filed in the superior court of the proper county by any of the following persons:

(1) One-half or more of the directors in office.

(2) A person or persons holding or authorized in writing by persons holding not less than 33⅓ percent of the voting power exclusive of memberships held by persons who have personally participated in any of the transactions enumerated in paragraph (5) of subdivision (b)

(3) Any member if the ground for dissolution is that the period for which the corporation was formed has terminated without extension thereof.

(4) Any other person expressly authorized to do so in the articles.

(5) The Attorney General

(6) The head organization under whose authority the corporation was created, where the corporation's articles include the provision authorized by subdivision (a), paragraph (3), clause (i), of Section 5132

(b) The grounds for involuntary dissolution are that·

(1) The corporation has abandoned its activity for more than one year

(2) The corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property will be impaired or lost or its activities impaired and the members are so divided into factions that they cannot elect a board consisting of an uneven number

(3) There is internal dissension and two or more factions of members in the corporation are so deadlocked that its activities can no longer be conducted with advantage.

(4) When during any four-year period or when all voting power has been exercised at two consecutive meetings or in two written ballots for the election of directors, whichever period is shorter, the members have failed to elect successors to directors whose terms have expired or would have expired upon election of their successors

(5) Those in control of the corporation have been guilty of or have knowingly countenanced persistent and pervasive fraud, mismanagement or abuse of authority or the corporation's property is being misapplied or wasted by its directors or officers

(6) Liquidation is reasonably necessary as the corporation is

failing and has continuously failed to carry out its purposes

(7) The period for which the corporation was formed has terminated without extension of such period.

(8) The corporation is required to dissolve under the terms of any article provision adopted pursuant to subdivision (a), paragraph (3), clause (i), of Section 5132

(c) At any time prior to the trial of the action any creditor or the authorized number (Section 5036) of members may intervene therein

(d) In any action brought pursuant to subdivision (a), the Attorney General shall be an indispensable party.

6511. (a) The Attorney General may bring an action against any corporation or purported corporation in the name of the people of this state, upon the Attorney General's own information or upon complaint of a private party, to procure a judgment dissolving the corporation and annulling, vacating or forfeiting its corporate existence upon any of the following grounds·

(1) The corporation has seriously offended against any provision of the statutes regulating corporations or charitable organizations.

(2) The corporation has fraudulently abused or usurped corporate privileges or powers

(3) The corporation has violated any provision of law by any act or default which under the law is a ground for forfeiture of corporate existence.

(4) The corporation has failed to pay to the Franchise Tax Board for a period of five years any tax imposed upon it by the Bank and Corporation Tax Law

(b) If the ground of the action is a matter or act which the corporation has done or omitted to do that can be corrected by amendment of its articles or by other corporate action, such suit shall not be maintained unless (1) the Attorney General, at least 30 days prior to the institution of suit, has given the corporation written notice of the matter or act done or omitted to be done and (2) the corporation has failed to institute proceedings to correct it within the 30-day period or thereafter fails to duly and properly make such amendment or take the corrective corporate action

(c) In any such action the court may order dissolution or such other or partial relief as it deems just and expedient. The court also may appoint a receiver for winding up the affairs of the corporation or may order that the corporation be wound up by its board subject to the supervision of the court.

(d) Service of process on the corporation may be made pursuant to Chapter 17 (commencing with Section 1700) of Division 1 or by written notice to the president or secretary of the corporation at the address indicated in the corporation's last tax return filed pursuant to the Bank and Corporation Tax Law The Attorney General shall also publish one time in a newspaper of general circulation in the proper county a notice to the members of the corporation

6512 If the ground for the complaint for involuntary dissolution

of the corporation is a deadlock in the board as set forth in paragraph (2) of subdivision (b) of Section 6510, the court may appoint a provisional director The provisions of subdivision (e) of Section 5225 apply to any such provisional director so appointed

6513 If, at the time of the filing of a complaint for involuntary dissolution or at any time thereafter, the court has reasonable grounds to believe that unless a receiver of the corporation is appointed or the public or charitable purpose of the corporation will suffer pending the hearing and determination of the complaint, upon the application of the plaintiff, and after a hearing upon such notice to the corporation as the court may direct and upon the giving of security pursuant to Sections 566 and 567 of the Code of Civil Procedure (except that the Attorney General shall not be required to give security), the court may appoint a receiver to take over and manage the affairs of the corporation and to preserve its property pending the hearing and determination of the complaint for dissolution

6514 After hearing the court may decree a winding up and dissolution of the corporation if cause therefor is shown or, with or without winding up and dissolution, may make such orders and decrees and issue such injunctions in the case as justice and equity require

6515. (a) Involuntary proceedings for winding up a corporation commence when the order for winding up is entered under Section 6514

(b) When an involuntary proceeding for winding up has commenced, the board shall conduct the winding up of the affairs of the corporation, subject to the supervision of the court, unless other persons are appointed by the court, on good cause shown, to conduct the winding up. The directors or such other persons may, subject to any restrictions imposed by the court, exercise all their powers through the executive officers without any order of court.

(c) When an involuntary proceeding for winding up has commenced, the corporation shall cease to conduct its activities except to the extent necessary for the beneficial winding up thereof and except during such period as the board may deem necessary to preserve the corporation's goodwill or going concern value, pending a sale or other disposition of its assets, or both, in whole or in part. The directors shall cause written notice of the commencement of the proceeding for involuntary winding up to be given by mail to all members and to all known creditors and claimants whose addresses appear on the records of the corporation, unless the order for winding up has been stayed by appeal therefrom or otherwise or the proceeding or the execution of the order has been enjoined

6516 When an involuntary proceeding for winding up has been commenced, the jurisdiction of the court includes

(a) The requirement of the proof of all claims and demands against the corporation, whether due or not yet due, contingent, unliquidated or sounding only in damages, and the barring from

participation of creditors and claimants failing to make and present claims and proof as required by any order.

(b) The determination or compromise of all claims of every nature against the corporation or any of its property, and the determination of the amount of money or assets required to be retained to pay or provide for the payment of claims.

(c) The presentation and filing of intermediate and final accounts of the directors or other persons appointed to conduct the winding up and hearing thereon, the allowance, disallowance or settlement thereof and the discharge of the directors or such other persons from their duties and liabilities.

(d) The appointment of a commissioner to hear and determine any or all matters, with such power or authority as the court may deem proper

(e) The filling of any vacancies on the board which the directors or members are unable to fill.

(f) The removal of any director if it appears that the director has been guilty of dishonesty, misconduct, neglect or breach of trust in conducting the winding up or if the director is unable to act. The court may order an election to fill the vacancy so caused, and may enjoin, for such time as it considers proper, the reelection of the director so removed, or the court, in lieu of ordering an election, may appoint a director to fill the vacancy caused by such removal. Any director so appointed by the court shall serve until the next regular meeting of members or until a successor is elected or appointed.

(g) The staying of the prosecution of any suit, proceeding or action against the corporation and requiring the parties to present and prove their claims in the manner required of other creditors

(h) The determination of whether adequate provision has been made for payment or satisfaction of all debts and liabilities not actually paid

(i) The making of orders for the withdrawal or termination of proceedings, to windup and dissolve, subject to conditions for the protection of creditors

(j) The making of an order, upon the allowance or settlement of the final accounts of the directors or such other persons, that the corporation has been duly wound up and is dissolved. Upon the making of such order, the corporate existence shall cease except for purposes of further winding up if needed.

(k) The making of orders for the bringing in of new parties as the court deems proper for the determination of all questions and matters

(*l*) The disposition of assets held in charitable trust.

6517. (a) All creditors and claimants may be barred from participation in any distribution of the general assets if they fail to make and present claims and proofs within such time as the court may direct, which shall not be less than four nor more than six months after the first publication of notice to creditors unless it appears by affidavit that there are no claims, in which case the time

limit may be three months. If it is shown that a claimant did not receive notice because of absence from the state or other cause, the court may allow a claim to be filed or presented at any time before distribution is completed.

(b) Such notice to creditors shall be published not less than once a week for three consecutive weeks in a newspaper of general circulation published in the county in which the proceeding is pending or, if there is no such newspaper published in that county, in such newspaper as may be designated by the court, directing creditors and claimants to make and present claims and proofs to the person, at the place and within the time specified in the notice. A copy of the notice shall be mailed to each person shown as a creditor or claimant on the books of the corporation, at such person's last known address.

(c) Holders of secured claims may prove for the whole debt in order to realize any deficiency. If such creditors fail to present their claims they shall be barred only as to any right to claim against the general assets for any deficiency in the amount realized on their security

(d) Before any distribution is made the amount of any unmatured, contingent or disputed claim against the corporation which has been presented and has not been disallowed, or such part of any such claim as the holder would be entitled to if the claim were due, established or absolute, shall be paid into court and there remain to be paid over to the party when the party becomes entitled thereto or, if the party fails to establish a claim, to be paid over or distributed with the other assets of the corporation to those entitled thereto; or such other provision for the full payment of such claim, if and when established, shall be made as the court may deem adequate. A creditor whose claim has been allowed but is not yet due shall be entitled to its present value upon distribution.

(e) Suits against the corporation on claims which have been rejected shall be commenced within 30 days after written notice of rejection thereof is given to the claimant.

6518. (a) Upon the final settlement of the accounts of the directors or other persons appointed pursuant to Section 6515 and the determination that the corporation's affairs are in condition for it to be dissolved, the court may make an order declaring the corporation duly wound up and dissolved. The order shall declare:

(1) That the corporation has been duly wound up, that any tax or penalty due under the Bank and Corporation Tax Law has been paid or secured and that its other known debts and liabilities have been paid or adequately provided for, or that such taxes, penalties, debts and liabilities have been paid as far as its assets permitted, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the order shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary

with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability

(2) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(3) That the accounts of directors or such other persons have been settled and that they are discharged from their duties and liabilities to creditors and members

(4) That the corporation is dissolved.

(b) The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted

(c) Upon the making of the order declaring the corporation dissolved, corporate existence shall cease except for the purposes of further winding up if needed, and the directors or such other persons shall be discharged from their duties and liabilities, except in respect to completion of the winding up.

6519. Whenever a corporation is dissolved or its existence forfeited by order, decree or judgment of a court, a copy of the order, decree or judgment, certified by the clerk of court, shall forthwith be filed Notwithstanding Section 23334 of the Revenue and Taxation Code, when the order is based on an action for involuntary dissolution brought by the Attorney General pursuant to Section 6511, there need not be filed the certificate of satisfaction of the Franchise Tax Board that all taxes have been paid or secured.

CHAPTER 16 VOLUNTARY DISSOLUTION

6610 (a) Any corporation may elect voluntarily to wind up and dissolve (1) by the vote of a majority of all the members (Section 5033) or (2) by approval of the board and approval of the members (Section 5034).

(b) Any corporation which comes within one of the following descriptions may elect by approval of the board to wind up and dissolve

(1) A corporation which has been adjudicated a bankrupt.

(2) A corporation which has disposed of all of its assets and has not conducted any activity for a period of five years immediately preceding the adoption of the resolution electing to dissolve the corporation.

(3) A corporation which has no members.

(4) A corporation which is required to dissolve under provisions of its articles adopted pursuant to subdivision (a), paragraph (3), clause (i), of Section 5132.

6611. (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be filed and a copy thereof filed with the Attorney General.

(b) The certificate shall be an officer's certificate or shall be

signed and verified by at least a majority of the directors then in office or by one or more members authorized to do so by a vote representing at least a majority of the voting power and shall set forth·

(1) That the corporation has elected to wind up and dissolve.

(2) If the election was made by the vote of members alone, the number of votes for the election and that the election was made by persons holding at least a majority of the voting power

(3) If the election was made by the board and members pursuant to paragraph (2) of subdivision (a) of Section 6610, the certificate shall so state

(4) If the certificate is executed by a member or members, that the subscribing person or persons were authorized to execute the certificate by persons representing at least a majority of the voting power

(5) If the election was made by the board pursuant to subdivision (b) of Section 6610, the certificate shall also set forth the circumstances showing the corporation to be within one of the categories described in such subdivision.

6612 (a) A voluntary election to wind up and dissolve may be revoked prior to distribution of any assets· (1) if the election was made pursuant to paragraph (1) of subdivision (a) of Section 6610, by the vote of members representing a majority of the voting power; or (2) if the election was made pursuant to paragraph (2) of subdivision (a) of Section 6610, by the approval of the board and the members; or (3) if the election was by the board pursuant to subdivision (b) of Section 6610, by approval of the board. Thereupon a certificate evidencing the revocation shall be signed, verified and filed in the manner prescribed by Section 6611 and a copy thereof filed with the Attorney General.

(b) The certificate shall set forth:

(1) That the corporation has revoked its election to wind up and dissolve

(2) That no assets have been distributed pursuant to the election.

(3) If the revocation was made by the vote of members alone, the number of votes for the revocation and that the revocation was made by persons representing at least a majority of the voting power.

(4) If the revocation was made by the board and members pursuant to paragraph (2) of subdivision (a) of Section 6612, the certificate shall so state

(5) If the revocation was made by the board alone, the certificate shall so state

6613. (a) Voluntary proceedings for winding up the corporation commence upon the adoption of the resolution required by Section 6610 by the members, by the board and members, or by the board alone, electing to wind up and dissolve.

(b) When a voluntary proceeding for winding up has commenced, the board shall continue to act as a board and shall have full powers to wind up and settle its affairs, both before and after the

filing of the certificate of dissolution.

(c) When a voluntary proceeding for winding up has commenced, the corporation shall cease to conduct its activities except to the extent necessary for the beneficial winding up thereof, to the extent necessary to carry out its purposes and except during such period as the board may deem necessary to preserve the corporation's goodwill or going-concern value pending a sale or other disposition of its assets, or both, in whole or in part. The board shall cause written notice of the commencement of the proceeding for voluntary winding up to be given by mail to all its members (except no notice need be given to the members who voted in favor of winding up and dissolving the corporation), to all known creditors and claimants whose addresses appear on the records of the corporation, and to the Attorney General.

6614 If a corporation is in the process of voluntary winding up, the superior court of the proper county, upon the petition of (a) the corporation, or (b) the authorized number (Section 5036), or (c) the Attorney General, or (d) three or more creditors, and upon such notice to the corporation and to other persons interested in the corporation as members and creditors as the court may order, may take jurisdiction over such voluntary winding up proceeding if that appears necessary for the protection of any parties in interest or if it appears necessary to protect the purpose or purposes served by the corporation The court, if it assumes jurisdiction, may make such orders as to any and all matters concerning the winding up of the affairs of the corporation and the protection of its creditors, its assets and its purpose or purposes as justice and equity may require The provisions of Chapter 15 (commencing with Section 6510) (except Sections 6510 and 6511) shall apply to such court proceedings.

6615 (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating·

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be. If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be

(4) That the corporation is dissolved

(b) The certificate of dissolution shall be filed and thereupon the corporate existence shall cease, except for the purpose of further winding up if needed However, before any corporation may file a certificate of dissolution it shall file or cause to be filed the certificate of satisfaction of the Franchise Tax Board required by Section 23334 of the Revenue and Taxation Code that all taxes, if any, imposed under the Bank and Corporation Tax Law have been paid or secured.

6616 Except as otherwise provided by law, if the term of existence for which any corporation was organized expires without renewal or extension thereof, the board shall terminate its activities and wind up its affairs; and when the affairs of the corporation have been wound up a majority of the directors shall execute and file a certificate conforming to the requirements of Section 6615.

6617 (a) The board, in lieu of filing the certificate of dissolution, may petition the superior court of the proper county for an order declaring the corporation duly wound up and dissolved. Such petition shall be filed in the name of the corporation.

(b) Upon the filing of the petition, the court shall make an order requiring all persons, including the Attorney General, interested to show cause why an order shall not be made declaring the corporation duly wound up and dissolved and shall direct that the order be served by notice to all creditors, claimants and members in the same manner as the notice given under subdivision (b) of Section 6517. Notice shall be served upon the Attorney General.

(c) Any person claiming to be interested as creditor or otherwise may appear in the proceeding at any time before the expiration of 30 days from the completion of publication of the order to show cause and contest the petition, and upon failure to appear such person's claim shall be barred.

(d) Thereafter an order shall be entered and filed and have the effect as prescribed in Sections 6518 and 6519

CHAPTER 17 GENERAL PROVISIONS RELATING TO DISSOLUTION

6710 The powers and duties of the directors (or other persons appointed by the court pursuant to Section 6515) and officers after commencement of a dissolution proceeding include, but are not limited to, the following acts in the name and on behalf of the corporation

(a) To elect officers and to employ agents and attorneys to liquidate or wind up its affairs.

(b) To continue the conduct of the affairs of the corporation insofar as necessary for the disposal or winding up thereof.

(c) To carry out contracts and collect, pay, compromise and settle debts and claims for or against the corporation.

(d) To defend suits brought against the corporation.

(e) To sue, in the name of the corporation, for all sums due or owing to the corporation or to recover any of its property

(f) To collect any amounts remaining unpaid on memberships or

to recover unlawful distributions.

(g) Subject to the provisions of Section 5142, to sell at public or private sale, exchange, convey or otherwise dispose of all or any part of the assets of the corporation in an amount deemed reasonable by the board without compliance with the provisions of Section 5911, and to execute bills of sale and deeds of conveyance in the name of the corporation

(h) In general, to make contracts and to do any and all things in the name of the corporation which may be proper or convenient for the purposes of winding up, settling and liquidating the affairs of the corporation

6711. A vacancy on the board may be filled during a winding up proceeding in the manner provided in Section 5224.

6712 When the identity of the directors or their right to hold office is in doubt, or if they are dead or unable to act, or they fail or refuse to act or their whereabouts cannot be ascertained, any interested person, including the Attorney General, may petition the superior court of the proper county to determine the identity of the directors or, if there are no directors, to appoint directors to wind up the affairs of the corporation, after hearing upon such notice to such persons as the court may direct

6713. (a) After determining that all the known debts and liabilities of a corporation in the process of winding up have been paid or adequately provided for, the board shall distribute all the remaining corporate assets in the manner provided in Sections 6715 and 6716.

(b) If the winding up is by court proceeding or subject to court supervision, the distribution shall not be made until after the expiration of any period for the presentation of claims that has been prescribed by order of the court

(c) Anything to the contrary notwithstanding, assets, if any, which are not subject to attachment, execution or sale for the corporation's debts and liabilities may be distributed pursuant to Sections 6715 and 6716 even though all debts and liabilities have not been paid or adequately provided for

6714. The payment of a debt or liability, whether the whereabouts of the creditor is known or unknown, has been adequately provided for if the payment has been provided for by either of the following means

(a) Payment thereof has been assumed or guaranteed in good faith by one or more financially responsible persons or by the United States government or any agency thereof, and the provision (including the financial responsibility of such corporations or other persons) was determined in good faith and with reasonable care by the board to be adequate at the time of any distribution of the assets by the board pursuant to this chapter.

(b) The amount of the debt or liability has been deposited as provided in Section 6718

This section does not prescribe the exclusive means of making

adequate provision for debts and liabilities.

6715 After complying with the provisions of Section 6713, assets held by a corporation upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with the condition.

6716 After complying with the provisions of Section 6713:

(a) Except as provided in Section 6715, all of a corporation's assets shall be disposed of on dissolution in conformity with its articles or bylaws subject to complying with the provisions of any trust under which such assets are held

(b) Except as provided in subdivision (c), the disposition required in subdivision (a) shall be made by decree of the superior court of the proper county in proceedings to which the Attorney General is a party The decree shall be made upon petition therefor by the Attorney General or, upon 30 days' notice to the Attorney General, by any person concerned in the dissolution.

(c) The disposition required in subdivision (a) may be made without the decree of the superior court, subject to the rights of persons concerned in the dissolution, if the Attorney General makes a written waiver of objections to the disposition.

6717 Subject to the provisions of any trust under which assets to be distributed are held, distribution may be made either in money or in property or securities and either in installments from time to time or as a whole, if this can be done fairly and ratably and in conformity with the provisions of the articles and bylaws and shall be made as soon as reasonably consistent with the beneficial liquidation of the corporation's assets

6718 (a) If any creditors or other persons are unknown or fail or refuse to accept their payment or distribution in cash or property or their whereabouts cannot be ascertained after diligent inquiry, or the existence or amount of a claim of a creditor or other person is contingent, contested or not determined, the corporation may deposit any such payment, distribution or the maximum amount of such claim with the State Treasurer or with a bank or trust company in this state in trust for the benefit of those lawfully entitled thereto. Such payment or distribution shall be paid over by the depositary to the lawful owners, their representatives or assigns, upon satisfactory proof of title

(b) For the purpose of providing for the transmittal, receipt, accounting for, claiming, management and investment of all money or other property deposited in the State Treasury under the provisions of subdivision (a), such money or other property shall be deemed to be paid or delivered for deposit in the State Treasury under the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure, and may be recovered in the manner prescribed therein.

6719 (a) Whenever in the process of winding up a corporation any distribution of assets has been made, otherwise than under an

order of court, without prior payment or adequate provision for payment of any of the debts and liabilities of the corporation, any amount so improperly distributed to any person may be recovered by the corporation. Any of such persons may be joined as defendants in the same action or be brought in on the motion of any other defendant.

(b) Suit may be brought in the name of the corporation to enforce the liability under subdivision (a) against any or all persons receiving the distribution by the Attorney General or by any one or more creditors of the corporation, whether or not they have reduced their claims to judgment

(c) As used in this section, "process of winding up" includes proceedings under Chapters 15 (commencing with Section 6510) and 16 (commencing with Section 6610) and also any other distribution of assets to persons made in contemplation of termination or abandonment of the corporate business.

6720. (a) A corporation which is dissolved nevertheless continues to exist for the purpose of winding up its affairs, prosecuting and defending actions by or against it and enabling it to collect and discharge obligations, dispose of and convey its property and collect and divide its assets, but not for the purpose of continuing its activities except so far as necessary for the winding up thereof.

(b) No action or proceeding to which a corporation is a party abates by the dissolution of the corporation or by reason of proceedings for winding up and dissolution thereof.

(c) Any assets inadvertently or otherwise omitted from the winding up continue in the dissolved corporation for the benefit of the persons entitled thereto upon dissolution of the corporation and on realization shall be distributed accordingly.

6721. (a) In all cases where a corporation has been dissolved, any person to whom assets were distributed upon dissolution may be sued in the corporate name upon any cause of action against the corporation arising prior to its dissolution. This section is procedural in nature and is not intended to determine liability.

(b) Summons or other process against such a corporation may be served by delivering a copy thereof to an officer, director or person having charge of its assets or, if no such person can be found, to any agent upon whom process might be served at the time of dissolution. If none of such persons can be found with due diligence and it is so shown by affidavit to the satisfaction of the court, then the court may make an order that summons or other process be served upon the dissolved corporation by personally delivering a copy thereof, together with a copy of the order, to the Secretary of State or an assistant or deputy secretary of state with an additional copy of the summons or other process and order being delivered to the Attorney General. Service in this manner is deemed complete on the 10th day after the later of delivery of process to the Secretary of State or Attorney General.

(c) Every such corporation shall survive and continue to exist

indefinitely for the purpose of being sued in any quiet title action. Any judgment rendered in any such action shall bind each and every person having an interest in such corporation, to the extent of their interest therein, and such action shall have the same force and effect as an action brought under the provisions of Sections 410.50 and 410.60 of the Code of Civil Procedure. Service of summons or other process in any such action may be made as provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure or as provided in subdivision (b).

(d) Upon receipt of such process and the fee therefor, the Secretary of State forthwith shall give notice to the corporation as provided in Section 1702.

Chapter 18. Crimes and Penalties

6810. (a) Upon the failure of a corporation to file the statement required by Section 6210, the Secretary of State shall mail a notice of such delinquency to the corporation. The notice shall also contain information concerning the application of this section, and advise the corporation of the penalty imposed by Section 25936 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State. If, within 60 days after the mailing of the notice of delinquency, a statement pursuant to Section 6210 has not been filed by the corporation, the Secretary of State may pursuant to regulation certify the name of such corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation a penalty of fifty dollars ($50) pursuant to Section 25936 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation which on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation the corporate powers, rights and privileges of which have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301 5 or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 6210. The Secretary of State need not mail a form pursuant to Section 6210 to a corporation the corporate powers, rights and privileges of which have been so suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing

(e) If, after certification pursuant to subdivision (a) the Secretary of State finds the required statement was filed before the expiration of the 60-day period after mailing of the notice of delinquency, the Secretary of State shall promptly decertify the name of the corporation to the Franchise Tax Board. The Franchise Tax Board shall then promptly abate any penalty assessed against the

corporation pursuant to Section 25936 of the Revenue and Taxation Code

6811 Any director of any corporation who concurs in any vote or act of the directors of the corporation or any of them, knowingly and with dishonest or fraudulent purpose, to make any distribution with the design of defrauding creditors, members, or the corporation, is guilty of a crime. Each such crime is punishable by imprisonment in a state prison or by a fine of not more than one thousand dollars ($1,000) or imprisonment in county jail for not more than one year, or both such fine and imprisonment.

6812. (a) Every director or officer of any corporation is guilty of a crime if such director or officer knowingly concurs in making or publishing, either generally or privately, to members or other persons (1) any materially false report or statement as to the financial condition of the corporation, or (2) any willfully or fraudulently exaggerated report, account or statement of operations or financial condition, intended to induce and having a tendency to induce, contributions or donations to the corporation by members or other persons

(b) Every director or officer of any corporation is guilty of a crime who refuses to make or direct to be made any book entry or the posting of any notice required by law in the manner required by law.

(c) A violation of subdivision (a) or (b) of this section shall be punishable by imprisonment in state prison or by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year or both such fine and imprisonment

6813 (a) Every director, officer or agent of any corporation, 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 crime

(b) Every director, officer, agent or member of any corporation 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 crime

(c) Each crime specified in this section is punishable by imprisonment in state prison, or by imprisonment in a county jail for not exceeding one year, or a fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment

6814 Every director, officer or agent of any corporation, or any person proposing to organize such a 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, 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 more than one year

6815 Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

CHAPTER 19. FOREIGN CORPORATIONS

6910 Foreign corporations transacting intrastate business shall comply with Chapter 21 (commencing with Section 2100) of the General Corporation Law, except as to matters specifically otherwise provided for in this part and except that Sections 2108 and 2115 shall not be applicable

SEC 6 Part 3 (commencing with Section 7110) is added to Division 2 of Title 1 of the Corporations Code, to read:

PART 3 NONPROFIT MUTUAL BENEFIT CORPORATIONS

CHAPTER 1. ORGANIZATION AND BYLAWS

Article 1 Title and Purposes

7110 This part shall be known and may be cited as the Nonprofit Mutual Benefit Corporation Law.

7111. Subject to any other provision of law of this state applying to the particular class of corporation or line of activity, a corporation may be formed under this part for any lawful purpose which does not contemplate the distribution of gains, profits or dividends to members, except upon dissolution, provided that a corporation all of the assets of which are irrevocably dedicated to charitable, religious, or public purposes and which as a matter of law or according to its articles or bylaws must, upon dissolution, distribute its assets to a person or persons carrying on a charitable, religious, or public purpose or purposes may not be formed under this part

Article 2 Formation

7120 (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation

(b) Each incorporator and each director named in the articles shall sign and acknowledge the articles

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles

7121 (a) In the case of an existing unincorporated association, the association shall not change its status to that of a corporation except upon a proper authorization for such by the association in accordance with its rules and procedures.

(b) Upon the change of status of an unincorporated association to

a corporation pursuant to subdivision (a), the property of the association becomes the property of the corporation and the members of the association become members of the corporation.

(c) All rights of creditors and all liens upon the property of the association shall be preserved unimpaired. Any action or proceeding pending by or against the unincorporated association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place.

(d) If a corporation is organized by a person who is or was an officer, director or member of an unincorporated association and such corporation is not organized pursuant to subdivision (a), the unincorporated association may continue to use its name and the corporation may not use a name which is the same as or similar to the name of the unincorporated association.

7122. (a) The Secretary of State shall not file articles setting forth a name in which "bank," "trust," "trustee" or related words appear, unless the certificate of approval of the Superintendent of Banks is attached thereto

(b) The Secretary of State shall not file articles pursuant to this part setting forth a name which may create the impression that the purpose of the corporation is public, charitable or religious or that it is a charitable foundation

(c) The Secretary of State shall not file articles which set forth a name which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name which a foreign corporation has assumed under subdivision (b) of Section 2106, a name which will become the record name of a domestic or foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to subdivision (c) of Section 110, or subdivision (c) of Section 5008, or a name which is under reservation pursuant to this section, Section 201, Section 5122, or Section 9122 except that a corporation may adopt a name that is substantially the same as an existing domestic or foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, upon proof of consent by such corporation and a finding by the Secretary of State that under the circumstances the public is not likely to be misled.

The use by a corporation of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State

(d) Any applicant may, upon payment of the fee prescribed therefor in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by subdivision (c), and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days The Secretary of State shall not, however, issue certificates reserving the same name for two or

more consecutive 60-day periods to the same applicant or for the use or benefit of the same person; nor shall consecutive reservations be made by or for the use or benefit of the same person of names so similar as to fall within the prohibitions of subdivision (c).

Article 3 Articles of Incorporation

7130 The articles of incorporation of a corporation formed under this part shall set forth.

(a) The name of the corporation.

(b) The following statement:

"The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the Nonprofit Mutual Benefit Corporation Law "

[The articles may describe the purposes of the corporation in an additional sentence]

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 8210

7131 The articles of incorporation may set forth a further statement limiting the purposes or powers of the corporation.

7132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles·

(1) A provision limiting the duration of the corporation's existence to a specified date

(2) A provision limiting or restricting the activities in which the corporation may engage or the powers which the corporation may exercise or both.

(3) A provision conferring upon the holders of any evidences of indebtedness, issued or to be issued by a corporation the right to vote in the election of directors and on any other matters on which members may vote under this part even if the corporation does not have members

(4) A provision conferring upon members the right to determine the consideration for which memberships shall be issued

(5) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (5), clause (i), of this section, or, in the event of its dissolution for any reason, any assets of the corporation after compliance with the applicable provisions of Chapters 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710) shall be distributed to the head organization

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions.

(1) The names and addresses of the persons appointed to act as initial directors

(2) Provisions concerning the transfer of memberships, in accordance with Section 7320

(3) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(4) A provision which would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote

(5) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws.

7133. For all purposes other than an action in the nature of quo warranto, a copy of the articles of a corporation duly certified by the Secretary of State is conclusive evidence of the formation of the corporation and prima facie evidence of its corporate existence.

7134 If initial directors have not been named in the articles, the incorporator or incorporators, until the directors are elected, may do whatever is necessary and proper to perfect the organization of the corporation, including the adoption and amendment of bylaws of the corporation and the election of directors and officers.

7135. Nothing in Section 7130 or 7131 or in any provision of the articles of a mutual benefit corporation shall be construed to limit the equitable power of a court to impress a charitable trust upon any or all of the assets of a mutual benefit corporation or otherwise treat it as a public benefit corporation

Article 4 Powers

7140. (a) A corporation, subject to limitations contained in its articles or bylaws, shall have the power to:

(1) Adopt, use, and at will alter a corporate seal, but failure to affix a seal does not affect the validity of any instrument

(2) Adopt, amend, and repeal bylaws.

(3) Qualify to conduct its activities in any other state, territory, dependency or foreign country

(4) Issue, purchase, redeem, receive, take or otherwise acquire, own, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own memberships, bonds, debentures, notes and debt securities

(5) Pay pensions, and establish and carry out pension, deferred compensation, saving, thrift and other retirement, incentive and

benefit plans, trusts and provisions for any or all of its directors, officers, employees, and persons providing services to it or any of its subsidiary or affiliated corporations, and to indemnify and purchase and maintain insurance on behalf of any fiduciary of such plans, trusts, or provisions

(6) Issue certificates evidencing membership in accordance with the provisions of Section 7313 and issue identity cards.

(7) Levy dues, assessments, admission and transfer fees.

(b) A corporation, subject to limitations contained in its articles or bylaws, shall also have all of the powers of a natural person in carrying out its activities, including, without limitation, the power to:

(1) Make donations for the public welfare or for community funds, hospital, charitable, educational, scientific, civic, religious or similar purposes

(2) Subject to the provisions of Sections 7233, 7234, 7235, 7236 and 7238, assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow or lend money or otherwise use its credit, and secure any of its obligations, contracts or liabilities by mortgage, pledge or other encumbrance of all or any part of its property and income.

(3) Participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind whether or not such participation involves sharing or delegation of control with or to others.

(4) Act as trustee under any trust incidental to the purposes of the corporation, and receive, hold, administer, and expend funds and property subject to such trust.

(5) Carry on a business at a profit and apply any profit that results from the business activity to any activity in which it may lawfully engage.

(c) The powers which a corporation may exercise pursuant to this section shall be subject to compliance with other provisions of this part and any other applicable laws.

7141 Subject to Section 7142:

(a) No limitation upon the activities, purposes, or powers of the corporation or upon the powers of the members, officers, or directors, or the manner of exercise of such powers, contained in or implied by the articles or by Chapters 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710) shall be asserted as between the corporation or member, officer or director and any third person, except in a proceeding: (1) by a member or the state to enjoin the doing or continuation of unauthorized activities by the corporation or its officers, or both, in the cases where third parties have not acquired rights thereby, (2) to dissolve the corporation, or (3) by the corporation or by a member suing in a representative suit against the officers or directors of the corporation for violation of their authority.

(b) Any contract or conveyance made in the name of a corporation which is authorized or ratified by the board, or is done

within the scope of authority, actual or apparent, conferred by the board or within the agency power of the officer executing it, except as the board's authority is limited by law other than this part, binds the corporation, and the corporation acquires rights thereunder whether the contract is executed or wholly or in part executory.

7142. (a) Notwithstanding Section 7141, in the case of a corporation holding assets in charitable trust, any of the following may bring an action to enjoin, correct, obtain damages for or to otherwise remedy a breach of the charitable trust:

(1) The corporation, or a member in the name of the corporation pursuant to Section 7710.

(2) An officer of the corporation.

(3) A director of the corporation.

(4) A person with a reversionary, contractual, or property interest in the assets subject to such charitable trust.

(5) The Attorney General, or any person granted relator status by the Attorney General.

The Attorney General shall be given notice of any action brought by the persons specified in paragraphs (1) through (4), and may intervene

(b) In an action under this section, the court may rescind or enjoin the performance of a contract unless:

(1) All of the parties to the contract are not parties to the action; or

(2) A party to the contract without actual notice of the trust restriction has, in good faith, parted with value, under the contract or in reliance upon it; or

(3) It is not equitable to do so.

Article 5. Bylaws

7150. (a) Bylaws may be adopted, amended or repealed by approval of the members (Section 5034) or the board, except as provided in subdivision (b). The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws, subject to subdivision (e) of Section 7151.

(b) The power of the board to adopt, amend or repeal bylaws is subject to the powers of members set forth in Sections 7151, 7220, 7224, 7512, 7613 and 7615. In any case where such sections require, for adoption, amendment, or repeal of a bylaw, approval of the members (Section 5034) or approval of a majority of all members (Section 5033), equivalent approval by the members of a class must also be obtained if the amendment, adoption, or repeal of the bylaw would do any of the things specified in Section 7813.

7151. (a) The bylaws shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation; or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact

number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 7151. The number or minimum number of directors may be one or more.

(b) Once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034); provided, however, that a bylaw or amendment of the articles reducing the fixed number or the minimum number of directors to a number less than five cannot be adopted, in a corporation which has chosen to allow cumulative voting pursuant to Section 7615, if the votes cast against its adoption at a meeting, or the votes which members not consenting are entitled to cast in the case of action by written consent exceed 16⅔ percent of the votes the members are entitled to cast.

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation, including but not limited to:

(1) Any provision referred to in subdivision (c) of Section 7132.

(2) The time, place and manner of calling, conducting and giving notice of members', directors' and committee meetings, or of conducting mail ballots.

(3) The qualifications, duties and compensation of directors; the time of their election; and the requirements of a quorum for directors' and committee meetings.

(4) The appointment of committees, composed of directors or nondirectors or both, by the board or any officer and the authority of any such committees.

(5) The appointment, duties, compensation and tenure of officers.

(6) The mode of determination of members of record.

(7) The making of reports and financial statements to members.

(8) Setting, imposing and collecting dues, assessments, admission and transfer fees.

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members, consistent with the requirements of Section 7341.

(e) The bylaws may require, for any or all corporate actions (except as provided in Section 7222, subdivision (c) of Section 7615, and Section 8610) the vote of a larger proportion of, or of all of, the members of any class, or the vote or quorum for taking action of a larger proportion of, or all of, the directors, than is otherwise required by this part. Once members have been admitted, such a bylaw requirement may be changed with approval of the members (Section 5034)

(f) A provision limiting the number of members, in total or of any class, which the corporation is authorized to admit.

7152. A corporation may provide in its bylaws for delegates having some or all of the authority of members. Where delegates are

provided for, the bylaws shall set forth delegates' terms of office, any reasonable method for delegates' selection and removal, and any reasonable method for calling, noticing and holding meetings of delegates. Delegates may only act personally at a meeting and may not act by proxy, written consent, or written ballot. Delegates may be given a name other than "delegates."

Article 6. Location and Inspection of Articles and Bylaws

7160 Every corporation shall keep at its principal office in this state the original or a copy of its articles and bylaws as amended to date, which shall be open to inspection by the members at all reasonable times during office hours. If the corporation has no office in this state, it shall upon the written request of any member furnish to such member a copy of the articles or bylaws as amended to date.

CHAPTER 2 DIRECTORS AND MANAGEMENT

Article 1 General Provisions

7210 Subject to the provisions of this part and any limitations in the articles or bylaws relating to action required to be approved by the members (Section 5034), or by a majority of all members (Section 5033), the activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the activities of the corporation to any person or persons, management company, or committee however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board

7211 (a) Unless otherwise provided in the articles or (subject to subdivision (e) of Section 7151) in the bylaws·

(1) Meetings of the board may be called by the chairman of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone or telegraph The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director.

All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 7233, 7234, and subdivision (e) of Section 7237 and Section 5233, insofar as it is made applicable pursuant to Section 7238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division or the articles.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board Such action by written consent shall have the same force and effect as a unanimous vote of such directors

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis

7212 (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board Appointments to such

committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in the articles or bylaws. The bylaws may authorize one or more committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of such committee or committees. The board may appoint one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Any such committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to.

(1) The approval of any action for which this part also requires approval of the members.

(2) The filling of vacancies on the board or in any committee.

(3) The fixing of compensation of the directors for serving on the board or on any committee

(4) The amendment or repeal of bylaws or the adoption of new bylaws

(5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(6) The appointment of committees of the board or the members thereof.

(7) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected

(8) With respect to any assets held in charitable trust, the approval of any self-dealing transaction (Section 5233).

(b) Subdivision (a) shall not apply to any committee which does not exercise the authority of the board.

(c) Unless the bylaws otherwise provide, the board may delegate to any committee, appointed pursuant to paragraph (4) of subdivision (c) of Section 7151 or otherwise, powers as authorized by Section 7210, but may not delegate the powers set forth in paragraphs (1) through (8) of subdivision (a) of this section

7213 (a) A corporation shall have a chairman of the board or a president or both, a secretary, a chief financial officer and such other officers with such titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments The president, or if there is no president the chairman of the board, is the general manager and chief executive officer of the corporation, unless otherwise provided in the articles or bylaws Any number of offices may be held by the same person unless the articles or bylaws provide otherwise

(b) Except as otherwise provided by the articles or bylaws, officers shall be chosen by the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment Any officer may resign at any time upon written notice to the corporation without prejudice to the rights, if any, of

the corporation under any contract to which the officer is a party.

7214. Subject to the provisions of subdivision (a) of Section 7141 and Section 7142, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between any corporation and any other person, when signed by the chairman of the board, the president or any vice president, and the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation, is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same.

7215. The original or a copy of the bylaws or of the minutes of any incorporators', members', directors', committee or other meeting or of any resolution adopted by the board or a committee thereof, or members, certified to be a true copy by a person purporting to be the secretary or an assistant secretary of the corporation, is prima facie evidence of the adoption of such bylaws or resolution or of the due holding of such meeting and of the matters stated therein.

Article 2 Selection, Removal and Resignation of Directors

7220 (a) Except as provided in subdivision (e), corporations with members shall elect directors for such terms, not longer than three years, as are fixed in the articles or bylaws In the absence of any provision in the articles or bylaws, the term shall be one year No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034)

(b) Except as provided in subdivision (e), corporations without members shall elect directors annually at a meeting of the directors.

(c) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(d) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class

(e) Subdivisions (a) through (d) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation without members, and up to one-third of the directors authorized in the articles or bylaws of a corporation with members, may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by the members Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 7222 A bylaw provision authorized by this subdivision may

be adopted, amended, or repealed only by approval of the members (Section 5034).

(f) A corporation may provide in its articles or bylaws for voting by its members on the basis of chapter or other organizational unit or by region or other geographic grouping.

(g) Directors designated or selected by a government office, board, commission, department, agency or political subdivision are not subject to the one-third limit in subdivision (e).

7221 The board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or, in the case of a corporation holding assets in charitable trust, been found by a final order or judgment of any court to have breached any duty arising as a result of Section 7238.

7222 (a) Subject to subdivision (b) of this section, any or all directors may be removed without cause if:

(1) In a corporation with fewer than 50 members, such removal is approved by a majority of all members (Section 5033); or

(2) In a corporation with 50 or more members, such removal is approved by the members (Section 5034).

(b) Except for a corporation having no members, pursuant to Section 7310·

(1) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 7615, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected, and

(2) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class

(c) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office.

(d) Except as provided in this section and Sections 7221 and 7223, a director may not be removed prior to the expiration of such director's term of office

(e) Where a director removed under this section was chosen by designation pursuant to subdivision (f) of Section 7220, then

(1) Where a different person may be designated pursuant to the governing article or bylaw provision, such new designation shall be made, or

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed

7223. (a) The superior court of the proper county may, at the suit of a director, or twice the authorized number (Section 5036) of members, remove from office any director in case of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the corporation or breach of any duty arising as a result of Section 7238 and may bar from reelection any director so removed for a period prescribed by the court The corporation shall be made a party to such action

(b) In the case of a corporation holding assets in charitable trust, the Attorney General may bring an action under subdivision (a), may intervene in such an action brought by any other party and shall be given notice of any such action brought by any other party

7224 (a) Unless otherwise provided in the articles or bylaws and except for a vacancy created by the removal of a director, vacancies on the board may be filled by a majority of the directors then in office, whether or not less than a quorum, or by a sole remaining director. Unless the articles or a bylaw approved by the members (Section 5034) provide that the board may fill vacancies occurring in the board by reason of the removal of directors, or unless the corporation has no members pursuant to Section 7310, such vacancies may be filled only by approval of the members (Section 5034).

(b) The members may elect a director at any time to fill any vacancy not filled by the directors.

(c) Any director may resign effective upon giving written notice to the chairman of the board, the president, the secretary or the board of directors of the corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

7225 (a) If a corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property, activities, or business will be impaired or lost, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws and whether or not an action is pending for an involuntary winding up or dissolution of the corporation, appoint a provisional director pursuant to this section. Action for such appointment may be brought by any director, or by members holding 33⅓ percent of the voting power

(b) If a corporation has an uneven number of directors and the members are deadlocked so that they cannot elect successor directors at the time prescribed therefor, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws, upon petition of members holding 50 percent of the voting power, appoint a provisional director or directors pursuant to this section or order such other equitable relief as the court deems appropriate

(c) In the case of a corporation holding assets in charitable trust

(1) Any person bringing an action under subdivision (a) or (b) shall give notice to the Attorney General, who may intervene; and

(2) The Attorney General may bring an action under subdivision (a) or (b).

(d) A provisional director shall be an impartial person, who is neither a member nor a creditor of the corporation, nor related by consanguinity or affinity within the third degree according to the common law to any of the other directors of the corporation or to any judge of the court by which such provisional director is appointed. A provisional director shall have all the rights and powers of a director until the deadlock in the board or among members is broken or until such provisional director is removed by order of the court or by approval of a majority of all members (Section 5033). Such person shall be entitled to such compensation as shall be fixed by the court unless otherwise agreed with the corporation.

Article 3. Standards of Conduct

7230. (a) Any duties and liabilities set forth in this article shall apply without regard to whether a director is compensated by the corporation.

(b) Article 2 (commencing with Section 2228) of Chapter 1 and Article 2 (commencing with Section 2258) of Chapter 2 of Title 8 of Part 4 of Division 3 of the Civil Code shall not apply to the directors of any corporation.

7231. (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;

(2) Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence; or

(3) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence,

so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(c) A person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any failure or alleged failure to discharge the person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public, charitable or religious purpose to which assets held by a corporation are dedicated.

7232. (a) Section 7231 governs the duties of directors as to any acts or omissions in connection with the election, selection, or nomination of directors.

(b) This section shall not be construed to limit the generality of Section 7231.

7233. (a) No contract or other transaction between a corporation and one or more of its directors, or between a corporation and any domestic or foreign corporation, firm or association in which one or more of its directors has a material financial interest, is either void or voidable because such director or directors or such other corporation, business corporation, firm or association are parties or because such director or directors are present at the meeting of the board of a committee thereof which authorizes, approves or ratifies the contract or transaction, if:

(1) The material facts as to the transaction and as to such director's interest are fully disclosed or known to the members and such contract or transaction is approved by the members (Section 5034) in good faith, with any membership owned by any interested director not being entitled to vote thereon;

(2) The material facts as to the transaction and as to such director's interest are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the interested director or directors and the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified; or

(3) As to contracts or transactions not approved as provided in paragraph (1) or (2) of this subdivision, the person asserting the validity of the contract or transaction sustains the burden of proving that the contract or transaction was just and reasonable as to the corporation at the time it was authorized, approved or ratified.

A mere common directorship does not constitute a material financial interest within the meaning of this subdivision. A director is not interested within the meaning of this subdivision in a resolution fixing the compensation of another director as a director, officer or employee of the corporation, notwithstanding the fact that the first director is also receiving compensation from the corporation.

(b) No contract or other transaction between a corporation and any corporation, business corporation or association of which one or more of its directors are directors is either void or voidable because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the

contract or transaction, if:

(1) The material facts as to the transaction and as to such director's other directorship are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common director or directors or the contract or transaction is approved by the members (Section 5034) in good faith; or

(2) As to contracts or transactions not approved as provided in paragraph (1) of this subdivision, the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified

This subdivision does not apply to contracts or transactions covered by subdivision (a)

7234. Interested or common directors may be counted in determining the presence of a quorum at a meeting of the board or a committee thereof which authorizes, approves or ratifies a contract or transaction as provided in Section 7233.

7235 (a) Except as provided in subdivision (b), a corporation shall not make any loan of money or property to or guarantee the obligation of.

(1) Any director or officer of the corporation or of its parent or any subsidiary; or

(2) Any person upon the security of memberships of the corporation or of its parent, unless the loan or guaranty is otherwise adequately secured, except by the vote of the holders of a majority of the voting power of memberships of all classes, regardless of limitations or restrictions on voting rights, other than the membership held by the benefited director, officer or member

(b) Any corporation may lend money to, or guarantee any obligation of or otherwise assist any officer or other employee of the corporation or of any subsidiary, including any officer or employee who is also a director, pursuant to an employee benefit plan available to executives or other employees, whenever the board determines that such loan or guaranty may reasonably be expected to benefit the corporation. If such plan includes officers or directors, it shall be approved by the members (Section 5034) after disclosure of the right under such plan to include officers or directors thereunder. Such loan or guarantee or other assistance may be with or without interest and may be unsecured or secured in such manner as the board shall approve, including, without limitation, a pledge of memberships of the corporation. A corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such director or officer, provided that in the absence of such advance such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent or any subsidiary

(c) The provisions of subdivision (a) do not apply to credit unions

or to loans permitted under any statute regulating any special class of corporations

7236. (a) Subject to the provisions of Section 7231, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation or to the creditors entitled to institute an action under subdivision (c):

(1) The making of any distribution contrary to the provisions of Chapter 4 (commencing with Section 7410)

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapter 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710)

(3) The making of any loan or guaranty contrary to Section 7235

(b) A director who is present at a meeting of the board, or any committee thereof, at which action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce the liability:

(1) Under paragraph (1) of subdivision (a) against any or all directors liable by the persons entitled to sue under subdivision (b) of Section 7420;

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment; or

(3) Under paragraph (3) of subdivision (a) against any or all directors liable by any one or more members at the time of any corporate action specified in paragraph (3) of subdivision (a) who have not consented to the corporate action, without regard to the provisions of Section 7710.

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guaranty.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action.

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation:

(1) With respect to paragraph (1) of subdivision (a), against members who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the members who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guaranty.

Any director sued under this section may file a cross complaint against the person or persons who are liable to such director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action

7237. (a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (3) of subdivision (e)

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section 5233 of Part 2 (commencing with Section 5110) made applicable pursuant to Section 7238, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation, or brought under Section 5233 of Part 2 (commencing with Section 5110) made applicable pursuant to Section 7238, or brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in

connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this subdivision:

(1) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(2) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(3) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless such action concerns assets held in charitable trust and is settled with the approval of the Attorney General.

(d) To the extent that an agent of a corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith

(e) Except as provided in subdivision (d), any indemnification under this section shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subdivision (b) or (c), by:

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding;

(2) Approval of the members (Section 5034), with the persons to be indemnified not being entitled to vote thereon, or

(3) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

(f) Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this section.

(g) No provision made by a corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the articles, bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless

consistent with this section. Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise

(h) No indemnification or advance shall be made under this section, except as provided in subdivision (d) or paragraph (3) of subdivision (e), in any circumstance where it appears:

(1) That it would be inconsistent with a provision of the articles, bylaws, a resolution of the members or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(2) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

(i) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this section.

(j) This section does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent as defined in subdivision (a) of the employer corporation. A corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207

7238 Where a corporation holds assets in charitable trust, the conduct of its directors or of any person performing functions similar to those performed by a director, shall, in respect to the assets held in charitable trust, be governed by the standards of conduct set forth in Article 3 (commencing with Section 5230) of Chapter 2 of Part 2 for directors of nonprofit public benefit corporations. This does not limit any additional requirements which may be specifically set forth in this part regarding corporations holding assets in charitable trust.

Article 4. Examination by Attorney General

7240. A corporation holding assets in charitable trust is subject at all times to examination by the Attorney General, on behalf of the state, to ascertain to what extent, if at all, it has failed or is failing to comply with trusts it has assumed. In case of any such failure the Attorney General may institute, in the name of the state, the proceedings necessary to correct the failure.

CHAPTER 3. MEMBERS

Article 1 Issuance of Memberships

7310 (a) A corporation may admit persons to membership, as

provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members

(b) In the case of a corporation which has no members·

(1) Any action which would otherwise require a vote of members shall require only a vote of the directors, and no meeting of members shall be required, any provision of this part or the articles or bylaws to the contrary notwithstanding.

(2) All rights which would otherwise vest in the members shall vest in the directors, including, but not limited to, any rights of members to share in a distribution upon dissolution.

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

7311 (a) Memberships may be issued by a corporation for no consideration or for such consideration as is specified in the articles or bylaws or, absent such specification, for such consideration as is determined by the board

(b) Except as provided in subdivision (d), and subject to Section 7351, memberships issued as provided in this section shall be declared and taken to be fully paid memberships and not liable to any further call nor shall the member be liable for any further payments for such membership.

(c) In the absence of fraud in the transaction, the judgment of the directors as to the value of the consideration for memberships shall be conclusive.

(d) A corporation may issue the whole or any part of its memberships as partly paid and subject to call for the remainder of the consideration to be paid therefor.

7312 No person may hold more than one membership, and no fractional memberships may be held, provided, however, that:

(a) Two or more persons may have an indivisible interest in a single membership when authorized by, and in such manner or under the circumstances prescribed by, the articles or bylaws subject to Section 7612, and

(b) If the articles or bylaws provide for classes of membership and if the articles or bylaws permit a person to be a member of more than one class, a person may hold one membership in any class; and

(c) Any branch, division, or office of any person, which is not formed primarily to be a member, may hold a separate membership.

7313 (a) Except as provided in subdivision (d) of Section 7311, a corporation may, but is not required to, issue membership certificates. Nothing in this section shall restrict a corporation from issuing identity cards or similar devices to members which serve to identify members qualifying to use facilities or services of the corporation

(b) Membership certificates issued by corporations shall state on the certificate that·

(1) The corporation is a nonprofit mutual benefit corporation

which may not make distributions to its members in furtherance of a plan for the distribution of gains, profits, or dividends to members except upon dissolution, or, if the articles so provide, that it may not make distributions to its members during its life or upon dissolution;

(2) If there are restrictions upon the transferability, a statement that a copy of the restrictions are on file with the secretary of the corporation and are open for inspection by a member on the same basis as the records of the corporation; and

(3) The statement, if any, required by subdivision (d) of Section 7311

(c) If the membership certificates are transferable only with consent of the corporation, or if there are no membership certificates, then instead of complying with paragraph (2) of subdivision (b) the corporation may, or if there are no membership certificates, shall, give notice to the transferee, within a reasonable time after the corporation is first notified of the proposed transfer, and before the membership is transferred on the books and records of the corporation, of the information that would otherwise be provided by the legends required by paragraph (2) of subdivision (b).

(d) If the articles or bylaws are amended so that any statement required by subdivision (b) upon outstanding membership certificates is no longer accurate, then the board may cancel the outstanding certificates and issue in their place new certificates conforming to the articles or bylaw amendments.

(e) Where new membership certificates are issued in accordance with subdivision (d), the board may order holders of outstanding certificates to surrender and exchange them for new certificates within a reasonable time fixed by the board. The board may further provide that the holder of a certificate so ordered to be surrendered shall not be entitled to exercise any of the rights of membership until the certificate is surrendered and exchanged, but rights shall be suspended only after notice of such order is given to the holder of the certificate and only until the certificate is exchanged. The duty of surrender of any outstanding certificates may also be enforced by civil action.

7314. (a) A corporation may issue a new membership certificate or a new certificate for any security in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate or the owner's legal representative to give the corporation a bond (or other adequate security) sufficient to indemnify it against any claim that may be made against it (including any expense or liability) on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

(b) If a corporation refuses to issue a new membership certificate or other certificate in place of one theretofore issued by it, or by any corporation of which it is the lawful successor, alleged to have been

lost, stolen or destroyed, the owner of the lost, stolen or destroyed certificate or the owner's legal representative may bring an action in the superior court of the proper county for an order requiring the corporation to issue a new certificate in place of the one lost, stolen or destroyed.

7315 (a) Except as provided in subdivision (b), or in its articles or bylaws, a corporation may admit any person to membership.

(b) A corporation may not admit its subsidiary to membership.

Article 2 Transfer of Memberships

7320 Subject to Section 7613

(a) Unless the articles or bylaws otherwise provide:

(1) No member may transfer a membership or any right arising therefrom; and

(2) Subject to the provisions of subdivision (b), all rights as a member of the corporation cease upon the member's death or dissolution

(b) The articles or bylaws may provide for, or may authorize the board to provide for, the transfer of memberships, or of memberships within any class or classes, with or without restriction or limitation, including transfer upon the death, dissolution, merger, or reorganization of a member.

(c) Where transfer rights have been provided, no restriction of them shall be binding with respect to memberships issued prior to the adoption of the restriction, unless the holders of such memberships voted in favor of the restriction.

Article 3. Types of Memberships

7330. A corporation may issue memberships having different voting or other rights.

7331. Except as provided in or authorized by the articles or bylaws, all memberships shall have the same voting and other rights.

7332. (a) A corporation may provide in its articles for one or more classes of memberships which are redeemable, in whole or in part, at the option of the corporation, or the member for such consideration within such time or upon the happening of one or more specified events and upon such terms and conditions as are stated in the articles. However, no membership shall actually be redeemed if prohibited by Chapter 4 (commencing with Section 7410).

(b) Nothing in this section shall prevent a corporation from creating a sinking fund or similar provision for, or entering into an agreement for, the redemption or purchase of its memberships to the extent permitted by Chapter 4 (commencing with Section 7410).

7333. (a) A corporation may refer to persons affiliated with it as "members" even though such persons are not members within the meaning of Section 5056; but references to members in this part

mean members as defined in Section 5056.

(b) A corporation may benefit, serve, or assist persons who are not members within the meaning of Section 5056 for such consideration, if any, as the board may determine or as is authorized or provided for in the articles or bylaws

Article 4. Termination of Memberships

7340. (a) A member may resign from membership at any time, although the articles or bylaws may require reasonable notice before the resignation is effective.

(b) This section shall not relieve the resigning member from any obligation for charges incurred, services or benefits actually rendered, dues, assessments or fees, or arising from contract, a condition to ownership of land, an obligation arising out of the ownership of land, or otherwise, and this section shall not diminish any right of the corporation to enforce any such obligation or obtain damages for its breach.

(c) A membership issued for a period of time terminates upon the expiration of such period of time.

7341. (a) No member may be expelled or suspended, and no membership or memberships may be terminated or suspended, except according to procedures satisfying the requirements of this section. An expulsion, termination or suspension not in accord with this section shall be void and without effect.

(b) Any expulsion, suspension, or termination must be done in good faith and in a fair and reasonable manner. Any procedure which conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered.

(c) A procedure is fair and reasonable when:

(1) The provisions of the procedure have been set forth in the articles or bylaws;

(2) It provides the giving of 15 days' prior notice of the expulsion, suspension or termination and the reasons therefor; and

(3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the members shown on the corporation's records.

(e) Any action challenging an expulsion, suspension or termination of membership including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination. In the event such an action is

successful the court may order any relief, including reinstatement, it finds equitable under the circumstances, but no vote of the members or of the board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.

(f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefor. An expulsion, suspension or termination based upon substantive grounds which violate contractual or other rights of the member or are otherwise unlawful is not made valid by compliance with this section.

Article 5 Rights and Obligations of Members and Creditors

7350. (a) A member of a corporation is not, as such, personally liable for the debts, liabilities, or obligations of the corporation.

(b) No person is liable for any obligation arising from membership unless the person was admitted to membership upon the person's application or with the person's consent

(c) The ownership of an interest in real property, when a condition of its ownership is membership in a corporation, shall be considered consent to such membership for the purpose of this section.

7351. A corporation may levy dues, assessments, or fees upon its members pursuant to its articles or bylaws, but a member upon learning of them may avoid liability for them by promptly resigning from membership, except where the member is liable for them by contract, as a condition to ownership of land, as an obligation arising out of the ownership of land, or otherwise. Article or bylaw provisions authorizing such dues, assessments or fees do not, of themselves, create such liability

7352. A person holding a membership as pledgee or a membership as executor, administrator, guardian, trustee, receiver or in any representative or fiduciary capacity is not personally liable for any unpaid balance of the purchase price of the membership, or for any amount owing to the corporation by the member, because the membership is so held but the estate and funds in the hands of such fiduciary or representative are liable and the membership subject to sale therefor.

7353. (a) No action shall be brought by or on behalf of any creditor to reach and apply the liability, if any, of a member to the corporation to pay the amount due on such member's membership or otherwise due to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless

such proceedings would be useless.

(b) All creditors of the corporation, with or without reducing their claims to judgment, may intervene in any such creditor's action to reach and apply unpaid amounts due the corporation and any or all members who owe amounts to the corporation may be joined in such action. Several judgments may be rendered for and against the parties to the action or in favor of a receiver for the benefit of the respective parties thereto.

(c) All amounts paid by any member in any such action shall be credited on the unpaid balance due the corporation by such member.

7354 Nothing in this part shall be construed as in derogation of any rights or remedies which any creditor or member may have against any promoter, member, director, officer or the corporation because of participation in any fraud or illegality practiced upon such creditor or member by any such person or by the corporation in connection with the issue or sale of memberships or securities or in derogation of any rights which the corporation may have by rescission, cancellation or otherwise because of any fraud or illegality practiced on it by any such person in connection with the issue or sale of memberships or securities.

CHAPTER 4. DISTRIBUTIONS

Article 1 Limitations

7410 This chapter does not apply to any proceeding for winding up and dissolution of corporations under Chapters 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710).

7411. No distribution shall be made in furtherance of a plan for the distribution of gains, profits or dividends to members except upon dissolution.

7412. Neither a corporation nor any of its subsidiaries shall make a distribution if the corporation or the subsidiary making the distribution is, or as a result thereof would be, likely to be unable to meet its liabilities (except those whose payment is otherwise adequately provided for) as they mature.

7413. Neither a corporation nor any of its subsidiaries shall purchase or redeem a membership of the parent or subsidiary if the articles of the corporation contain a provision authorized by paragraph (5), clause (ii), of subdivision (a) of Section 7132 and such corporation or the subsidiary making the purchase or redemption is, or as a result thereof would be, likely to be unable to meet the obligations resulting from such article provision.

7414. Nothing in this chapter prohibits additional restrictions upon the purchase or redemption of a membership by provision in a corporation's articles or bylaws or agreement entered into by the corporation.

Article 2. Liability of Members

7420 (a) Any member who with knowledge of facts indicating the impropriety thereof receives any distribution not authorized by the provisions of this chapter is liable to the corporation for the benefit of the head organization, or of all of the creditors or members entitled to institute an action under subdivision (b) for the amount so received by such member with interest thereon at the legal rate on judgments until paid, but not exceeding the obligations of the corporation owed to the head organization at the time of the violation, the liabilities of the corporation owed to nonconsenting creditors at the time of the violation, or the injury suffered by nonconsenting members, as the case may be.

(b) Suit may be brought in the name of the corporation to enforce the liability (1) to creditors arising under subdivision (a) for a violation of Sections 7410 through 7412, inclusive, against any or all members liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the payment to the member and who has not consented thereto, whether or not they have reduced their claims to judgment, or (2) to the head organization arising under subdivision (a) for a violation of Section 7413 against any or all members liable by any head organization which pursuant to the corporation's articles is entitled to a distribution of assets upon dissolution.

(c) Any member sued under this section may implead all other members liable under this section and may in the absence of fraud by such member compel contribution, either in that action or in an independent action against members not joined in that action.

(d) Nothing contained in this section affects any liability which any member may have under Sections 3439 to 3439.12, inclusive, of the Civil Code.

CHAPTER 5. MEETINGS AND VOTING

Article 1. General Provisions

7510. (a) Meetings of members may be held at a place within or without the state that is stated in or fixed in accordance with the bylaws. If no other place is so stated or fixed, meetings of members shall be held at the principal office of the corporation.

(b) A regular meeting of members shall be held annually. In any year in which directors are elected, the election shall be held at the regular meeting, except for elections pursuant to subdivision (e), or by written ballot pursuant to subdivision (e) of Section 7513. Any other proper business may be transacted at the meeting.

(c) If a corporation with members fails to hold the regular meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the formation of the corporation or after its last regular meeting, or if the

corporation fails to hold a written ballot for a period of 60 days after the date designated therefor, then the superior court of the proper county may summarily order the meeting to be held or the ballot to be conducted upon the application of a member, after notice to the corporation giving it an opportunity to be heard

(d) The votes represented, either in person or by proxy, at a meeting called or written ballot ordered pursuant to subdivision (c) and entitled to be cast on the business to be transacted at the meeting, constitute a quorum for the purpose of the meeting, notwithstanding any provision of the articles or bylaws or in this part to the contrary. The court may issue such orders as may be appropriate including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice of the meeting.

(e) Special meetings of members may be called by the board, the chairman of the board, the president, or such other persons, if any, as are specified in the bylaws. In addition, special meetings of members for any lawful purpose may be called by 5 percent or more of the members

7511. (a) Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each member entitled to vote thereat; provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered, or certified mail, that notice shall be given not less than 20 days before the meeting. Subject to subdivision (f), and subdivision (b) of Section 7512, such notice shall state the place, date and time of the meeting and (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) in the case of the regular meeting, those matters which the board, at the time of the mailing of the notice, intends to present for action by the members, but, except as provided in subdivision (b) of Section 7512, any proper matter may be presented at the meeting for such action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is sent to members

(b) Notice of a members' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to a member at the address of such member appearing on the books of the corporation or given by the member to the corporation for purpose of notice; or if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. An affidavit of giving of any notice or report in accordance with the provisions of this part, executed by the secretary, assistant secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the member at the address of such member appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the member at such address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the member upon written demand of the member at the principal office of the corporation for a period of one year from the date of the giving of the notice or report to all other members.

(c) Upon request in writing to the chairman of the board, president, vice president or secretary by any person (other than the board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the board not less than 35 nor more than 90 days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard. The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote and the form of notice.

(d) When a members' meeting is adjourned to another time or place, unless the bylaws otherwise require and except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting.

(e) The transactions of any meeting of members however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this part to be included in the

notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, unless otherwise provided in the articles or bylaws, except as provided in subdivision (f).

(f) Any member approval required under Section 7222, 7224, 7233, 7812 or 8719 other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(g) A court may find that notice not given in conformity with this section is still valid, if it was given in a fair and reasonable manner.

(h) In the absence of fraud, the failure to give notice in accord with this section may not be raised, whether by way of claim or defense, in any proceeding commenced more than nine months after the date of the meeting of which the allegedly defective notice was given.

7512 (a) A majority of the voting power, represented in person, by written ballot, or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw approved by the members (Section 5034) or by the incorporators or by the board if there are no members may set a lower quorum. Any such bylaw may be amended or repealed only by approval of the members (Section 5034) or by the board if there are no members. In the case of a mutual water company, the bylaws may not set a quorum of less than 20 percent of the voting power. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws.

(b) Where a bylaw approved by the members (Section 5034) authorizes a corporation to conduct a meeting with a quorum, fixed in such bylaw, of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 7511.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

7513. (a) Subject to subdivision (e), and unless otherwise provided in the articles, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the written ballot of every member is solicited, if the required number of signed approvals in writing, setting forth the action so taken, is received, and if the requirements of subdivision (b) are satisfied.

(b) Approval by written ballot pursuant to this section shall be valid only when the number of ballots cast within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of ballots cast.

(c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 7511 and Section 7514. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.

(d) Subject to Sections 7611 and 7613, any member casting a ballot, or the proxyholders of a member or a transferee of a membership or a personal representative of the member or their respective proxyholders, may revoke the ballot, or substitute another, by a writing received by the corporation prior to the time specified pursuant to subdivision (c), but may not do so thereafter. Such revocation is effective upon its receipt by the secretary of the corporation

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to the articles and Section 7615.

7514 (a) Any form of proxy or written ballot distributed to 10 or more members of a corporation with 100 or more members shall afford an opportunity on the proxy or form of written ballot to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy is solicited or by such written ballot, and shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter the vote shall be cast in accordance therewith

(b) Every form of proxy or written ballot, which provides an opportunity to specify approval or disapproval with respect to any proposal, shall also contain an appropriate space marked "abstain," whereby a member may indicate a desire to abstain from voting on the proposal A proxy marked "abstain" by the member 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 or written ballot in which the directors to be voted upon are named therein as candidates and which is marked by a member "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.

(d) 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 member.

7515. (a) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer or member, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation

(e) Any meeting or other method of obtaining the vote of members or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws, and this part.

Article 2. Additional Provisions Relating to Election of Directors

7520. As to directors elected by members, there shall be available to the members reasonable nomination and election procedures given the nature, size and operations of the corporation. The procedures shall include:

(a) A reasonable means of nominating persons for election as directors.

(b) A reasonable opportunity for a nominee to communicate to the members the nominee's qualifications and the reasons for the nominee's candidacy.

(c) A reasonable opportunity for all nominees to solicit votes.

(d) A reasonable opportunity for all members to choose among the nominees.

7521. Except for directors who are elected as authorized by Section 7152, or subdivision (f) of Section 7220, and except as provided in Section 7522, any person who is qualified to be elected to the board of directors of a corporation with 500 or more members may be nominated·

(a) By any method authorized by the bylaws, or if no method is set forth in the bylaws by any method authorized by the board;

(b) By petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by members representing the following number of votes·

Number of Votes Eligible to be Cast for Director Disregarding any Provision for Cumulative Voting	Number of Votes
Under 5,000	2 percent of voting power
5,000 or more	one-twentieth of 1 percent of voting power but not less than 100.

(c) Notwithstanding subdivision (b), in corporations with one million or more members engaged primarily in the business of retail merchandising of consumer goods, by petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by such reasonable number of members, consistent with Section 7520, as is set forth in the bylaws, or if no number is set forth in the bylaws, by such reasonable number of members, consistent with Section 7520, as is determined by the directors.

(d) If there is a meeting to elect directors, by any member present at the meeting in person or by proxy if proxies are permitted.

7522. (a) The provisions of this section shall apply to any election of a director or directors by members of a corporation with 5,000 or more members except for an election authorized by Section 7152 or

subdivision (f) of Section 7220.

(b) The corporation's articles or bylaws shall set a date for the close of nominations for the board. The date shall not be less than 50 nor more than 120 days before the day directors are to be elected. No nominations for the board can be made after the date set for the close of nominations.

(c) If more people are nominated for the board than can be elected, the election shall take place by means of a procedure which allows all nominees a reasonable opportunity to solicit votes and all members a reasonable opportunity to choose among the nominees.

(d) If after the close of nominations the number of people nominated for the board is not more than the number of directors to be elected, the corporation may without further action declare that those nominated and qualified to be elected have been elected.

7523 Where a corporation with 500 or more members publishes any material soliciting a vote for any nominee for director in any publication owned or controlled by the corporation, it shall make available to all other nominees, in the same issue of the publication, an equal amount of space, with equal prominence, to be used by the nominee for a purpose reasonably related to the election.

7524 Upon written request by any nominee for election to the board and the payment of the reasonable costs of mailing (including postage), a corporation shall within 10 business days after such request (provided payment has been made) mail to all members, or such portion of them as the nominee may reasonably specify, any material, which the nominee may furnish and which is reasonably related to the election, unless the corporation within five business days after the request allows the nominee, at the corporation's option, the rights set forth in either paragraph (1) or (2) of subdivision (a) of Section 8330.

7525. (a) Except as provided in subdivision (c), no corporation may decline to publish or mail material, otherwise required to be published or mailed on behalf of any nominee under this article, on the basis of the content of such material.

(b) Neither the corporation, nor its agents, officers, directors, or employees, may be held criminally liable, liable for any negligence (active or passive) or otherwise liable for damages to any person on account of any material which is supplied by a nominee for director and which it mails or publishes pursuant to Section 7523 or 7524 but the nominee on whose behalf such material was published or mailed shall be liable and shall indemnify and hold the corporation, its agents, officers, directors, and employees and each of them harmless from all demands, costs, including reasonable legal fees and expenses, claims, damages and causes of action arising out of such material or any such mailing or publication.

(c) Nothing in this section shall prevent a corporation or any of its agents, officers, directors, or employees from seeking a court order relieving the corporation from its obligation under Sections 7523 and 7524 on the ground the material will expose the moving

party to liability

7526. Without authorization of the board, no corporation funds may be expended to support a nominee for director after there are more people nominated for director than can be elected.

7527. An action attacking the validity of any election, appointment or removal of a director or directors must be commenced within nine months after the election, appointment or removal.

CHAPTER 6. VOTING OF MEMBERSHIPS

7610. Except as provided in a corporation's articles or bylaws or Section 7615, each member shall be entitled to one vote on each matter submitted to a vote of the members. Single memberships in which two or more persons have an indivisible interest shall be voted as provided in Section 7612.

7611. (a) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to notice of any meeting of members or entitled to exercise any rights in respect to any lawful action. Such record date shall not be more than 60 nor less than 10 days before the date of the meeting, nor more than 60 days prior to any other action

(b) Any member in good standing, otherwise eligible to vote, is entitled to vote at any meeting of members, except that the bylaws may provide or, in the absence of such bylaw provision, the board may fix a date as the record date for the purpose of determining the members entitled to vote or for the purpose of determining members entitled to exercise any rights in respect to any lawful action. Such record date shall not be more than 60 nor less than 10 days before the date of the meeting, nor more than 60 days prior to any other action.

(c) If no record date is fixed:

(1) The record date for determining members entitled to notice of a meeting of members shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.

(2) The record date for determining members entitled to cast written ballots (Section 7513), when no prior action by the board has been taken, shall be the day on which the first written ballot is mailed or solicited, whichever is first.

(3) The record date for determining members for any other purpose (except voting at a meeting) shall be at the close of business on the day on which the board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later

(d) A determination of members entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the

board fixes a new record date for the adjourned meeting.

(d) Members on the record date are entitled to notice and to vote notwithstanding any transfer of memberships on the books of the corporation after the record date, except as otherwise provided in the articles, bylaws, by agreement between the transferor and transferee or in this part.

(e) Except as authorized by subdivision (d) of this section, persons admitted to membership by the corporation after the record date are not entitled to notice, to vote, or to exercise the rights for which the record date was fixed

7612 If a membership stands of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, persons entitled to vote under a voting agreement or otherwise, or if two or more persons (including proxyholders) have the same fiduciary relationship respecting the same membership, unless the secretary of the corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect.

(a) If only one votes, such act binds all; or

(b) If more than one vote, the act of the majority so voting binds all

7613. (a) Every person entitled to vote a membership may authorize another person or persons to act by proxy with respect to such membership except that this right may be limited or withdrawn by the articles or bylaws, subject to subdivision (f). Any proxy purported to be executed in accordance with the provisions of this part shall be presumptively valid.

(b) No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date of execution. Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto, except as otherwise provided in this section. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy. The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed

(c) A proxy is not revoked by the death or incapacity of the maker or the termination of a membership as a result thereof unless, before the vote is counted, written notice of such death or incapacity is received by the corporation.

(d) Unless otherwise provided in the articles or bylaws, the proxy

of a member which states that it is irrevocable is irrevocable for the period specified therein (notwithstanding subdivision (c)) when it is held by any of the following or a nominee of any of the following:

(1) A person who has purchased or who has agreed to purchase the membership;

(2) A creditor or creditors of the corporation or the member who extended or continued credit to the corporation or the member in consideration of the proxy if the proxy states that it was given in consideration of such extension or continuation of credit and the name of the person extending or continuing the credit;

(3) A person who has contracted to perform services as an employee of the corporation, if the proxy is required by the contract of employment and if the proxy states that it was given in consideration of such contract of employment, the name of the employee and the period of employment contracted for; or

Notwithstanding the period of irrevocability specified, the proxy becomes revocable when the agreement to purchase is terminated; the debt of the corporation or the member is paid; or the period of employment provided for in the contract of employment has terminated In addition to the foregoing paragraphs (1) through (3), a proxy of a member may be made irrevocable (notwithstanding subdivision (c)) if it is given to secure the performance of a duty or to protect a title, either legal or equitable, until the happening of events which, by its terms, discharge the obligations secured by it.

(e) A proxy may be revoked, notwithstanding a provision making it irrevocable, by a transferee of a membership without knowledge of the existence of the provision unless the existence of the proxy and its irrevocability appears on the certificate representing the membership.

(f) Subdivision (a) notwithstanding

(1) No amendment of the articles or bylaws repealing, restricting, creating or expanding proxy rights may be adopted without approval by the members (Section 5034), and

(2) No amendment of the articles or bylaws restricting or limiting the use of proxies may affect the validity of a previously issued irrevocable proxy during the term of its irrevocability, so long as it complied with applicable provisions, if any, of the articles or bylaws at the time of its issuance, and is otherwise valid under this section.

(g) Anything to the contrary notwithstanding, any revocable proxy covering matters requiring a vote of the members pursuant to Section 7222; Section 7224; Section 7233; paragraph (1) of subdivision (f) of Section 7613; Section 7812; paragraph (2) of subdivision (a) of Section 7911, Section 8014; subdivision (a) of Section 8015; Section 8610; or subdivision (a) of Section 8719 is not valid as to such matters unless it sets forth the general nature of the matter to be voted on.

7614. (a) In advance of any meeting of members the board may appoint inspectors of election to act at the meeting and any adjournment thereof. If inspectors of election are not so appointed, or if any persons so appointed fail to appear or refuse to act, the

chairman of any meeting of members may, and on the request of any member or a member's proxy shall, appoint inspectors of election (or persons to replace those who so fail or refuse) at the meeting The number of inspectors shall be either one or three If appointed at a meeting on the request of one or more members or proxies, the majority of members represented in person or by proxy shall determine whether one or three inspectors are to be appointed

(b) The inspectors of election shall determine the number of memberships outstanding and the voting power of each, the number represented at the meeting, the existence of a quorum and the authenticity, validity and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connnection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the result and do such acts as may be proper to conduct the election or vote with fairness to all members.

(c) The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all Any report or certificate made by the inspectors of election is prima facie evidence of the facts stated therein.

7615. (a) If the articles or bylaws authorize cumulative voting, but not otherwise, every member entitled to vote at any election of directors may cumulate such member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit. An article or bylaw provision authorizing cumulative voting may be repealed or amended only by approval of a majority of all members (Section 5033), except that the governing article or bylaw provision may require the vote of a greater proportion of the members, or of the members of any class, for its repeal.

(b) No member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and the member has given notice at the meeting prior to the voting of the member's intention to cumulate votes If any one member has given such notice, all members may cumulate their votes for candidates in nomination

(c) In any election of directors, the candidates receiving the highest number of votes are elected, subject to any lawful provision specifying election by classes.

(d) Elections for directors need not be by ballot unless a member demands election by ballot at the meeting and before the voting begins or unless by bylaws so require.

(e) Subdivision (a) shall not apply to a corporation having no

members pursuant to Section 7310, in which the directors are elected by the directors

7616. (a) Upon the filing of an action therefor by any director or member or by any person who had the right to vote in the election at issue, the superior court of the proper county shall determine the validity of any election or appointment of any director of any corporation.

(b) In the case of a corporation holding assets in charitable trust, any person bringing an action under this section shall give notice of the action to the Attorney General, who may intervene.

(c) Upon the filing of the complaint, and before any further proceedings are had, the court shall enter an order fixing a date for the hearing, which shall be within five days unless for good cause shown a later date is fixed, and requiring notice of the date for the hearing and a copy of the complaint to be served upon the corporation and upon the person whose purported election or appointment is questioned and upon any person (other than the plaintiff) whom the plaintiff alleges to have been elected or appointed, in the manner in which a summons is required to be served, or, if the court so directs, by registered mail; and the court may make such further requirements as to notice as appear to be proper under the circumstances

(d) The court, consistent with the provisions of this part and in conformity with the articles and bylaws to the extent feasible, may determine the person entitled to the office of director or may order a new election to be held or appointment to be made, may determine the validity, effectiveness and construction of voting agreements and voting trusts, the validity of the issuance of memberships and the right of persons to vote and may direct such other relief as may be just and proper.

Chapter 7 Members' Derivative Actions

7710 (a) Subdivisions (c) through (f) notwithstanding, no motion to require security shall be granted in an action brought by 100 members or the authorized number (Section 5036), whichever is less

(b) No action may be instituted or maintained in the right of any corporation by any member of such corporation unless both of the following conditions exist

(1) The plaintiff alleges in the complaint that plaintiff was a member at the time of the transaction or any part thereof of which plaintiff complains, or that plaintiff's membership thereafter devolved upon plaintiff by operation of law from a holder who was a holder at the time of transaction or any part thereof complained of, and

(2) The plaintiff alleges in the complaint with particularity plaintiff's efforts to secure from the board such action as plaintiff desires, or the reasons for not making such effort, and alleges further

that plaintiff has either informed the corporation or the board in writing of the ultimate facts of each cause of action against each defendant or delivered to the corporation or the board a true copy of the complaint which plaintiff proposes to file.

(c) Subject to subdivision (a), in any action referred to in subdivision (b), at any time within 30 days after service of summons upon the corporation or upon any defendant who is an officer or director of the corporation, or held such office at the time of the acts complained of, the corporation or such defendant may move the court for an order, upon notice and hearing, requiring the plaintiff to furnish security as hereinafter provided. The motion shall be based upon one or both of the following grounds:

(1) That there is no reasonable possibility that the prosecution of the cause of action alleged in the complaint against the moving party will benefit the corporation or its members economically or otherwise.

(2) That the moving party, if other than the corporation, did not participate in the transaction complained of in any capacity

The court on application of the corporation or any defendant may, for good cause shown, extend the 30-day period for an additional period or periods not exceeding 60 days.

(d) At the hearing upon any motion pursuant to subdivision (c), the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material (1) to the ground or grounds upon which the motion is based, or (2) to a determination of the probable reasonable expenses, including attorneys' fees, of the corporation and the moving party which will be incurred in the defense of the action. If the court determines, after hearing the evidence adduced by the parties, that the moving party has established a probability in support of any of the grounds upon which the motion is based, the court shall fix the nature and amount of security, not to exceed fifty thousand dollars ($50,000), to be furnished by the plaintiff for reasonable expenses, including attorneys' fees, which may be incurred by the moving party and the corporation in connection with the action, including expenses for which the corporation may become liable pursuant to Section 7237. A ruling by the court on the motion shall not be a determination of any issue in the action or of the merits thereof. The amount of the security may thereafter be increased or decreased in the discretion of the court upon a showing that the security provided has or may become inadequate or is excessive, but the court may not in any event increase the total amount of the security beyond fifty thousand dollars ($50,000) in the aggregate for all defendants. If the court, upon any such motion, makes a determination that security shall be furnished by the plaintiff as to any one or more defendants, the action shall be dismissed as to such defendant or defendants, unless the security required by the court shall have been furnished within such reasonable time as may be fixed by the court. The corporation and the moving party shall have recourse to the security in such amount

as the court shall determine upon the termination of the action.

(e) If the plaintiff shall, either before or after a motion is made pursuant to subdivision (c), or any order or determination pursuant to such motion, post good and sufficient bond or bonds in the aggregate amount of fifty thousand dollars ($50,000) to secure the reasonable expenses of the parties entitled to make the motion, the plaintiff has complied with the requirements of this section and with any order for security theretofore made pursuant hereto, and any such motion then pending shall be dismissed and no further or additional bond or other security shall be required

(f) If a motion is filed pursuant to subdivision (c), no pleadings need be filed by the corporation or any other defendant and the prosecution of the action shall be stayed until 10 days after the motion has been disposed of.

CHAPTER 8 AMENDMENT OF ARTICLES

7810 (a) By complying with the provisions of this chapter, a corporation may amend its articles from time to time, in any and as many respects as may be desired, so long as its articles as amended contain only such provisions as it would be lawful to insert in original articles filed at the time of the filing of the amendment and, if a change in the rights of members or an exchange, reclassification or cancellation of memberships is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation It is the intent of the Legislature in adopting this section to exercise to the fullest extent the reserve power of the state over corporations and to authorize any amendment of the articles covered by the preceding sentence regardless of whether any provision contained in the amendment was permissible at the time of the original incorporation of the corporation.

(b) A corporation shall not amend its articles to alter any statement which may appear in the original articles of the names and addresses of the first directors, nor the name and address of the initial agent, except to correct an error in the statement or to delete either after the corporation has filed a statement under Section 8210.

7811 Any amendment of the articles may be adopted by a writing signed by a majority of the incorporators, so long as:

(a) No directors were named in the original articles;

(b) No directors have been elected; and

(c) The corporation has no members.

7812 (a) Except as provided in this section, amendments may be adopted if approved by the board and approved by the members (Section 5034) or, in the case of amendments to become a domestic corporation other than a mutual benefit corporation, approved by 100 percent of the voting power, either before or after the approval by the board

(b) Notwithstanding subdivision (a), the following amendments may be adopted by approval of the board alone·

(1) An amendment extending the corporate existence or making the corporate existence perpetual, if the corporation was organized prior to August 14, 1929.

(2) An amendment deleting the names and addresses of the first directors or the name and address of the initial agent.

(3) Any amendment, at a time the corporation has no members.

(c) Whenever the articles or bylaws require for corporate action the approval of a particular class of members or of a larger proportion of, or of all of, the votes of any class, or of a larger proportion of, or of all of, the directors, than is otherwise required by this part, the provision in the articles requiring such greater vote shall not be altered, amended or repealed except by such class or such greater vote, unless otherwise provided in the articles or bylaws.

(d) In addition to approval by the board, a corporation, to amend its articles to become a domestic corporation other than a mutual benefit corporation, must have such amendment approved by 100 percent of the voting power.

7813. (a) A proposed amendment must be approved by the members (Section 5034) of a class, whether or not such class is entitled to vote thereon by the provisions of the articles, if the amendment would change the voting rights of that class or the rights of that class upon dissolution or merger.

(b) In addition to approval by a class as provided in subdivision (a), a proposed amendment must also be approved by the members (Section 5034).

7814. Except for amendments adopted by the incorporators pursuant to Section 7811, upon adoption of an amendment, the corporation shall file a certificate of amendment, which shall consist of an officers' certificate stating:

(a) The wording of the amendment or amended articles in accordance with Section 7817;

(b) That the amendment has been approved by the board;

(c) If the amendment is one for which the approval of the members (Section 5034) or the approval of 100 percent of the voting power is required, that the amendment was approved by the required vote of members; and

(d) If the amendment is one which may be adopted with approval by the board alone, a statement of the facts entitling the board alone to adopt the amendment. In the event of an amendment of the articles pursuant to a merger, the filing of the officers' certificate and agreement pursuant to Section 8014 shall be in lieu of any filing required under this chapter.

7815. In the case of amendments adopted by the incorporators under Section 7811, the corporation shall file a certificate of amendment signed and verified by a majority of the incorporators which shall state that the signers thereof constitute at least a majority of the incorporators, that the corporation has no members and that they adopt the amendment or amendments therein set forth.

7816. The certificate of amendment shall establish the wording of

the amendment or amended articles by one or more of the following means:

(a) By stating that the articles shall be amended to read as therein set forth in full.

(b) By stating that any provision of the articles, which shall be identified by the numerical or other designation given it in the articles or by stating the wording thereof, shall be stricken from the articles or shall be amended to read as set forth in the certificate.

(c) By stating that the provisions set forth therein shall be added to the articles.

If the purpose of the amendment is to reclassify, cancel, exchange, or otherwise change outstanding memberships the amended articles shall state the effect thereof on outstanding memberships.

7817. Upon the filing of the certificate of amendment, the articles shall be amended in accordance with the certificate and any change, reclassification or cancellation of memberships shall be effected, and a copy of the certificate, certified by the Secretary of State, is prima facie evidence of the performance of the conditions necessary to the adoption of the amendment

7818 A corporation formed for a limited period may at any time subsequent to the expiration of the term of its corporate existence, extend the term of its existence by an amendment to its articles removing any provision limiting the term of its existence and providing for perpetual existence. If the filing of the certificate of amendment providing for perpetual existence would be prohibited if it were original articles by the provisions of Section 7122, the Secretary of State shall not file such certificate unless, by the same or a concurrently filed certificate of amendment, the articles of such corporation are amended to adopt a new available name. For the purpose of the adoption of any such amendment, persons who have been functioning as directors of such corporation shall be considered to have been validly elected even though their election may have occurred after the expiration of the original term of the corporate existence.

7819 (a) A corporation may restate in a single certificate the entire text of its articles as amended by filing an officers' certificate entitled "Restated Articles of Incorporation of (insert name of corporation)" which shall set forth the articles as amended to the date of filing of the certificate, except that the signatures and acknowledgments of the incorporators and any statements regarding the effect of any prior amendment upon memberships and any provisions of agreements of merger (other than amendments to the articles of the surviving corporation) and the names and addresses of the first directors and of the initial agent for service of process shall be omitted Such omissions are not alterations or amendments of the articles. The certificate may also itself alter or amend the articles in any respect, in which case the certificate must comply with Section 7814 or 7815, as the case may be, and Section 7816.

(b) If the certificate does not itself alter or amend the articles in

any respect, it shall be approved by the board and shall be subject to the provisions of this chapter relating to an amendment of the articles not requiring approval of the members (Section 5034). If the certificate does itself alter or amend the articles, it shall be subject to the provisions of this chapter relating to the amendment or amendments so made.

(c) Restated articles of incorporation filed pursuant to this section shall supersede for all purposes the original articles and all amendments filed prior thereto.

7820. (a) Amendment of the articles of a corporation holding property in charitable trust, pursuant to this chapter, does not, of itself, abrogate any requirement or limitation imposed upon the corporation, or any property held by it, by virtue of the trust under which such property is held by the corporation.

(b) The Attorney General may, at the corporation's request, and pursuant to such regulations as the Attorney General may issue, give rulings as to whether the Attorney General will or may oppose a proposed action, or article amendment, as inconsistent with or proscribed by the requirements of a charitable trust.

CHAPTER 9. SALES OF ASSETS

7910. Any mortgage, deed of trust, pledge or other hypothecation of all or any part of the corporation's property, real or personal, for the purpose of securing the payment or performance of any contract or obligation may be approved by the board Unless the articles or bylaws otherwise provide, no approval of the members (Section 5034) shall be necessary for such action

7911. (a) Subject to the provisions of Section 7142, a corporation may sell, lease, convey, exchange, transfer or otherwise dispose of all or substantially all of its assets when the principal terms are:

(1) Approved by the board; and

(2) Unless the transaction is in the usual and regular course of its activities, approved by the members (Section 5034), either before or after approval by the board and before or after the transaction.

(b) Notwithstanding approval by the members (Section 5034), the board may abandon the proposed transaction without further action by the members, subject to the contractual rights, if any, of third parties.

(c) Subject to the provisions of Section 7142, such sale, lease, conveyance, exchange, transfer or other disposition may be made upon such terms and conditions and for such consideration as the board may deem in the best interests of the corporation.

7912 Any deed or instrument conveying or otherwise transferring any assets of a corporation may have annexed to it the certificate of the secretary or an assistant secretary of the corporation, setting forth that the transaction has been validly approved by the board and (a) stating that the property described in such deed or instrument is less than substantially all of the assets

of the corporation or that the transfer is in the usual and regular course of the business of the corporation, if such be the case, or (b) if such property constitutes all or substantially all of the assets of the corporation and the transfer is not in the usual and regular course of the business of the corporation, stating the fact of approval thereof by the members (Section 5034) or all the members pursuant to this chapter. Such certificate is prima facie evidence of the existence of the facts authorizing such conveyance or other transfer of the assets and conclusive evidence in favor of any purchaser or encumbrancer for value who, without notice of any trust restriction applicable to the property or any failure to comply therewith, in good faith parted with value.

7913. A corporation holding assets in charitable trust must give written notice to the Attorney General 20 days before it sells, leases, conveys, exchanges, transfers or otherwise disposes of any or all of the assets held in trust unless the Attorney General has given the corporation a written waiver of this section as to the proposed transaction.

CHAPTER 10 MERGERS

Article 1 Merger

8010. Any mutual benefit corporation may merge with another mutual benefit corporation, foreign corporation, foreign business corporation or domestic corporation other than a public benefit corporation or a religious corporation.

8011. The board of each corporation which desires to merge shall approve an agreement of merger. The constituent corporations shall be parties to the agreement of merger and other persons may be parties to the agreement of merger. The agreement shall state:

(a) The terms and conditions of the merger;

(b) The amendments, subject to Sections 7810 and 7816, to the articles of the surviving corporation to be effected by the merger, if any, if any amendment changes the name of the surviving corporation, the new name may be the same as or similar to the name of a disappearing corporation, subject to subdivision (c) of Section 7122;

(c) The amendments to the bylaws of the surviving corporation to be effected by the merger, if any;

(d) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation;

(e) The manner of converting all memberships of the constituent corporations into memberships, if any, or securities, of the surviving corporation and, if any memberships of any of the constituent corporations are not to be converted solely into memberships or securities of the surviving corporation, the cash, property, rights or securities of any corporation which the holders of such memberships

are to receive in exchange for such memberships, which cash, property, rights or securities of any corporation may be in addition to or in lieu of memberships or securities of the surviving corporation; and

(f) Such other details or provisions as are desired, if any, including, without limitation, if not prohibited by this chapter, a provision for the payment of cash in lieu of fractional memberships or for any other arrangement with respect thereto. Each membership of the same class of any constituent corporation (other than the cancellation of memberships held by a surviving corporation or its parent or a wholly owned subsidiary of either in a constituent corporation) shall, unless all members of the class consent, be treated equally with respect to any distribution of cash, property, rights or securities.

8012. The principal terms of the merger shall be approved by the board and by the members (Section 5034) of each class of each corporation which desires to merge; and the approval by the members (Section 5034) required by this section may be given before or after the approval by the board.

8013 Each constituent corporation shall sign the agreement by the chairman of its board, president or a vice president and secretary or an assistant secretary acting on behalf of their respective corporations.

8014 After approval of a merger by the board and any approval by the members (Section 5034) required by Section 8012, the surviving corporation shall file a copy of the agreement of merger with an officers' certificate of each constituent corporation attached stating the total number of memberships of each class entitled to vote on the merger, and that the principal terms of the agreement in the form attached were duly approved by the required vote of the members. The merger and any amendment of the articles of the surviving corporation contained in the merger agreement shall thereupon be effective (subject to subdivision (c) of Section 5008 and subject to the provisions of Section 8018) and the several parties thereto shall be one corporation. The agreement shall not be filed, however, until there has been filed by or on behalf of each corporation taxed under the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), the existence of which is terminated by the merger, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by such law have been paid or secured. The Secretary of State may certify a copy of the merger agreement separate from the officers' certificates attached thereto.

8015. (a) Any amendment to the agreement may be adopted and the agreement so amended may be approved by the board and by the members (Section 5034), as required by Section 8012, of any constituent corporation in the same manner as the original agreement.

(b) If the agreement so amended is approved as provided in

subdivision (a), the agreement so amended shall then constitute the agreement of merger.

8016. The board may, in its discretion, abandon a merger, subject to the contractual rights, if any, of third parties, including other constituent corporations, without further approval by the members (Section 5034) at any time before the merger is effective.

8017. A copy of an agreement of merger certified on or after the effective date by an official having custody thereof has the same force in evidence as the original and, except as against the state, is conclusive evidence of the performance of all conditions precedent to the merger, the existence on the effective date of the surviving corporation and the performance of the conditions necessary to the adoption of any amendment to the articles contained in the agreement of merger.

8018. (a) Subject to the provisions of Section 8010, the merger of any number of corporations with any number of foreign corporations, foreign business corporations or domestic corporations may be effected if the foreign corporations or domestic corporations are authorized by the laws under which they are formed to effect such a merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a mutual benefit corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of this chapter and other applicable laws of this state, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and Section 8012 the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a domestic corporation other than a mutual benefit corporation, then, subject to the requirements of subdivision (d) and Section 8012, the merger proceedings may be in accordance with the laws of the state (including this state) or place of incorporation of the surviving corporation.

(d) If the surviving corporation is a foreign corporation, or foreign business corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any disappearing corporation as of the time of effectiveness in such foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations a copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original or, in lieu thereof, an executed counterpart of such agreement, certificate or other document; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall automatically

by such filing surrender its right to transact intrastate business.

Article 2. Effect of Merger

8020. (a) Upon merger pursuant to this chapter the separate existence of the disappearing corporations ceases and the surviving corporation shall succeed, without other transfer, to all the rights and property of each of the disappearing corporations and shall be subject to all the debts and liabilities of each and trust obligations upon the property of a disappearing corporation in the same manner as if the surviving corporation had itself incurred them.

(b) All rights of creditors and all liens and trusts upon or arising from the property of each of the constituent corporations shall be preserved unimpaired, provided that such liens and trust obligations upon property of a disappearing corporation shall be limited to the property affected thereby immediately prior to the time the merger is effective.

(c) Any action or proceeding pending by or against any disappearing corporation may be prosecuted to judgment, which shall bind the surviving corporation, or the surviving corporation may be proceeded against or substituted in its place.

8021. Whenever a domestic or foreign or foreign business corporation having any real property in this state merges with another domestic or foreign or foreign business corporation pursuant to the laws of this state or of the state or place in which any constituent corporation was incorporated, and the laws of the state or place of incorporation (including this state) of any disappearing corporation provide substantially that the making and filing of the agreement of merger vests in the surviving corporation all the real property of any disappearing corporation, the filing for record in the office of the county recorder of any county in this state in which any of the real property of such disappearing corporation is located of either (a) a certificate prescribed by the Secretary of State, or (b) a copy of the agreement of merger or certificate of merger, certified by the Secretary of State or an authorized public official of the state or place pursuant to the laws of which the merger is effected, shall evidence record ownership in the surviving corporation of all interest of such disappearing corporation in and to the real property located in that county.

8022. Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance, which is made to a constituent corporation and which takes effect or remains payable after the merger, inures to the surviving corporation.

CHAPTER 11. BANKRUPTCY REORGANIZATIONS AND ARRANGEMENTS

8110. Any proceeding, initiated with respect to a corporation,

under any applicable statute of the United States, as now existing or hereafter enacted, relating to reorganizations or arrangements of corporations, shall be governed by the provisions of Chapter 14 (commencing with Section 1400) of Division 1 of Title 1.

CHAPTER 12. REQUIRED FILINGS BY CORPORATION OR ITS AGENT

8210 (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer; (2) the street address of its principal office, if any.

(b) The statement required by subdivision (a) shall also designate, as the agent of such corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign or foreign business corporation which has complied with Section 1505, 6213, or 8213 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth such person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

8211. An agent designated for service of process pursuant to

Section 8210 may file a signed and acknowledged written statement of resignation as such agent. Thereupon the authority of the agent to act in such capacity shall cease and the Secretary of State forthwith shall give written notice of the filing of the statement of resignation by mail to the corporation addressed to its principal office.

8212. If a natural person who has been designated agent for service of process pursuant to Section 8210 dies or resigns or no longer resides in the state or if the corporate agent for such purpose resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers and privileges suspended or ceases to exist, the corporation shall forthwith file a designation of a new agent conforming to the requirements of Section 8210

8213. (a) Any domestic or foreign or foreign business corporation, before it may be designated as the agent for the purpose of service of process of a corporation pursuant to Section 1502, 6210, or 8210, shall file a certificate executed in the name of the corporation by an officer thereof stating:

(1) The complete address of its office or offices in this state, wherein any corporation designating it as such agent may be served with process.

(2) The name of each person employed by it at each such office to whom it authorizes the delivery of a copy of any such process.

(3) Its consent that delivery thereof to any such person at the office where such person is employed shall constitute delivery of any such copy to it, as such agent.

(b) Any corporation which has filed the certificate provided for in subdivision (a) may file any number of supplemental certificates containing all the statements provided for in subdivision (a), which, upon the filing thereof, shall supersede the statements contained in the original or in any supplemental certificate previously filed.

(c) No domestic or foreign or foreign business corporation may file a certificate pursuant to this section unless it is currently authorized to engage in business in this state and is in good standing on the records of the Secretary of State.

8214. Upon request of an assessor, a corporation or foreign corporation owning, claiming, possessing or controlling property in this state subject to local assessment shall make available at the corporation's principal office in California or at a place mutually acceptable to the assessor and the corporation a true copy of business records relevant to the amount, cost and value of all property that it owns, claims, possesses or controls within the county.

8215. Any officers, directors, employees or agents of a corporation who do any of the following are liable jointly and severally for all the damages resulting therefrom to the corporation or any person injured thereby who relied thereupon or to both:

(a) Make, issue, deliver or publish any prospectus, report, circular, certificate, financial statement, balance sheet, public notice or document respecting the corporation or its memberships, assets,

liabilities, capital, dividends, business, earnings or accounts which is false in any material respect, knowing it to be false, or participate in the making, issuance, delivery or publication thereof with knowledge that the same is false in a material respect.

(b) Make or cause to be made in the books, minutes, records or accounts of a corporation any entry which is false in any material particular knowing such entry is false.

(c) Remove, erase, alter or cancel any entry in any books or records of the corporation, with intent to deceive.

8216 (a) The Attorney General, upon complaint of a member, director or officer, that a corporation is failing to comply with the provisions of this chapter, Chapter 5 (commencing with Section 7510), Chapter 6 (commencing with Section 7610) or Chapter 13 (commencing with Section 8310), may, in the name of the people of the State of California, send to the principal office of such corporation, (or, if there is no such office, to the office or residence of the chief executive officer or secretary, of the corporation, as set forth in the most recent statement filed pursuant to Section 8210) notice of the complaint. If the answer is not satisfactory, or if there is no answer within 30 days, the Attorney General may institute, maintain or intervene in such suits, actions, or proceedings of any type in any court or tribunal of competent jurisdiction or before any administrative agency for such relief by way of injunction, the dissolution of entities, the appointment of receivers or any other temporary, preliminary, provisional or final remedies as may be appropriate to protect the rights of members or to undo the consequences of failure to comply with such requirements. In any such action, suit or proceeding there may be joined as parties all persons and entities responsible for or affected by such activity.

(b) In the case of a corporation where the action concerns assets held in charitable trust, the Attorney General may bring an action under subdivision (a) without having received a complaint, and without first giving notice of a complaint.

CHAPTER 13. RECORDS, REPORTS AND RIGHTS OF INSPECTION

Article 1. General Provisions

8310. If any record subject to inspection pursuant to this chapter is not maintained in written form, a request for inspection is not complied with unless and until the corporation at its expense makes such record available in written form.

8311. Any inspection under this chapter may be made in person or by agent or attorney and the right of inspection includes the right to copy and make extracts.

8312. Any right of inspection created by this chapter extends to the records of each subsidiary of a corporation.

8313. The rights of members provided in this chapter may not be limited by contract or the articles or bylaws.

Article 2. Required Records, Reports to Directors and Members

8320. (a) Each corporation shall keep:

(1) Adequate and correct books and records of account:

(2) Minutes of the proceedings of its members, board and committees of the board; and

(3) A record of its members giving their names and addresses and the class of membership held by each.

(b) Minutes shall be kept in written form. Other books and records shall be kept either in written form or in any other form capable of being converted into written form.

8321. (a) A corporation shall notify each member yearly of the member's right to receive a financial report pursuant to this subdivision. Except as provided in subdivision (c), upon written request of a member the board shall promptly cause the most recent annual report to be sent to the requesting member. An annual report shall be prepared not later than 120 days after the close of the corporation's fiscal year. Such report shall contain in appropriate detail the following:

(1) A balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year.

(2) A statement of the place where the names and addresses of the current members may be found.

(3) Any information required by Section 8322.

(b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

(c) This section does not apply to corporations which do not have more than 100 members or ten thousand dollars ($10,000) in assets at any time during the fiscal year.

8322. (a) Any provision of the articles or bylaws notwithstanding, every corporation shall furnish annually to its members a statement of any transaction or indemnification of a kind described in subdivision (d) or (e), if any such transaction or indemnification took place. If the corporation issues an annual report to all members, this subdivision shall be satisfied by including the required information in the annual report. A corporation which does not issue an annual report to all members, pursuant to subdivision (c) of Section 8321, shall satisfy this section by mailing or delivering to its members the required statement within 120 days after the close of the corporation's fiscal year.

(b) Except as provided in subdivision (c), a covered transaction under this section is a transaction in which the corporation, its parent, or its subsidiary was a party, and in which either of the following had a direct or indirect material financial interest:

(1) Any director or officer of the corporation, or its parent or

subsidiary

(2) Any holder of more than 10 percent of the voting power of the corporation, its parent or its subsidiary.

For the purpose of subdivision (d), an "interested person" is any person described in paragraph (1) or (2) of this subdivision.

(c) Transactions approved by the members of a corporation (Section 5034), under subdivision (a) of Section 7233, are not covered transactions. For the purpose of subdivision (b), a mere common directorship is not a material financial interest.

(d) The statement required by subdivision (a) shall describe briefly

(1) Any covered transaction (excluding compensation of officers and directors) during the previous fiscal year involving more than forty thousand dollars ($40,000), or which was one of a number of covered transactions in which the same interested person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than forty thousand dollars ($40,000)

(2) The names of the interested persons involved in such transactions, stating such person's relationship to the corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

(e) The statement required by subdivision (a) shall describe briefly the amount and circumstances of any indemnifications or advances aggregating more than ten thousand dollars ($10,000) paid during the fiscal year to any officer or director of the corporation pursuant to Section 7237; provided that no such report need be made in the case of indemnification approved by the members (Section 5034) under subdivision (e) (2) of Section 7237.

8323. (a) The superior court of the proper county shall enforce the duty of making and mailing or delivering the information and financial statements required by this article and, for good cause shown, may extend the time therefor

(b) In any action or proceeding under this section, if the court finds the failure of the corporation to comply with the requirements of this article to have been without justification, the court may award the member reasonable expenses, including attorneys' fees, in connection with such action or proceeding.

8324. (a) Nothing in this part relieves a corporation from the requirements of Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of the Government Code as to any assets held in charitable trust.

(b) A corporation shall furnish any member who so requests a copy of any report filed by the corporation pursuant to Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of the Government Code. The corporation may impose reasonable charges for copying and mailing a report furnished under this

subdivision.

Article 3. Rights of Inspection

8330 (a) Subject to Sections 8331 and 8332, and unless the corporation provides a reasonable alternative pursuant to subdivision (c), a member may do either or both of the following as permitted by subdivision (b):

(1) Inspect and copy the record of all the members' names, addresses and voting rights, at reasonable times, upon five business days' prior written demand upon the corporation which demand shall state the purpose for which the inspection rights are requested; or

(2) Obtain from the secretary of the corporation, upon written demand and tender of a reasonable charge, a list of the names, addresses and voting rights of those members entitled to vote for the election of directors, as of the most recent record date for which it has been compiled or as of a date specified by the member subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The membership list shall be made available on or before the later of ten business days after the demand is received or after the date specified therein as the date as of which the list is to be compiled.

(b) The rights set forth in subdivision (a) may be exercised by:

(1) Any member, for a purpose reasonably related to such person's interest as a member. Where the corporation reasonably believes that the information will be used for another purpose, or where it provides a reasonable alternative pursuant to subdivision (c), it may deny the member access to the list. In any subsequent action brought by the member under Section 8336, the court shall enforce the rights set forth in subdivision (a) unless the corporation proves that the member will allow use of the information for purposes unrelated to the person's interest as a member or that the alternative method offered reasonably achieves the proper purpose set forth in the demand.

(2) The authorized number of members for a purpose reasonably related to the members' interest as members.

(c) The corporation may, within ten business days after receiving a demand under subdivision (a), deliver to the person or persons making the demand a written offer of an alternative method of achieving the purpose identified in said demand without providing access to or a copy of the membership list An alternative method which reasonably and in a timely manner accomplishes the proper purpose set forth in a demand made under subdivision (a) shall be deemed a reasonable alternative, unless within a reasonable time after acceptance of the offer the corporation fails to do those things which it offered to do. Any rejection of the offer shall be in writing and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand made

pursuant to subdivision (a)

8331 (a) Where the corporation, in good faith, and with a substantial basis, believes that the membership list, demanded under Section 8330 by the authorized number (Section 5036), will be used for a purpose unrelated to an interest of the person or persons making the demand (hereinafter called the requesting parties) as members or provides a reasonable alternative pursuant to subdivision (c) of Section 8330, it may petition the superior court of the proper county for an order setting aside the demand.

(b) Except as provided in subdivision (c), a petition for an order to show cause why a protective order pursuant to subdivision (d) should not issue shall be filed within ten business days after the demand by the authorized number under Section 8330 or receipt of a written rejection by the authorized number of an offer made pursuant to subdivision (c) of Section 8330, whichever is later. The petition shall be accompanied by an application for a hearing on the petition Upon the filing of the petition, the court shall issue a protective order staying production of the list demanded until the hearing on the order to show cause The court shall set the hearing on the order to show cause not more than 20 days from the date of the filing of the petition The order to show cause shall be granted unless the court finds that there is no reasonable probability that the corporation will make the showing required under subdivision (f).

(c) A corporation may file a petition under this section more than ten business days after the demand or rejection under Section 8330, but only upon a showing the delay was caused by excusable neglect. In no event, however, may any petition under this section be considered if filed more than 30 days after the requesting parties' demand or rejection, whichever is later

(d) Upon the return day of the order to show cause, the court may issue a protective order staying production of the list demanded until final adjudication of the petition filed pursuant to this section. No protective order shall issue under this subdivision unless the court finds that the rights of the requesting parties can reasonably be preserved and that the corporation is likely to make the showing required by subdivision (f) or the court is likely to issue a protective order pursuant to subdivision (g)

(e) If the corporation fails to file a petition within the time allowed by subdivision (b) or (c), whichever is applicable, or fails to obtain a protective order under subdivision (d), then the corporation shall comply with the demand, and no further action may be brought by the corporation under this section

(f) The court shall issue the final order setting aside the demand only if the corporation proves·

(1) That there is a reasonable probability that the requesting parties will permit use of the membership list for a purpose unrelated to their interests as members; or

(2) That the method offered by the corporation is a reasonable alternative in that it reasonably achieves the proper purpose set forth

in the requesting parties' demand and that the corporation intends and is able to effectuate the reasonable alternative.

(g) In the final order, the court may, in its discretion, order an alternate mechanism for achieving the proper purposes of the requesting parties, or impose just and proper conditions upon the use of the membership list which reasonably assures compliance with Section 8330 and Section 8338

(h) The court shall award reasonable costs and expenses including reasonable attorneys' fees, to requesting parties who successfully oppose any petition or application filed pursuant to this section.

(i) Where the corporation has neither, within the time allowed, complied with a demand by the authorized number (Section 5036) under Section 8330, nor obtained a protective order staying production of the list, or a final order setting aside the demand, which is then in effect, the requesting parties may petition the superior court of the proper county for a writ of mandamus pursuant to Section 1085 of the Code of Civil Procedure compelling the corporation to comply with the demand. At the hearing, the court shall hear the parties summarily, by affidavit or otherwise, and shall issue a peremptory writ of mandamus unless it appears that the demand was not made by an authorized number (Section 5036), that the demand has been complied with, that the corporation, pursuant to subdivision (c) of Section 8330, made an offer which was not rejected in writing within a reasonable time, or that a protective or final order properly issued under subdivision (d), (f) or (g) is then in effect No inquiry may be made in such proceeding into the use for which the authorized number seek the list. The court shall award reasonable costs and expenses, including reasonable attorneys' fees, to persons granted an order under this subdivision.

(j) Nothing in this section shall be construed to limit the right of the corporation to obtain damages for any misuse of a membership list obtained under Section 8330, or otherwise, or to obtain injunctive relief necessary to restrain misuse of a member list. A corporation shall be entitled to recover reasonable costs and expenses, including reasonable attorneys' fees, incurred in successfully bringing any such action.

8332. (a) Upon petition of the corporation or any member, the superior court of the proper county may limit or restrict the rights set forth in Section 8330 where, and only where, such limitation or restriction is necessary to protect the rights of any member under the Constitution of the United States or the Constitution of the State of California. An order issued pursuant to this subdivision shall provide, insofar as possible, for alternative mechanisms by which the persons seeking to exercise rights under Section 8330 may communicate with members for purposes reasonably related to their interests as members.

(b) Upon the filing of a petition under subdivision (a), the court may, if requested by the person making the petition, issue a temporary order suspending the running of any time limit specified

in Section 8330 for compliance with that section Such an order may be extended, after notice and hearing, until final adjudication of the petition, wherever it appears that the petitioner may prevail on the merits, and it is otherwise equitable to do so.

8333 The accounting books and records and minutes of proceedings of the members and the board and committees of the board shall be open to inspection upon the written demand on the corporation of any member at any reasonable time, for a purpose reasonably related to such person's interests as a member.

8334. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation of which such person is a director.

8335 Where the proper purpose of the person or persons making a demand pursuant to Section 8330 is frustrated by (1) any delay by the corporation or its secretary in complying with a demand under Section 8330 beyond the time limits specified therein, or (2) any delay caused by the filing of a petition under Section 8331 or Section 8332, or (3) any delay caused by the alternative proposed under subdivision (c) of Section 8330, the person or persons properly making the demand shall have, in the discretion of the court, a right to obtain from the superior court an order postponing any members' meeting previously noticed for a period equal to the period of such delay The members may obtain such an order in a proceeding brought pursuant to Section 8331 upon the filing of a verified complaint in the proper county and after a hearing, notice of which shall be given to such persons and in such manner as the court may direct. Such right shall be in addition to any other legal or equitable remedies to which the member may be entitled

8336 (a) Upon refusal of a lawful demand for inspection under this chapter, or a lawful demand pursuant to Section 8330 or Section 8333, the superior court of the proper county, or the county where the books or records in question are kept, may enforce the demand or right of inspection with just and proper conditions or may, for good cause shown, appoint one or more competent inspectors or independent accountants to audit the financial statements kept in this state and investigate the property, funds and affairs of any corporation or any foreign corporation keeping records in this state and of any subsidiary corporation thereof, domestic or foreign, keeping records in this state and to report thereon in such manner as the court may direct.

(b) All officers and agents of the corporation shall produce to the inspectors or accountants so appointed all books and documents in their custody or power, under penalty of punishment for contempt of court

(c) All expenses of the investigation or audit shall be defrayed by the applicant unless the court orders them to be paid or shared by the corporation

8337. In any action or proceeding under this article, and except

as required by Section 8331, if the court finds the failure of the corporation to comply with a proper demand thereunder was without justification, the court may award the member reasonable costs and expenses, including reasonable attorneys' fees, in connection with such action or proceeding.

8338. (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation; or

(2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation; or

(3) Used for any commercial purpose or purpose in competition with the corporation; or

(4) Sold to or purchased by any person.

(b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and shall account for and pay to the corporation any profit derived as a result of said violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a)

(c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list

(d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys' fees, in connection with such action or proceeding.

(e) As used in this section, the term "membership list" means the record of all the members' names and addresses.

CHAPTER 14. SERVICE OF PROCESS

8410. Service of process upon a corporation shall be governed by Chapter 17 (commencing with Section 1700) of Division 1 of Title 1.

CHAPTER 15. INVOLUNTARY DISSOLUTION

8510 (a) A complaint for involuntary dissolution of a corporation on any one or more of the grounds specified in subdivision (b) may be filed in the superior court of the proper county by any of the following persons:

(1) One-half or more of the directors in office.

(2) A person or persons holding or authorized in writing by persons holding not less than 33⅓ percent of the voting power

exclusive of memberships held by persons who have personally participated in any of the transactions enumerated in paragraph (5) of subdivision (b).

(3) Any member if the ground for dissolution is that the period for which the corporation was formed has terminated without extension thereof

(4) Any other person expressly authorized to do so in the articles.

(5) In the case of a corporation holding assets in charitable trust, the Attorney General.

(6) The head organization under whose authority the corporation was created, where the corporation's articles include the provision authorized by subdivision (a), paragraph (5), clause (i), of Section 7132

(b) The grounds for involuntary dissolution are that:

(1) The corporation has abandoned its activity for more than one year

(2) The corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property will be impaired or lost or its activities impaired and the members are so divided into factions that they cannot elect a board consisting of an uneven number.

(3) There is internal dissension and two or more factions of members in the corporation are so deadlocked that its activities can no longer be conducted with advantage.

(4) When during any four-year period or when all voting power has been exercised at two consecutive meetings or in two written ballots for the election of directors, whichever period is shorter, the members have failed to elect successors to directors whose terms have expired or would have expired upon election of their successors.

(5) Those in control of the corporation have been guilty of or have knowingly countenanced persistent and pervasive fraud, mismanagement or abuse of authority or persistent unfairness toward any member or the corporation's property is being misapplied or wasted by its directors or officers.

(6) In the case of any corporation with 35 or fewer members, liquidation is reasonably necessary for the protection of the rights or interests of a complaining member or members.

(7) The period for which the corporation was formed has terminated without extension of such period.

(8) The corporation is required to dissolve under the terms of any article provision adopted pursuant to subdivision (a), paragraph (5), clause (i) of Section 7132.

(c) At any time prior to the trial of the action any member, creditor or the authorized number (Section 5036) of members may intervene therein.

(d) This section does not apply to any corporation subject to:

(1) The Public Utilities Act (Part 1 (commencing with Section

201) of Division 1 of the Public Utilities Code) unless an order is obtained from the Public Utilities Commission authorizing the corporation either (a) to dispose of its assets as provided in Section 851 of the Public Utilities Code or (b) to dissolve

(2) The provisions of Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 of the Insurance Code when the application authorized by Section 1011 of the Insurance Code has been filed by the Insurance Commissioner unless the consent of the Insurance Commissioner has been obtained.

(e) In the case of a corporation holding assets in charitable trust at the time of the filing of the complaint pursuant to subdivision (a), a copy thereof shall be served on the Attorney General.

8511. (a) The Attorney General may bring an action against any corporation or purported corporation in the name of the people of this state, upon the Attorney General's own information or upon complaint of a private party, to procure a judgment dissolving the corporation and annulling, vacating or forfeiting its corporate existence upon any of the following grounds:

(1) The corporation has seriously offended against any provision of the statutes regulating corporations.

(2) The corporation has fraudulently abused or usurped corporate privileges or powers.

(3) The corporation has violated any provision of law by any act or default which under the law is a ground for forfeiture of corporate existence.

(4) The corporation has failed to pay to the Franchise Tax Board for a period of five years any tax imposed upon it by the Bank and Corporation Tax Law.

(b) If the ground of the action is a matter or act which the corporation has done or omitted to do that can be corrected by amendment of its articles or by other corporate action, such suit shall not be maintained unless (1) the Attorney General, at least 30 days prior to the institution of suit, has given the corporation written notice of the matter or act done or omitted to be done and (2) the corporation has failed to institute proceedings to correct it within the 30-day period or thereafter fails to duly and properly make such amendment or take the corrective corporate action.

(c) In any such action the court may order dissolution or such other or partial relief as it deems just and expedient. The court also may appoint a receiver for winding up the affairs of the corporation or may order that the corporation be wound up by its board subject to the supervision of the court.

(d) Service of process on the corporation may be made pursuant to Chapter 17 (commencing with Section 1700) of Division 1 or by written notice to the president or secretary of the corporation at the address indicated in the corporation's last tax return filed pursuant to the Bank and Corporation Tax Law. The Attorney General shall also publish one time in a newspaper of general circulation in the proper county a notice to the members of the corporation

8512 If the ground for the complaint for involuntary dissolution of the corporation is a deadlock in the board as set forth in paragraph (2) of subdivision (b) of Section 8510, the court may appoint a provisional director The provisions of subdivision (d) of Section 7225 apply to any such provisional director so appointed.

8513 If, at the time of the filing of a complaint for involuntary dissolution or at any time thereafter, the court has reasonable grounds to believe that unless a receiver of the corporation is appointed the interests of the corporation or its members will suffer pending the hearing and determination of the complaint, upon the application of the plaintiff, and after a hearing upon such notice to the corporation as the court may direct and upon the giving of security pursuant to Sections 566 and 567 of the Code of Civil Procedure (except that the Attorney General shall not be required to give security), the court may appoint a receiver to take over and manage the affairs of the corporation and to preserve its property pending the hearing and determination of the complaint for dissolution

8514 After hearing the court may decree a winding up and dissolution of the corporation if cause therefor is shown or, with or without winding up and dissolution, may make such orders and decrees and issue such injunctions in the case as justice and equity require

8515. (a) Involuntary proceedings for winding up a corporation commence when the order for winding up is entered under Section 8514

(b) When an involuntary proceeding for winding up has commenced, the board shall conduct the winding up of the affairs of the corporation, subject to the supervision of the court, unless other persons are appointed by the court, on good cause shown, to conduct the winding up The directors or such other persons may, subject to any restrictions imposed by the court, exercise all their powers through the executive officers without any order of court.

(c) When an involuntary proceeding for winding up has commenced, the corporation shall cease to conduct its activities except to the extent necessary for the beneficial winding up thereof and except during such period as the board may deem necessary to preserve the corporation's goodwill or going-concern value, pending a sale or other disposition of its assets, or both, in whole or in part. The directors shall cause written notice of the commencement of the proceeding for involuntary winding up to be given by mail to all members and to all known creditors and claimants whose addresses appear on the records of the corporation, unless the order for winding up has been stayed by appeal therefrom or otherwise or the proceeding or the execution of the order has been enjoined

8516. When an involuntary proceeding for winding up has been commenced, the jurisdiction of the court includes·

(a) The requirement of the proof of all claims and demands against the corporation, whether due or not yet due, contingent,

unliquidated or sounding only in damages, and the barring from participation of creditors and claimants failing to make and present claims and proof as required by any order.

(b) The determination or compromise of all claims of every nature against the corporation or any of its property, and the determination of the amount of money or assets required to be retained to pay or provide for the payment of claims.

(c) The determination of the rights of members and of all classes of members in and to the assets of the corporation.

(d) The presentation and filing of intermediate and final accounts of the directors or other persons appointed to conduct the winding up and hearing thereon, the allowance, disallowance or settlement thereof and the discharge of the directors or such other persons from their duties and liabilities.

(e) The appointment of a commissioner to hear and determine any or all matters, with such power or authority as the court may deem proper.

(f) The filling of any vacancies on the board which the directors or the members are unable to fill.

(g) The removal of any director if it appears that the director has been guilty of dishonesty, misconduct, neglect or breach of trust in conducting the winding up or if the director is unable to act. The court may order an election to fill the vacancy so caused, and may enjoin, for such time as it considers proper, the reelection of the director so removed; or the court, in lieu of ordering an election, may appoint a director to fill the vacancy caused by such removal. Any director so appointed by the court shall serve until the next regular meeting of members or until a successor is elected or appointed.

(h) The staying of the prosecution of any suit, proceeding or action against the corporation and requiring the parties to present and prove their claims in the manner required of other creditors.

(i) The determination of whether adequate provision has been made for payment or satisfaction of all debts and liabilities not actually paid.

(j) The making of orders for the withdrawal or termination of proceedings, to wind up and dissolve, subject to conditions for the protection of members and creditors.

(k) The making of an order, upon the allowance or settlement of the final accounts of the directors or such other persons, that the corporation has been duly wound up and is dissolved. Upon the making of such order, the corporate existence shall cease except for purposes of further winding up if needed.

(*l*) The making of orders for the bringing in of new parties as the court deems proper for the determination of all questions and matters.

(m) The disposition of assets held in charitable trust.

8517 (a) All creditors and claimants may be barred from participation in any distribution of the general assets if they fail to make and present claims and proofs within such time as the court

may direct, which shall not be less than four nor more than six months after the first publication of notice to creditors unless it appears by affidavit that there are no claims, in which case the time limit may be three months. If it is shown that a claimant did not receive notice because of absence from the state or other cause, the court may allow a claim to be filed or presented at any time before distribution is completed.

(b) Such notice to creditors shall be published not less than once a week for three consecutive weeks in a newspaper of general circulation published in the county in which the proceeding is pending or, if there is no such newspaper published in that county, in such newspaper as may be designated by the court, directing creditors and claimants to make and present claims and proofs to the person, at the place and within the time specified in the notice. A copy of the notice shall be mailed to each person shown as a creditor or claimant on the books of the corporation, at such person's last known address.

(c) Holders of secured claims may prove for the whole debt in order to realize any deficiency If such creditors fail to present their claims they shall be barred only as to any right to claim against the general assets for any deficiency in the amount realized on their security.

(d) Before any distribution is made the amount of any unmatured, contingent or disputed claim against the corporation which has been presented and has not been disallowed, or such part of any such claim as the holder would be entitled to if the claim were due, established or absolute, shall be paid into court and there remain to be paid over to the party when the party becomes entitled thereto or, if the party fails to establish a claim, to be paid over or distributed with the other assets of the corporation to those entitled thereto; or such other provision for the full payment of such claim, if and when established, shall be made as the court may deem adequate. A creditor whose claim has been allowed but is not yet due shall be entitled to its present value upon distribution.

(e) Suits against the corporation on claims which have been rejected shall be commenced within 30 days after written notice of rejection thereof is given to the claimant.

8518 (a) Upon the final settlement of the accounts of the directors or other persons appointed pursuant to Section 8515 and the determination that the corporation's affairs are in condition for it to be dissolved, the court may make an order declaring the corporation duly wound up and dissolved. The order shall declare.

(1) That the corporation has been duly wound up, that any tax or penalty due under the Bank and Corporation Tax Law has been paid or secured and that its other known debts and liabilities have been paid or adequately provided for, or that such taxes, penalties, debts and liabilities have been paid as far as its assets permitted, as the case may be If there are known debts or liabilities for payment of which adequate provision has been made, the order shall state what

provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability

(2) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(3) That the accounts of directors or such other persons have been settled and that they are discharged from their duties and liabilities to creditors and members.

(4) That the corporation is dissolved

(b) The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted

(c) Upon the making of the order declaring the corporation dissolved, corporate existence shall cease except for the purposes of further winding up if needed; and the directors or such other persons shall be discharged from their duties and liabilities, except in respect to completion of the winding up.

8519 Whenever a corporation is dissolved or its existence forfeited by order, decree or judgment of a court, a copy of the order, decree or judgment, certified by the clerk of court, shall forthwith be filed. Notwithstanding Section 23334 of the Revenue and Taxation Code, when the order is based on an action for involuntary dissolution brought by the Attorney General pursuant to Section 8511, there need not be filed the certificate of satisfaction of the Franchise Tax Board that all taxes have been paid or secured.

CHAPTER 16. VOLUNTARY DISSOLUTION

8610. (a) Any corporation may elect voluntarily to wind up and dissolve by the vote of its members representing at least a majority of its voting power.

(b) Any corporation which comes within one of the following descriptions may elect by approval of the board to wind up and dissolve

(1) A corporation which has been adjudicated as bankrupt.

(2) A corporation which has disposed of all of its assets and has not conducted any activity for a period of five years immediately preceding the adoption of the resolution electing to dissolve the corporation.

(3) A corporation which has no members.

(4) A corporation which is required to dissolve under provisions of its articles adopted pursuant to subdivision (a), paragraph (5), clause (i) of Section 7132.

8611 (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be filed

and a copy thereof filed with the Attorney General.

(b) The certificate shall be an officers certificate or shall be signed and verified by at least a majority of the directors then in office or by one or more members authorized to do so by a vote representing at least a majority of the voting power and shall set forth.

(1) That the corporation has elected to wind up and dissolve.

(2) If the election was made by the vote of members alone, the number of votes for the election and that the election was made by persons holding at least a majority of the voting power.

(3) If the certificate is executed by a member or members that the subscribing person or persons were authorized to execute the certificate by persons representing at least a majority of the voting power.

(4) If the election was made by the board pursuant to subdivision (b) of Section 8610, the certificate shall also set forth the circumstances showing the corporation to be within one of the categories described in such subdivision.

8612 (a) A voluntary election to wind up and dissolve may be revoked prior to distribution of any assets: (1) if the election was made pursuant to subdivision (a) of Section 8610, by the vote of members representing a majority of the voting power; or (2) if the election was by the board pursuant to subdivision (b) of Section 8610, by approval of the board. Thereupon a certificate evidencing the revocation shall be signed, verified and filed in the manner prescribed by Section 8611 and a copy thereof filed with the Attorney General.

(b) The certificate shall set forth:

(1) That the corporation has revoked its election to wind up and dissolve.

(2) That no assets have been distributed pursuant to the election.

(3) If the revocation was made by the vote of members alone, the number of votes for the revocation and that the revocation was made by persons representing at least a majority of the voting power.

(4) If the revocation was made by the board alone, the certificate shall so state.

8613. (a) Voluntary proceedings for winding up the corporation commence upon the adoption of the resolution required by Section 8610 by the members or by the board, electing to wind up and dissolve.

(b) When a voluntary proceeding for winding up has commenced, the board shall continue to act as a board and shall have full powers to wind up and settle its affairs, both before and after the filing of the certificate of dissolution.

(c) When a voluntary proceeding for winding up has commenced, the corporation shall cease to conduct its activities except to the extent necessary for the beneficial winding up thereof, to the extent necessary to carry out its purposes, and except during such period as the board may deem necessary to preserve the corporation's goodwill or going-concern value pending a sale or other disposition

of its assets, or both, in whole or in part. The board shall cause written notice of the commencement of the proceeding for voluntary winding up to be given by mail to all its members (except no notice need be given to the members who voted in favor of winding up and dissolving the corporation), to all known creditors and claimants whose addresses appear on the records of the corporation, and in the case of a corporation holding assets in charitable trust to the Attorney General

8614. If a corporation is in the process of voluntary winding up, the superior court of the proper county, upon the petition of (a) the corporation, or (b) the authorized number (Section 5036), or (c) in the case of a corporation holding assets in charitable trust, the Attorney General, or (d) three or more creditors, and upon such notice to the corporation and to other persons interested in the corporation as members and creditors as the court may order, may take jurisdiction over such voluntary winding up proceeding if that appears necessary for the protection of any parties in interest or in the case of a corporation holding assets in charitable trust, for the protection of such assets. The court, if it assumes jurisdiction, may make such orders as to any and all matters concerning the winding up of the affairs of the corporation and the protection of its members, creditors and in the case of a corporation holding assets in charitable trust, for the protection of such assets, as justice and equity may require The provisions of Chapter 15 (commencing with Section 8510) (except Sections 8510 and 8511) shall apply to such court proceedings.

8615 (a) When a corporation has been completely wound up without court proceedings therefor, a majority of the directors then in office shall sign and verify a certificate of dissolution stating:

(1) That the corporation has been completely wound up.

(2) That its known debts and liabilities have been actually paid, or adequately provided for, or paid or adequately provided for as far as its assets permitted, or that it has incurred no known debts or liabilities, as the case may be If there are known debts or liabilities for payment of which adequate provision has been made, the certificate shall state what provision has been made, setting forth the name and address of the corporation, person or governmental agency that has assumed or guaranteed the payment, or the name and address of the depositary with which deposit has been made or such other information as may be necessary to enable the creditor or other person to whom payment is to be made to appear and claim payment of the debt or liability.

(3) That its known assets have been distributed to the persons entitled thereto or that it acquired no known assets, as the case may be.

(4) That the corporation is dissolved.

(b) The certificate of dissolution shall be filed and thereupon the corporate existence shall cease, except for the purpose of further winding up if needed However, before any corporation may file a

certificate of dissolution it shall file or cause to be filed the certificate of satisfaction of the Franchise Tax Board required by Section 23334 of the Revenue and Taxation Code that all taxes, if any, imposed under the Bank and Corporation Tax Law have been paid or secured.

8616 Except as otherwise provided by law, if the term of existence for which any corporation was organized expires without renewal or extension thereof, the board shall terminate its activities and wind up its affairs; and when the affairs of the corporation have been wound up a majority of the directors shall execute and file a certificate conforming to the requirements of Section 8615.

8617 (a) The board, in lieu of filing the certificate of dissolution, may petition the superior court of the proper county for an order declaring the corporation duly wound up and dissolved. Such petition shall be filed in the name of the corporation.

(b) Upon the filing of the petition, the court shall make an order requiring all interested persons, including the Attorney General in the case of a corporation holding assets in charitable trust, to show cause why an order shall not be made declaring the corporation duly wound up and dissolved and shall direct that the order be served by notice to all creditors, claimants, and members in the same manner as the notice given under subdivision (b) of Section 8517. Notice shall be served upon the Attorney General.

(c) Any person claiming to be interested as member, creditor or otherwise may appear in the proceeding at any time before the expiration of 30 days from the completion of publication of the order to show cause and contest the petition, and upon failure to appear such person's claim shall be barred.

(d) Thereafter an order shall be entered and filed and have the effect as prescribed in Sections 8518 and 8519.

CHAPTER 17. GENERAL PROVISIONS RELATING TO DISSOLUTION

8710. The powers and duties of the directors (or other persons appointed by the court pursuant to Section 8515) and officers after commencement of a dissolution proceeding include, but are not limited to, the following acts in the name and on behalf of the corporation:

(a) To elect officers and to employ agents and attorneys to liquidate or wind up its affairs.

(b) To continue the conduct of the affairs of the corporation insofar as necessary for the disposal or winding up thereof

(c) To carry out contracts and collect, pay, compromise and settle debts and claims for or against the corporation.

(d) To defend suits brought against the corporation.

(e) To sue, in the name of the corporation, for all sums due or owing to the corporation or to recover any of its property.

(f) To collect any amounts remaining unpaid on memberships or to recover unlawful distributions.

(g) To sell at public or private sale, exchange, convey or otherwise

dispose of all or any part of the assets of the corporation in an amount deemed reasonable by the board without compliance with the provisions of Section 7911 and to execute bills of sale and deeds of conveyance in the name of the corporation.

(h) In general, to make contracts and to do any and all things in the name of the corporation which may be proper or convenient for the purposes of winding up, settling and liquidating the affairs of the corporation.

8711 A vacancy on the board may be filled during a winding up proceeding in the manner provided in Section 7224.

8712 When the identity of the directors or their right to hold office is in doubt, or if they are dead or unable to act, or they fail or refuse to act or their whereabouts cannot be ascertained, any interested person, including the Attorney General in the case of corporations holding assets in charitable trust, may petition the superior court of the proper county to determine the identity of the directors or, if there are no directors, to appoint directors to wind up the affairs of the corporation, after hearing upon such notice to such persons as the court may direct.

8713. (a) After determining that all the known debts and liabilities of a corporation in the process of winding up have been paid or adequately provided for, the board shall distribute all the remaining corporate assets in the manner provided in Sections 8715 to 8717, inclusive

(b) If the winding up is by court proceeding or subject to court supervision, the distribution shall not be made until after the expiration of any period for the presentation of claims that has been prescribed by order of the court.

(c) Anything to the contrary notwithstanding, assets, if any, which are not subject to attachment, execution or sale for the corporation's debts and liabilities may be distributed pursuant to Sections 8715 to 8717, inclusive, even though all debts and liabilities have not been paid or adequately provided for.

8714 The payment of a debt or liability, whether the whereabouts of the creditor is known or unknown, has been adequately provided for if the payment has been provided for by either of the following means·

(a) Payment thereof has been assumed or guaranteed in good faith by one or more financially responsible persons or by the United States government or any agency thereof, and the provision (including the financial responsibility of such corporations or other persons) was determined in good faith and with reasonable care by the board to be adequate at the time of any distribution of the assets by the board pursuant to this chapter

(b) The amount of the debt or liability has been deposited as provided in Section 8720.

This section does not prescribe the exclusive means of making adequate provision for debts and liabilities.

8715 After complying with the provisions of Section 8713, assets

held by a corporation upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur, shall be returned, transferred, or conveyed in accordance with the condition.

8716. After complying with the provisions of Section 8713:

(a) Except as provided in Section 8715 those assets held by a corporation in a charitable trust shall be disposed of on dissolution in conformity with its articles or bylaws subject to complying with the provisions of any trust under which such assets are held.

(b) Except as provided in subdivision (c), the disposition required in subdivision (a) shall be made by decree of the superior court of the proper county in proceedings to which the Attorney General is a party The decree shall be made upon petition therefor by the Attorney General or, upon 30 days' notice to the Attorney General, by any person concerned in the dissolution.

(c) The disposition required in subdivision (a) may be made without the decree of the superior court, subject to the rights of persons concerned in the dissolution, if the Attorney General makes a written waiver of objections to the disposition.

8717 After complying with the provisions of Section 8713 and except as otherwise provided in Sections 8715 and 8716, assets held by a corporation shall be disposed of on dissolution as follows:

(a) If the articles or bylaws provide the manner of disposition, the assets shall be disposed of in that manner

(b) If the articles or bylaws do not provide the manner of disposition, the assets shall be distributed among the members in accordance with their respective rights therein.

8718. Subject to the provisions of any trust under which assets to be distributed are held, distribution may be made either in money or in property or securities and either in installments from time to time or as a whole, if this can be done fairly and ratably and in conformity with the provisions of the articles and bylaws and shall be made as soon as reasonably consistent with the beneficial liquidation of the corporation assets.

8719 (a) If a corporation in process of winding up has both preferred and common memberships outstanding, a plan of distribution of the memberships, obligations or securities of any other corporation, domestic or foreign, or assets other than money which is not in accordance with the liquidation rights of the preferred memberships as specified in the articles or bylaws may nevertheless be adopted if approved by (1) the board and (2) by approval by the members (Section 5034) of each class The plan may provide that such distribution is in complete or partial satisfaction of the rights of any of such members upon distribution and liquidation of the assets

(b) A plan of distribution so approved shall be binding upon all the members except as provided in subdivision (c). The board shall cause notice of the adoption of the plan to be given by mail within 20 days after its adoption to all holders of memberships having a

liquidation preference.

(c) Members having a liquidation preference who dissent from the plan of distribution are entitled to be paid the amount of their liquidation preference in cash if they file written demand for payment with the corporation within 30 days after the date of mailing of the notice of the adoption of the plan of distribution, unless the plan of distribution is abandoned. The demand shall state the class of memberships held of record by the member in respect of which the member claims payment

(d) If any such demand for cash payment is filed, the board in its discretion may abandon the plan without further approval by the members (Section 5034), and all members shall then be entitled to distribution according to their rights and liquidation preferences in the process of winding up.

8720 (a) If any members, creditors or other persons are unknown or fail or refuse to accept their payment or distribution in cash or property or their whereabouts cannot be ascertained after diligent inquiry, or the existence or amount of a claim of a creditor, member or other person is contingent, contested or not determined, or if the ownership of any memberships is in dispute, the corporation may deposit any such payment, distribution or the maximum amount of such claim with the State Treasurer or with a bank or trust company in this state in trust for the benefit of those lawfully entitled thereto Such payment or distribution shall be paid over by the depositary to the lawful owners, their representatives or assigns, upon satisfactory proof of title.

(b) For the purpose of providing for the transmittal, receipt, accounting for, claiming, management and investment of all money or other property deposited in the State Treasury under the provisions of subdivision (a), such money or other property shall be deemed to be paid or delivered for deposit in the State Treasury under the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure, and may be recovered, in the manner prescribed therein

8721 (a) Whenever in the process of winding up a corporation any distribution of assets has been made, otherwise than under an order of court, without prior payment or adequate provision for payment of any of the debts and liabilities of the corporation, any amount so improperly distributed to any person may be recovered by the corporation. Any of such persons may be joined as defendants in the same action or be brought in on the motion of any other defendant

(b) Suit may be brought in the name of the corporation to enforce the liability under subdivision (a) against any or all persons receiving the distribution by any one or more creditors of the corporation, whether or not they have reduced their claims to judgment

(c) Members who satisfy any liability under this section shall have the right of ratable contribution from other distributees similarly liable Any member's ratable share of the amount needed to pay the

debts and liabilities of the corporation may require that the corporation recover from any or all of the other distributees such proportion of the amounts received by them upon the improper distribution as to give contribution to those held liable under this section and make the distribution of the assets fair and ratable, according to the respective rights and preferences of the memberships, after payment or adequate provision for payment of all the debts and liabilities of the corporation.

(d) As used in this section, "process of winding up" includes proceedings under Chapters 15 (commencing with Section 8510) and 16 (commencing with Section 8610) and also any other distribution of assets to persons made in contemplation of termination or abandonment of the corporate business.

8722 (a) A corporation which is dissolved nevertheless continues to exist for the purpose of winding up its affairs, prosecuting and defending actions by or against it and enabling it to collect and discharge obligations, dispose of and convey its property and collect and divide its assets, but not for the purpose of continuing its activities except so far as necessary for the winding up thereof.

(b) No action or proceeding to which a corporation is a party abates by the dissolution of the corporation or by reason of proceedings for winding up and dissolution thereof.

(c) Any assets inadvertently or otherwise omitted from the winding up continue in the dissolved corporation for the benefit of the persons entitled thereto upon dissolution of the corporation and on realization shall be distributed accordingly

8723. (a) In all cases where a corporation has been dissolved, any person to whom assets were distributed upon dissoluton may be sued in the corporate name upon any cause of action against the corporation arising prior to its dissolution This section is procedural in nature and is not intended to determine liability

(b) Summons or other process against such a corporation may be served by delivering a copy thereof to an officer, director or person having charge of its assets or, if no such person can be found, to any agent upon whom process might be served at the time of dissolution. If none of such persons can be found with due diligence and it is so shown by affidavit to the satisfaction of the court, then the court may make an order that summons or other process be served upon the dissolved corporation by personally delivering a copy thereof, together with a copy of the order, to the Secretary of State or an assistant or deputy secretary of state with an additional copy of the summons or other process and order being delivered to the Attorney General in the case of a corporation which at the commencement of the dissolution proceedings held assets in charitable trust. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State or in the case of a corporation which at the commencement of the dissolution proceedings held assets in charitable trust upon the 10th day after the later of delivery of process to the Secretary of State or Attorney General

(c) Every such corporation shall survive and continue to exist indefinitely for the purpose of being sued in any quiet title action. Any judgment rendered in any such action shall bind each and all of its members or other persons having any equity or other interest in such corporation, to the extent of their interest therein, and such action shall have the same force and effect as an action brought under the provisions of Sections 410.50 and 410.60 of the Code of Civil Procedure. Service of summons or other process in any such action may be made as provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure or as provided in subdivision (b).

(d) Upon receipt of such process and the fee therefor, the Secretary of State forthwith shall give notice to the corporation as provided in Section 1702

CHAPTER 18. CRIMES AND PENALTIES

8810. (a) Upon the failure of a corporation to file the statement required by Section 8210, the Secretary of State shall mail a notice of such delinquency to the corporation. The notice shall also contain information concerning the application of this section, and advise the corporation of the penalty imposed by Section 25936 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State. If, within 60 days after the mailing of the notice of delinquency, a statement pursuant to Section 8210 has not been filed by the corporation, the Secretary of State may pursuant to regulation certify the name of such corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation a penalty of fifty dollars ($50) pursuant to Section 25936 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation which on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation the corporate powers, rights and privileges of which have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301 5, or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 8210. The Secretary of State need not mail a form pursuant to Section 8210, to a corporation the corporate powers, rights and privileges of which have been so suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing

(e) If, after certification pursuant to subdivision (a) the Secretary of State finds the required statement was filed before the expiration of the 60-day period after mailing of the notice of delinquency, the Secretary of State shall promptly decertify the name of the

corporation to the Franchise Tax Board. The Franchise Tax Board shall then promptly abate any penalty assessed against the corporation pursuant to Section 25936 of the Revenue and Taxation Code

8811 Any promoter, director, or officer of a corporation who knowingly and willfully issues or consents to the issuance of memberships or membership certificates with intent to defraud present or future members or creditors is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in county jail for not more than one year or by both such fine and imprisonment.

8812 Any director of any corporation who concurs in any vote or act of the directors of the corporation or any of them, knowingly and with dishonest or fraudulent purpose, to make any distribution of assets, except in the case and in the manner allowed by this part, either with the design of defrauding creditors or members or of giving a false appearance to the value of the membership and thereby defrauding purchasers is guilty of a crime. Each such crime is punishable by imprisonment in a state prison, or by a fine of not more than one thousand dollars ($1,000) or imprisonment in county jail for not more than one year, or by both such fine and imprisonment

8813 (a) Every director or officer of any corporation is guilty of a crime if such director or officer knowingly concurs in making or publishing, either generally or privately, to members or other persons (1) any materially false report or statement as to the financial condition of the corporation, or (2) any willfully or fraudulently exaggerated report, prospectus, account or statement of operations, financial condition or prospects, or (3) any other paper intended to give, and having a tendency to give, a membership in such corporation a greater or lesser value than it really possesses.

(b) Every director or officer of any corporation is guilty of a crime who refuses to make or direct to be made any book entry or the posting of any notice required by law in the manner required by law.

(c) A violation of subdivision (a) or (b) of this section shall be punishable by imprisonment in state prison or by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year or both such fine and imprisonment

8814 (a) Every director, officer or agent of any corporation, 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 crime

(b) Every director, officer, agent or member of any corporation 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 crime.

(c) Each crime specified in this section is punishable by imprisonment in state prison, or by imprisonment in a county jail for not exceeding one year, or a fine not exceeding one thousand dollars ($1,000), or both such fine and imprisonment.

8815. Every director, officer or agent of any corporation, or any person proposing to organize such a 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, 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.

8816. Every person who, without being authorized so to do, subscribes the name of another to or inserts the name of another in any prospectus, circular or other advertisement or announcement of any corporation, whether existing or intended to be formed, with intent to permit the document to be published and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent or promoter of such corporation, when in fact no such relationship exists to the knowledge of such person, is guilty of a misdemeanor.

8817 Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute

Chapter 19. Foreign Corporations

8910. Foreign corporations transacting intrastate business shall comply with Chapter 21 (commencing with Section 2100) of the General Corporation Law, except as to matters specifically otherwise provided for in this part and except that Sections 2108 and 2115 shall not be applicable.

SEC. 7 Part 4 (commencing with Section 9110) is added to Division 2 of Title 1 of the Corporations Code, to read:

PART 4. NONPROFIT RELIGIOUS CORPORATIONS

Chapter 1 Organization and Bylaws

Article 1. Title and Purposes

9110 This part shall be known and may be cited as the Nonprofit Religious Corporation Law.

9111 Subject to any other provision of law of this state applying to the particular class of corporation or line of activity, a corporation may be formed under this part primarily or exclusively for any religious purposes.

Article 2. Formation

9120. (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation.

(b) Each incorporator and each director named in the articles shall sign and acknowledge the articles.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles.

9121 (a) In the case of an existing unincorporated association, the association shall not change its status to that of a corporation except upon a proper authorization for such by the association in accordance with its rules and procedures.

(b) Upon the change of status of an unincorporated association to a corporation pursuant to subdivision (a), the property of the association becomes the property of the corporation and the members of the association become members of the corporation.

(c) All rights of creditors and all liens upon the property of the association shall be preserved unimpaired. Any action or proceeding pending by or against the unincorporated association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place.

(d) If a corporation is organized by a person who is or was an officer, director or member of an unincorporated association and such corporation is not organized pursuant to subdivision (a), the unincorporated association may continue to use its name and the corporation may not use a name which is the same as or similar to the name of the unincorporated association.

9122. (a) The Secretary of State shall not file articles setting forth a name in which "bank," "trust," "trustee" or related words appear, unless the certificate of approval of the Superintendent of Banks is attached thereto

(b) The Secretary of State shall not file articles which set forth a name which is likely to mislead the public or which is the same as, or resembles so closely as to tend to deceive, the name of a domestic corporation, the name of a foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, a name which a foreign corporation has assumed under subdivision (b) of Section 2106 or a name which will become the record name of a domestic or foreign corporation upon the effective date of a filed corporate instrument where there is a delayed effective date pursuant to subdivision (c) of Section 110 or subdivision (c) of Section 5008, or a name which is under reservation pursuant to this section, Section 201, Section 5122, or Section 7122, except that a corporation may adopt a name that is substantially the same as an existing domestic or foreign corporation which is authorized to transact intrastate business or has registered its name pursuant to Section 2101, upon proof of consent by such corporation and a finding by the Secretary of State that under the circumstances

the public is not likely to be misled.

The use by a corporation of a name in violation of this section may be enjoined notwithstanding the filing of its articles by the Secretary of State.

(c) Any applicant may, upon payment of the fee prescribed therefor in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by subdivision (b), and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days. The Secretary of State shall not, however, issue certificates reserving the same name for two or more consecutive 60-day periods to the same applicant or for the use or benefit of the same person; nor shall consecutive reservations be made by or for the use or benefit of the same person of names so similar as to fall within the prohibitions of subdivision (b).

Article 3 Articles of Incorporation

9130. The articles of incorporation of a corporation formed under this part shall set forth:

(a) The name of the corporation.

(b) The following statement:

"This corporation is a religious corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Religious Corporation Law to engage primarily or exclusively in religious purposes " [The articles may describe the purposes of the corporation in an additional sentence.]

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 6210 (made applicable pursuant to Section 9660).

9131. The articles of incorporation may set forth a further statement limiting the purposes or powers of the corporation.

9132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided for in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) A provision limiting or restricting the activities in which the corporation may engage or the powers which the corporation may exercise or both.

(3) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (3), clause (i), of this section, or, in the event of its dissolution for any reason, any assets

of the corporation after compliance with the applicable provisions of Chapter 16 (commencing with Section 6610) and 17 (commencing with Section 6710) (made applicable pursuant to Section 9680) shall be distributed to the head organization

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions.

(1) The names and addresses of the persons appointed to act as initial directors.

(2) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class

(3) A provision which would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote

(4) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws

9133 For all purposes other than an action in the nature of quo warranto, a copy of the articles of a corporation duly certified by the Secretary of State is conclusive evidence of the formation of the corporation and prima facie evidence of its corporate existence.

9134 If initial directors have not been named in the articles, the incorporator or incorporators, until the directors are elected, may do whatever is necessary and proper to perfect the organization of the corporation

Article 4. Powers

9140 (a) A corporation, subject to limitations contained in its articles or bylaws, shall have the power to.

(1) Adopt, use, and at will alter a corporate seal, but failure to affix a seal does not affect the validity of any instrument.

(2) Adopt, amend, and repeal bylaws.

(3) Qualify to conduct its activities in any other state, territory, dependency or foreign country.

(4) Issue, purchase, redeem, receive, take or otherwise acquire, own, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own bonds, debentures, notes and debt securities

(5) Issue memberships

(6) Pay pensions, and establish and carry out pension, deferred compensation, saving, thrift and other retirement, incentive and benefit plans, trusts, and provisions for any or all of its directors, officers, employees, and persons providing services to it or any of its subsidiary or affiliated corporations, and to indemnify and purchase

and maintain insurance on behalf of any fiduciary of such plans, trusts, or provisions.

(7) Levy dues, assessments, and fees.

(b) A corporation, subject to limitations contained in its articles or bylaws, shall also have all of the powers of a natural person in carrying out its activities, including, without limitation, the power to:

(1) Make donations for the public welfare or for community funds, hospital, charitable, educational, scientific, civic, religious or similar purposes.

(2) Assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow or lend money or otherwise use its credit, and secure any of its obligations, contracts or liabilities by mortgage, pledge or other encumbrance of all or any part of its property and income.

(3) Participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind whether or not such participation involves sharing or delegation of control with or to others.

(4) Act as trustee under any trust incidental to the principal objects of the corporation, and receive, hold, administer, and expend funds and property subject to such trust.

(5) Carry on a business at a profit and apply any profit that results from the business activity to any activity in which it may lawfully engage.

(6) Pay the reasonable value of services rendered in this state to the corporation before January 1, 1975, and not previously paid, by any person who performed such services on a full-time basis under the direction of a religious organization in connection with the religious tenets of the organization. Such person shall have relied solely on the religious organization for his or her financial support for a minimum of five years. A payment shall not be made if such person or religious organization waives the payment or receipt of compensation for such services in writing. Payment may be made to such religious organization to reimburse it for maintenance of any person who rendered such services and to assist it in providing future support and maintenance; however, payment shall not be made from any funds or assets acquired with funds donated by or traceable to gifts made to the corporation by any person, organization or governmental agency other than the members, immediate families of members and affiliated religious organizations of the religious organization under whose direction the services were performed

(c) The powers which a corporation may exercise pursuant to this section shall be subject to compliance with other provisions of this part and any other applicable laws

9141 Subject to Section 9142·

(a) No limitation upon the activities, purposes, or powers of the corporation or upon the powers of the members, officers, or directors, or the manner of exercise of such powers, contained in or implied by the articles or by Chapters 16 (commencing with Section

6610), and 17 (commencing with Section 6710) (made applicable pursuant to Section 9680) shall be asserted as between the corporation or member, officer or director and any third person, except in a proceeding· (1) by the authorized number of members (Section 5036), by any person authorized by the articles or bylaws to bring an action, or by the state to enjoin the doing or continuation of unauthorized activities by the corporation or its officers, or both, in the cases where third parties have not acquired rights thereby, or (2) by the authorized number of members (Section 5036), by any person authorized by the articles or bylaws to bring an action, by any member suing in a representative suit, or by the corporation, against the officers or directors of the corporation for violation of their authority

(b) Any contract or conveyance made in the name of a corporation which is authorized or ratified by the board or is done within the scope of authority, actual or apparent, conferred by the board or within the agency power of the officer executing it, except as the board's authority is limited by law other than this part, binds the corporation, and the corporation acquires rights thereunder whether the contract is executed or wholly or in part executory.

9142. (a) Notwithstanding Section 9141, any of the following may bring an action to enjoin, correct, obtain damages for or to otherwise remedy a breach of a trust under which any or all of the assets of a corporation are held:

(1) The corporation.

(2) An officer of the corporation.

(3) A director of the corporation.

(4) A person with a reversionary, contractual, or property interest in the assets subject to such trust

(b) In an action under this section, the court may rescind or enjoin the performance of a contract unless·

(1) All of the parties to the contract are not parties to the action;

(2) A party to the contract without actual notice of the trust restriction has, in good faith, parted with value, under the contract or in reliance upon it; or

(3) It is not equitable to do so.

Article 5. Bylaws

9150. (a) "Bylaws," as used in this part means the code or codes of rules used, adopted, or recognized for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(b) Bylaws may be adopted, amended or repealed as provided in the articles or bylaws and absent any provision, bylaws may be adopted, amended or repealed by approval of the members (Section 5034) or the board, except as provided in subdivision (c). The articles or bylaws may restrict or eliminate the power of the baord to adopt, amend or repeal any or all bylaws subject to subdivision (e) of

Section 9151

(c) Subject to any provision in the articles or bylaws, the power of the board to adopt, amend or repeal bylaws is subject to the powers of members set forth in Section 9151

9151. (a) The bylaws shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation; or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 9151. The number of directors may be one or more.

(b) Except as otherwise provided in the articles or bylaws, once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034).

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation.

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members.

(e) The bylaws may require, for any or all corporate actions (except as provided in Section 9222 and subdivision (b) of Section 9680, the vote of a larger proportion of, or of all of, the members of any class, or the vote or quorum for taking action of a larger proportion of, or of all of, the directors than is otherwise required by this part. Once members have been admitted, such a bylaw requirement may be changed with approval of the members (Section 5034)

(f) A provision limiting the number of members, in total or of any class, which the corporation is authorized to admit.

9152 Any corporation may provide in its bylaws for delegates having some or all of the authority of members Where delegates are provided for, the bylaws shall set forth delegates' terms of office, any reasonable method for delegates' selection and removal, and any reasonable method for calling, noticing and holding meetings of delegates Delegates may only act personally at a meeting and may not act by proxy, written consent, or written ballot Delegates may be given a name other than "delegates"

Article 6 Location and Inspection of Articles and Bylaws

9160 Every corporation shall keep at its principal office in this state the original or a copy of its articles and bylaws as amended to date, which shall be open to inspection by the members at all reasonable times during office hours If the corporation has no office in this state, it shall upon the written request of any member furnish

to such member a copy of the articles or bylaws as amended to date.

CHAPTER 2. DIRECTORS AND MANAGEMENT

Article 1 General Provisions

9210 Subject to the provisions of this part and any provision in the articles or bylaws, the activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the activities of the corporation to any person or persons provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board

9211. (a) Unless otherwise provided in the articles or (subject to subdivision (e) of Section 9151) in the bylaws:

(1) Meetings of the board may be called by the chairman of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone or telegraph. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business.

(8) Every act or decision done or made by a majority of the

directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division or the articles.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as the unanimous vote of such directors.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis.

9212. (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. Appointments to such committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in the articles or bylaws. The bylaws may authorize one or more committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of such committee or committees. The board may appoint one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee Any such committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to:

(1) The approval of any action for which this division also requires approval of the members.

(2) The filing of vacancies on the board or in any committee.

(3) The fixing of compensation of the directors for serving on the board or on any committee

(4) The amendment or repeal of bylaws or the adoption of new bylaws.

(5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(6) The appointment of committees of the board or the members thereof.

(b) Subdivision (a) shall not apply to any committee which does not exercise the authority of the board.

(c) Unless the bylaws otherwise provide, the board may delegate to any committee powers as authorized by Section 9210, but may not delegate the powers set forth in paragraphs (1) through (6) of

subdivision (a) of this section.

9213 (a) A corporation shall have a chairman of the board or a president or both, a secretary, a chief financial officer and such other officers with such titles and duties as shall be stated in the bylaws or determined by the board and as may be necessary to enable it to sign instruments. The president, or if there is no president, the chairman of the board, is the general manager and chief executive officer of the corporation, unless otherwise provided in the articles or bylaws. Any number of offices may be held by the same person unless the articles or bylaws provide otherwise, except that neither the secretary nor the chief financial officer may serve concurrently as the president or chairman of the board.

(b) Except as otherwise provided by the articles or bylaws, officers shall be chosen by the board and serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment. Any officer may resign at any time upon written notice to the corporation without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

9214. Subject to the provisions of subdivision (a) of Section 9141 and Section 9142, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between any corporation and any other person, when signed by the chairman of the board, the president, or any vice president, and the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation, is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same.

9215. The original or a copy of the bylaws or of the minutes of any incorporators', members', directors', committee or other meeting or of any resolution adopted by the board or a committee thereof, or members, certified to be a true copy by a person purporting to be the secretary or an assistant secretary of the corporation, is prima facie evidence of the adoption of such bylaws or resolution or of the due holding of such meeting and of the matters stated therein.

Article 2. Selection, Removal and Resignation of Directors

9220. (a) The articles or bylaws may provide for the tenure, election, selection, designation, removal, and resignation of directors.

(b) In the absence of any provision in the articles or bylaws, the term of directors shall be one year.

(c) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

9221. The board may declare vacant the office of a director who

has been declared of unsound mind by a final order of court, or convicted of a felony

9222. (a) Except as provided in the articles or bylaws and subject to subdivision (b) of this section, any or all directors may be removed without cause if such removal is approved by the members (Section 5034).

(b) Except for a corporation having no members pursuant to Section 9310, when by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(c) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office.

9223. (a) The superior court of the proper county may, at the suit of a director, or twice the authorized number (Section 5036) of members, remove from office any director in case of fraudulent acts and may bar from reelection any director so removed for a period prescribed by the court. The corporation shall be made a party to such action.

(b) The Attorney General may bring an action under subdivision (a), may intervene in such an action brought by any other party and shall be given notice of any such action brought by any other party.

9224. (a) Unless otherwise provided in the articles or bylaws and except for a vacancy created by the removal of a director by the members, vacancies on the board may be filled by a majority of the directors then in office, whether or not less than a quorum, or by a sole remaining director.

(b) Subject to any provision in the articles or bylaws, the members may elect a director at any time to fill any vacancy not filled by the directors.

(c) Any director may resign effective upon giving written notice to the chairman of the board, the president, the secretary or the board of directors of the corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

9225. (a) Except as otherwise provided in the articles or bylaws, if the directors are equally divided so that there is danger that the property of the corporation will be impaired or lost, the superior court of the proper county may appoint a provisional director pursuant to this section. Action for such appointment may be brought by any director or by members holding 33⅓ percent of the voting power.

(b) A provisional director shall be an impartial person. A provisional director shall have all the rights and powers of a director until such provisional director is removed by order of the court or by approval of a majority of all members (Section 5033). Such person shall be entitled to such compensation as shall be fixed by the court

unless otherwise agreed with the corporation.

9226 No director may resign where the corporation would then be left without a duly elected director or directors in charge of its affairs

Article 3 Examination by Attorney General

9230 (a) Upon reasonable grounds to believe that the following condition or conditions have occurred or do exist, the Attorney General may, at reasonable times, examine a corporation to determine whether·

(1) The corporation is not primarily or exclusively carrying out a religious purpose or purposes; or

(2) There is or has been any fraudulent activity in connection with the corporation's property; or

(3) Any corporate property is or has been improperly diverted for the personal benefit of any person; or

(4) Property solicited and received from the general public, based on a representation that it would be used for a limited purpose other than general support of the corporation's religious activities, has been improperly used in a manner inconsistent with the stated purpose for which the property was solicited; or

(5) There has been a substantial diversion of corporate assets from stated corporate purposes

(b) In connection with the above examination, the Attorney General may institute an action in the name of the state to correct any wrongful activity.

Article 4. Standards of Conduct

9240. Notwithstanding the enactment of the act containing this part, except as specifically provided in this part, the duties and liabilities of directors of corporations formed under or subject to this part shall continue to be governed by the law which would be applicable in the absence of such enactment

Chapter 3. Members

Article 1. Issuance of Memberships

9310. (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members.

(b) In the case of a corporation which has no members:

(1) Any action which would otherwise require a vote of members shall require only a vote of the directors, and no meeting or vote of members shall be required, any provision of this part or the articles

or bylaws to the contrary notwithstanding.

(2) All rights which would otherwise vest under this part in the members shall vest in the directors.

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

9311. Memberships may be issued by a corporation for no consideration or for such consideration as is specified in the articles or bylaws or, absent such specification, for such consideration as is determined by the board.

9312. No person may hold more than one membership, and no fractional memberships may be held, provided, however, that·

(a) Two or more persons may have an indivisible interest in a single membership when authorized by, and in such manner or under the circumstances prescribed by, the articles or bylaws, and

(b) If the articles or bylaws provide for classes of membership in which the differences are not merely the number of votes entitled to be cast by members of the class, and if the articles or bylaws permit a person to be a member of more than one class, a person may hold one membership in any such class.

9313. Except as provided in its articles or bylaws, a corporation may admit any person to membership

Article 2. Transfer of Memberships

9320 Subject to Section 9417.

(a) No member may profit from the transfer of a membership or any right arising therefrom, and

(b) Unless otherwise provided in the corporation's articles or bylaws, all rights of membership cease upon the member's death or dissolution.

Article 3 Types of Memberships

9330. A corporation may issue memberships having different voting or other rights.

9331 Except as provided in or authorized by the articles or bylaws, all memberships shall have the same voting and other rights.

9332. (a) A corporation may refer to persons affiliated with it as "members" even though such persons are not members within the meaning of Section 5056; but references to members in this part mean members as defined in Section 5056.

(b) A corporation may benefit, serve, or assist persons who are not members within the meaning of Section 5056 for such consideration, if any, as the board may determine or as is authorized or provided for in the articles or bylaws

Article 4 Termination of Memberships

9340 (a) A member may resign from membership at any time

(b) This section shall not relieve the resigning member from any obligation for charges incurred, services or benefits actually rendered, dues, assessments or fees, or arising from contract or otherwise, and this section shall not diminish any right of the corporation to enforce any such obligation or obtain damages for its breach

(c) Except as provided in subdivision (b) of Section 9320 or in subdivision (a) of this section, a membership issued for a period of time terminates upon the expiration of such period of time

(d) A membership may be terminated as provided in the articles or bylaws of the corporation

Article 5. Rights and Obligations of Members and Creditors

9350 (a) A member of a corporation is not, as such, personally liable for the debts, liabilities, or obligations of the corporation.

(b) No person is liable for any obligation arising from membership unless the person was admitted to membership upon the person's application or with the person's consent

9351 A corporation may levy dues, assessments, or fees upon its members pursuant to its articles or bylaws, but a member upon learning of them may avoid liability for them by promptly resigning from membership, except where the member is, by contract or otherwise, liable for them Article or bylaw provisions authorizing such dues, assessments, or fees do not, of themselves, create such liability

9352 (a) No action shall be brought by or on behalf of any creditor to reach and apply the liability, if any, of a member to the corporation to pay any amount due to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless such proceedings would be useless.

(b) All creditors of the corporation, with or without reducing their claims to judgment, may intervene in any such creditor's action to reach and apply unpaid amounts due the corporation and any or all members who owe amounts to the corporation may be joined in such action Several judgments may be rendered for and against the parties to the action or in favor of a receiver for the benefit of the respective parties thereto

(c) All amounts paid by any member in any such action shall be credited on the unpaid balance due the corporation by such member

9353 Nothing in this part shall be construed as in derogation of any rights or remedies which any creditor or member may have against any promoter, member, director, officer or the corporation because of participation in any fraud or illegality practiced upon such

creditor or member by any such person or by the corporation in connection with the issue or sale of memberships or securities or in derogation of any rights which the corporation may have by rescission, cancellation or otherwise because of any fraud or illegality practiced on it by any such person in connection with the issue or sale of memberships or securities

CHAPTER 4 MEETINGS AND VOTING

9410 (a) The articles or bylaws may provide any reasonable method of calling, noticing, and holding general or special meetings of members or obtaining approval of members (Section 5034) or approval of a majority of members (Section 5033), provided that the provisions of this chapter shall apply to any such general or special meeting or approval in the absence of a contrary provision in the articles or bylaws.

(b) Anything in subdivision (a) to the contrary notwithstanding, the articles or bylaws may not vary the provisions of subdivision (e) of Section 9411, subdivisions (b) and (c) of Section 9412 (if written ballots are authorized); Section 9414; subdivisions (d) and (e) of Section 9417 (if proxies are authorized), or Section 9418.

9411 (a) Subject to the provisions of this chapter, general and special meetings of members shall be called, noticed and held as may be ordered by the directors.

(b) Special meetings of members may be called by the board or the chairman of the board or the president. In addition, special meetings of members may be called by 5 percent or more of the members.

(c) Upon request in writing to the chairman of the board, president, vice president or secretary by any person (other than the board) entitled to call a special meeting of members, the board shall expeditiously set a reasonable time and place for the meeting and the officer forthwith shall cause notice to be given to the members entitled to vote of the time and place of the meeting. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard. The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote and the form of notice

(d) The transactions of any meeting of members, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof All

such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this part to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof except as provided in subdivision (e).

(e) Any member approval required under Section 9222, 5812 (made applicable pursuant to Section 9620) or subdivision (b) of Section 9680 other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

9412. (a) Subject to any contrary provision in the articles or bylaws, a majority of the voting power, represented in person, by written ballot, or by proxy, shall constitute a quorum at a meeting of members. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members.

(b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given to the members at least 10 days before the meeting.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(d) In the absence of a quorum, any meeting of members may be ajourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

9413. (a) Any action which may be taken at any regular or special meeting of members may be taken without a meeting if the written ballot of every member is solicited, if the required number of signed approvals in writing, setting forth the action so taken, is received, and if the requirements of subdivision (c) are satisfied.

(b) All solicitations of ballots shall indicate the time by which the ballot must be returned to be counted.

(c) Approval by written ballot pursuant to this section shall be valid only when the number of ballots cast on or before the time the ballot must be returned to be counted equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of vote. cast was the same as the number of ballots cast.

(d) Subject to Section 9417, any member casting a ballot or the proxyholders of a member may revoke the ballot, or substitute another, by a writing received by the corporation prior to the time the ballot is counted, but may not do so thereafter. Such revocation is effective upon its receipt by the secretary of the corporation.

9414. (a) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer, member or the Attorney General, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws and this part.

9415 A member may not cumulate votes for the election of directors.

9416. Each member shall be entitled to one vote on each matter submitted to a vote of the members.

9417 (a) Every person entitled to vote a membership may authorize another person or persons to act by proxy with respect to such membership, except that this right may be limited or withdrawn by the articles or bylaws. Any proxy purported to be executed in accordance with the provisions of this part shall be presumptively valid.

(b) No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date of execution Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy.

(c) A proxy is not revoked by the death or incapacity of the maker or the termination of a membership as a result thereof unless, before the vote is counted, written notice of such death or incapacity is received by the corporation.

(d) The proxy of a member may not be irrevocable.

(e) Any proxy covering matters requiring a vote of the members pursuant to Section 5812 (made applicable pursuant to Section 9620), subdivision (b) of Section 9630, Section 6014 or subdivision (a) of Section 6015 (made applicable pursuant to Section 9640), or subdivision (b) of Section 9680 is not valid unless it sets forth the general nature of the matter to be voted on.

9418. (a) Upon the filing of an action therefor by any director or member, or by any person who had the right to vote in the election at issue after such director, member, or person has exhausted any remedies provided in the articles or bylaws, the superior court of the proper county shall determine the validity of any election or appointment of any director of any corporation.

(b) Upon the filing of the complaint, and before any further proceedings are had, the court shall enter an order fixing a date for the hearing, which shall be within five days unless for good cause shown a later date is fixed, and requiring notice of the date for the hearing and a copy of the complaint to be served upon the corporation and upon the person whose purported election or appointment is questioned and upon any person (other than the plaintiff) whom the plaintiff alleges to have been elected or appointed, in the manner in which a summons is required to be served, or, if the court so directs, by registered mail; and the court may make such further requirements as to notice as appear to be proper under the circumstances.

(c) The court, consistent with the provisions of this part and in conformity with the articles and bylaws to the extent feasible, may determine the person entitled to the office of director or may order a new election to be held or appointment to be made, may determine the validity of the issuance of memberships and the right of persons to vote and may direct such other relief as may be just and proper.

CHAPTER 5. RECORDS, REPORTS AND RIGHTS OF INSPECTION

9510. (a) Each corporation shall keep:

(1) Adequate and correct books and records of account;

(2) Minutes of the proceedings of its members, board and committees of the board; and

(3) A record of its members giving their names and addresses and the class of membership held by each.

(b) Minutes shall be kept in written form. Other books and records shall be kept either in written form or in any other form capable of being converted into written form.

9511 (a) Except as otherwise provided in the articles or bylaws, a member may inspect and copy the record of all the members' names, addresses and voting rights, at reasonable times, upon five business days' prior written demand upon the corporation for a purpose reasonably related to the member's interest as a member.

9512. Except as otherwise provided in the articles or bylaws, the accounting books and records and minutes of proceedings of the members and the board and committees of the board shall be open to inspection upon the written demand on the corporation of any member at any reasonable time, for a purpose reasonably related to such person's interests as a member

9513. Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation of which such person is a director for a purpose reasonably related to such person's interests as a director.

9514. (a) Upon refusal of a lawful demand for inspection under this chapter, the superior court of the proper county, or the county where the books or records in question are kept, may enforce the demand or right of inspection with just and proper conditions or may, for good cause shown, appoint one or more competent inspectors or independent accountants to audit the financial statements kept in this state and investigate the property and funds of any corporation or any foreign corporation keeping records in this state and of any subsidiary corporation thereof, domestic or foreign, keeping records in this state and to report thereon in such manner as the court may direct.

(b) All officers and agents of the corporation shall produce to the inspectors or accountants so appointed all books and documents in their custody or power, under penalty of punishment for contempt of court

(c) All expenses of the investigation or audit shall be defrayed by the applicant unless the court orders them to be paid or shared by the corporation.

CHAPTER 6. MISCELLANEOUS PROVISIONS

Article 1. Distributions

9610. (a) The provisions of Chapter 4 (commencing with Section 5410) of Part 2 apply to religious corporations except for subdivision (b) of Section 5420.

(b) Suit may be brought in the name of the corporation by a creditor, a director, or the authorized number of members. In any such action in addition to the remedy provided in subdivision (a) of Section 5420, the court may award punitive damages for the benefit of the corporation against any director, officer, member or other person who with intent to defraud the corporation caused, received or aided and abetted in the making of any distribution.

Article 2. Amendment of Articles

9620 (a) The provisions of Chapter 8 (commencing with Section 5810) of Part 2 apply to religious corporations except for Section 5818.

(b) A corporation formed for a limited period may at any time subsequent to the expiration of the term of its corporate existence, extend the term of its existence by an amendment to its articles removing any provision limiting the term of its existence and providing for perpetual existence. If the filing of the certificate of amendment providing for perpetual existence would be prohibited if it were original articles by the provisions of Section 9122 the Secretary of State shall not file such certificate unless, by the same or a concurrently filed certificate of amendment, the articles of such corporation are amended to adopt a new available name. For the purpose of the adoption of any such amendment, persons who have been functioning as directors of such corporation shall be considered to have been validly elected even though their election may have occurred after the expiration of the original term of the corporate existence

Article 3. Sale of Assets

9630 (a) The provisions of Chapter 9 (commencing with Section 5910) of Part 2 apply to religious corporations except for Sections 5911 and 5913.

(b) (1) Subject to the provisions of Section 9142, a corporation may sell, lease, convey, exchange, transfer or otherwise dispose of all or substantially all of its assets when the principal terms are:

(i) Approved by the board, and

(ii) Unless the transaction is in the usual and regular course of its activities, approved by the members (Section 5034) or by any other person or persons whose approval is required by the articles either before or after approval by the board and before or after the transaction

(2) Subject to any provision in the articles or bylaws, the board may, notwithstanding approval by the members (Section 5034) or such other person, abandon the proposed transaction without further action by the members, subject to the contractual rights, if any, of third parties

(3) Subject to the provisions of Section 9142, such sale, lease, conveyance, exchange, transfer or other disposition may be made upon such terms and conditions and for such consideration as the board may deem in the best interests of the corporation The consideration may be money, property, or securities of any domestic or foreign corporation

(c) A corporation must give written notice to the Attorney General 20 days before it sells, leases, conveys, exchanges, transfers or otherwise disposes of all or substantially all of its assets.

Article 4 Mergers

9640. (a) The provisions of Chapter 10 (commencing with Section 6010) of Part 2 apply to religious corporations except subdivision (a) of Section 6010 and Section 6011.

(b) Without the prior written consent of the Attorney General, a religious corporation may only merge with another religious corporation or with a public benefit corporation or a foreign nonprofit corporation the articles of which provide that its assets are irrevocably dedicated to charitable, religious or public purposes.

(c) The board of each corporation which desires to merge shall approve an agreement of merger The constituent corporations shall be parties to the agreement of merger and other persons may be parties to the agreement of merger. The agreement shall state:

(1) The terms and conditions of the merger;

(2) The amendments, subject to Sections 5810 and 5816, to the articles of the surviving corporation to be effected by the merger, if any, if any amendment changes the name of the surviving corporation, the new name may be the same as or similar to the name of a disappearing corporation, subject to subdivision (b) of Section 9122.

(3) The amendments to the bylaws of the surviving corporation to be effected by the merger, if any,

(4) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation;

(5) The manner, if any, of converting all memberships of the constituent corporations into the membership of the surviving corporation; and

(6) Such other details or provisions as are desired, if any.

Article 5 Bankruptcy Reorganizations and Arrangements

9650 Any proceeding, initiated with respect to a corporation, under any applicable statute of the United States, as now existing or hereafter enacted, relating to reorganizations or arrangements of corporations, shall be governed by the provisions of Chapter 14 (commencing with Section 1400) of Division 1 of Title 1

Article 6 Filings

9660 (a) The provisions of Chapter 12 (commencing with Section 6210) of Part 2 apply to religious corporations except for Section 6216

(b) The Attorney General may bring an action in the proper county to compel compliance with Chapter 12 (commencing with Section 6210) made applicable to religious corporations by this section

Article 7 Service of Process

9670. Service of process upon a corporation shall be governed by Chapter 17 (commencing with Section 1700) of Division 1 of Title 1.

Article 8. Dissolution

9680 (a) The provisions of Chapter 16 (commencing with Section 6610) and 17 (commencing with Section 6710) of Part 2 apply to religious corporations except for Sections 6610, 6614, 6710, 6711 and 6716.

(b) (1) Any corporation may elect voluntarily to wind up and dissolve (i) by the vote of its members representing at least a majority of its voting power or (ii) by approval of the board and approval of the members (Section 5034)

(2) Any corporation which comes within one of the following descriptions may elect by approval of the board to wind up and dissolve

(i) A corporation which has been adjudicated a bankrupt.

(ii) A corporation which has disposed of all its assets and has not conducted any activity for a period of five years immediately preceding the adoption of the resolution electing to dissolve the corporation

(iii) A corporation which has no members.

(iv) A corporation which is required to dissolve under provisions of its articles adopted pursuant to subdivision (a), paragraph (3), clause (i), of Section 9132

(c) If a corporation is in the process of voluntary winding up, the superior court of the proper county, upon the petition of (1) the

corporation, or (2) the authorized number (Section 5036), or (3) the Attorney General, or (4) three or more creditors, and upon such notice to the corporation and members and creditors as the court may order, may take jurisdiction over such voluntary winding up proceeding if that appears necessary for the protection of the assets of the corporation. The court, if it assumes jurisdiction, may make such orders as to any and all matters concerning the winding up of the affairs of the corporation and the protection of its creditors and its assets as justice and equity may require. The provisions of Chapter 15 (commencing with Section 6510) (except Sections 6510 and 6511) shall apply to such court proceedings.

(d) The powers and duties of the directors (or other persons appointed by the court pursuant to Section 6515) and officers after commencement of a dissolution proceeding include, but are not limited to, the following acts in the name and on behalf of the corporation:

(1) To elect officers and to employ agents and attorneys to liquidate or wind up its affairs.

(2) To continue the conduct of the affairs of the corporation insofar as necessary for the disposal or winding up thereof.

(3) To carry out contracts and collect, pay, compromise and settle debts and claims for or against the corporation

(4) To defend suits brought against the corporation.

(5) To sue, in the name of the corporation, for all sums due or owing to the corporation or to recover any of its property.

(6) To collect any amounts remaining unpaid on memberships or to recover unlawful distributions.

(7) Subject to the provisions of Section 9142, to sell at public or private sale, exchange, convey or otherwise dispose of all or any part of the assets of the corporation in an amount deemed reasonable by the board without compliance with the provisions of subdivision (b) of Section 9630, and to execute bills of sale and deeds of conveyance in the name of the corporation.

(8) In general, to make contracts and to do any and all things in the name of the corporation which may be proper or convenient for the purposes of winding up, settling and liquidating the affairs of the corporation

(e) After complying with the provisions of Section 6713·

(1) Except as provided in Section 6715, all of a corporation's assets shall be disposed of on dissolution in conformity with its articles or bylaws subject to complying with the provisions of any trust under which such assets are held.

(2) Except as provided in subdivision (3), the disposition required in subdivision (1) shall be made by decree of the superior court of the proper county The decree shall be made upon petition therefor, upon 30 days' notice to the Attorney General, by any person concerned in the dissolution.

(3) The disposition required in subdivision (1) may be made without the decree of the superior court, subject to the rights of

persons concerned in the dissolution, if the Attorney General makes a written waiver of objections to the disposition.

(f) A vacancy on the board may be filled during a winding up proceeding in the manner provided in Section 9224.

(g) The provisions of Chapter 15 (commencing with Section 6510) shall not be applicable to religious corporations except to the extent they are applicable under subdivision (d) of Section 6617, subdivision (c) of Section 6719, or subdivision (c) or (d) of this section

Article 9 Crimes and Penalties

9690. The provisions of Chapter 18 (commencing with Section 6810) of Part 2 apply to religious corporations.

SEC 8. Part 5 (commencing with Section 9910) is added to Division 2 of Title 1 of the Corporations Code, to read·

PART 5. TRANSITION PROVISIONS

9910. As used in Sections 9910 to 9927 of this part.

(a) "New public benefit, mutual benefit and religious corporation law" means Part 1 (commencing with Section 5002), Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), Part 4 (commencing with Section 9110) and Part 5 (commencing with Section 9910), of Division 2 of Title 1 of the Corporations Code enacted by the California Legislature during the 1977–1978 Regular Session and, except as required by Section 9912, operative January 1, 1980.

(b) "New public benefit corporation law" means Part 2 of the new public benefit, mutual benefit and religious corporation law

(c) "New mutual benefit corporation law" means Part 3 of the new public benefit, mutual benefit, and religious corporation law.

(d) "New religious corporation law" means Part 4 of the new public benefit, mutual benefit and religious corporation law.

(e) "Prior nonprofit law" means Part 1, Division 2 (commencing with Section 9000) of Title 1 of the Corporations Code in effect on December 31, 1979

(f) "Subject corporation" means any corporation described in paragraphs (3) through (5), inclusive, of subdivision (a) of Section 5003 and subject to the prior nonprofit law

9911. (a) The new public benefit corporation law applies to all corporations which are incorporated on or after January 1, 1980, under Part 2 of this division or which are expressly governed by Part 2 pursuant to a particular provision of this division, Division 3 (commencing with Section 12000) or other specific statutory provision

(b) The new mutual benefit corporation law applies to all corporations which are incorporated on or after January 1, 1980, under Part 3 of this division or which are expressly governed by Part

3 pursuant to a particular provision of this division or Division 3 (commencing with Section 12000) or other specific statutory provision.

(c) The new religious corporation law applies to all corporations which are incorporated on or after January 1, 1980, under Part 4 of this division or which are expressly governed by Part 4 pursuant to a particular provision of this division, Division 3 (commencing with Section 12000) or other specific statutory provision.

(d) Notwithstanding subdivisions (a) through (c), if articles of incorporation intended to and in fact meeting the requirements of the prior nonprofit law have been initially received by the Secretary of State prior to January 1, 1980, and the matter is still pending on that date, then the entity may be incorporated pursuant to the prior nonprofit law if its articles are filed prior to May 1, 1980.

(e) Except as otherwise expressly provided in this part, (i) the new public benefit corporation law applies to all subject corporations referred to in Section 5060 and to all actions taken by the directors, officers or members of such corporation on or after January 1, 1980; (ii) the new mutual benefit corporation law applies to all subject corporations referred to in Section 5059 and to all actions taken by the directors, officers or members of such corporations on or after January 1, 1980; and (iii) the new religious corporation law applies to all subject corporations referred to in Section 5061 and to all actions taken by the directors, officers or members of such corporations on or after January 1, 1980.

(f) Except as otherwise expressly provided in this part, all of the sections of the new public benefit, mutual benefit and religious corporation law governing acts, contracts or other transactions by a corporation or its directors, officers or members, apply only to acts, contracts, or transactions occurring on or after January 1, 1980; and the prior nonprofit law governs acts, contracts or transactions occurring before January 1, 1980.

(g) Except as otherwise expressly provided in this part, any vote or consent by the directors or members of a corporation prior to January 1, 1980, in accordance with the prior nonprofit law shall be effective in accordance with that law; and if any certificate or document is required to be filed in any public office of this state relating to such vote or consent, it may be filed on or after January 1, 1980, in accordance with the prior nonprofit law

9912. (a) Each corporation which is subject (pursuant to the terms of the prior nonprofit law or some other specific statutory provision) to the prior nonprofit law shall, on and after January 1, 1980, be subject to the new public benefit corporation law, the new mutual benefit corporation law, or the new religious corporation law based on the following:

(1) Any corporation of a type designated by statute as being subject to the new public benefit corporation law, the new mutual benefit corporation law, or the new religious corporation law, shall be subject to such law.

(2) Any corporation organized primarily or exclusively for religious purposes shall be subject to the new religious corporation law.

(3) Any corporation which does not come within paragraphs 1 or 2 of this subdivision but which has received an exemption under Section 23701d of the Revenue and Taxation Code, shall be subject to the new public benefit corporation law.

(4) Any corporation which does not come within paragraphs 1, 2, or 3 of this subdivision and all of the assets of which are irrevocably dedicated to charitable or public purposes and which according to its articles or bylaws must upon dissolution distribute its assets to a person or persons carrying on a similar pupose or purposes shall be subject to the new public benefit corporation law.

(5) Any corporation which does not come within paragraphs 1, 2, 3 or 4 of this subdivision and which permits distribution of assets to its members upon dissolution shall be subject to the new mutual benefit corporation law.

(6) Any corporation not otherwise described in this subdivision shall be subject to the new mutual benefit corporation law unless it elects to be a public benefit corporation.

(b) Prior to January 1, 1980, the Secretary of State's office shall send a nonbinding, advisory notice to each corporation covered by subdivision (a) indicating the type of corporation it is, based on the rules set forth in subdivision (a) of this section.

(c) Notwithstanding subdivision (a), assets held by a mutual benefit corporation in charitable trust shall be administered in compliance with the provisions of the trust and in accordance with any standards applicable pursuant to Section 7238.

(d) A corporation may bring an action in the superior court of the proper county to determine its status as a public benefit, mutual benefit, or religious corporation. Notice of such action shall be served upon the Secretary of State and the Attorney General, either or both of whom may intervene A certified copy of a final judgment in any such action shall be filed with the Secretary of State.

(e) The Secretary of State may, in carrying out any obligation arising under this article, require any information necessary on existing corporations from the Franchise Tax Board or other state agency.

9913. (a) The provisions of Sections 5130, 5131 and 5132 of the new public benefit corporation law relating to the contents of articles of incorporation do not apply to subject corporations designated as public benefit corporations unless and until an amendment of the articles is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this part

(b) The provisions of subdivisions (a) and (b) of Section 7130 and Sections 7131 and 7132 of the new mutual benefit corporation law relating to the contents of articles of incorporation do not apply to subject corporations governed by the mutual benefit corporation law

unless and until an amendment of the articles of incorporation is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this part.

(c) The provisions of Sections 9130, 9131, and 9132 of the new religious corporation law relating to the contents of articles of incorporation do not apply to subject corporations governed by the religious corporation law unless and until an amendment of the articles is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this part

(d) The amendment described in subdivision (a) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the public benefit corporation to Section 5130 and the deletion of any references to the location of principal office and deleting any statement regarding the number of directors or conforming any such statement regarding the number of directors or conforming any such statement to Section 5151 (subject to Section 9915), it shall also be approved by the members (Section 5034) if such approval is otherwise required for the changes made.

(e) The amendment described in subdivision (b) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the mutual benefit corporation to subdivisions (a) and (b) of Section 7130 and the deletion of any references to the location of principal office and deleting any statement regarding the number of directors or conforming any such statement to Section 7151 (subject to Section 9915), it shall also be approved by the members (Section 5034) if such approval is otherwise required for the changes made

(f) The amendment described in subdivision (c) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the religious corporation to Section 9130 and the deletion of any references to the location of principal office and deleting any statement regarding the number of directors or conforming any such statement to Section 9151 (subject to Section 9915), it shall also be approved by the members (Section 5034) if such approval is otherwise required for the changes made.

9914. Section 5140 of the new public benefit corporation law applies to subject corporations governed by the public benefit corporation law, and Section 7140 of the new mutual benefit corporation law applies to subject corporations governed by the mutual benefit corporation law and Section 9140 of the new religious corporation law applies to subject corporations governed by the religious corporation law, but any statement in the articles of such corporations prior to an amendment thereof pursuant to Section 9913, relating to the powers of the corporation shall not be construed

as a limitation unless it is expressly stated as such.

9915. Subdivision (a) of Section 5151 of the new public benefit corporation law does not apply to subject corporations governed by the public benefit corporation law, subdivision (a) of Section 7151 of the new mutual benefit corporation law does not apply to subject corporations governed by the mutual benefit corporation law, and subdivision (a) of Section 9151 of the new religious corporation law does not apply to subject corporations governed by the religious corporation law, but such corporations shall continue to be governed by the prior nonprofit law unless and until an amendment of the articles is filed pursuant to Section 9913. If such amendment makes any change in the number of directors or the maximum or minimum number of directors or makes change from a fixed to a variable board or vice versa, it shall also be approved by the members (Section 5034) or, if the articles or bylaws so provide, by a greater fraction or percentage of the voting power

9916 Subdivision (a) of Section 5213 of the new public benefit corporation law applies to subject corporations governed by the public benefit corporation law, subdivision (a) of Section 7213 of the new mutual benefit corporation law apply to subject corporations governed by the mutual benefit corporation law, and subdivision (a) of Section 9213 of the new religious corporation law applies to subject corporations governed by the religious corporation law; but the "treasurer" of such corporations shall be deemed to be the "chief financial officer."

9916.5 Subdivisions (a) and (e) of Section 5220 apply to subject corporations governed by the nonprofit public benefit corporation law and subdivisions (a) and (e) of Section 7220 apply to subject corporations governed by the nonprofit mutual benefit corporation law, provided that·

(a) If a director on January 1, 1980, is serving a term in excess of three years in duration, the director may continue to serve until December 31, 1982, or until the expiration of the term whichever is earlier

(b) If, on January 1, 1980, more than one-third of the directors of a corporation hold office by virtue of designation or selection, they may continue to do so until December 31, 1982.

9917 Section 5238 of the new public benefit corporation law governs any proposed indemnification by a public benefit corporation, and Section 7237 of the new mutual benefit corporation law governs any proposed indemnification by a mutual benefit corporation, after January 1, 1980, whether the events upon which the indemnification is based occurred before or after January 1, 1980. Any statement relating to indemnification contained in the articles or bylaws of a subject corporation shall not be construed as limiting the indemnification permitted by Section 5238 or by Section 7237 unless it is expressly stated as so intended.

9918 Section 7313 of the new mutual benefit corporation law relating to membership certificates applies to the membership

certificates of a subject corporation if the certificates are issued on or after January 1, 1980, and the prior nonprofit law shall continue to govern certificates representing memberships issued prior to January 1, 1980, unless and until an amendment of the articles is filed pursuant to Section 9913

9919 Chapter 4 (commencing with Section 7410) of the new mutual benefit corporation law applies to any distribution to members made on or after January 1, 1980, except that any such distribution effected pursuant to a contract for the purchase or redemption of memberships entered into by the corporation prior to January 1, 1980, may be made if permissible under Chapter 4 or under the prior nonprofit law in effect at the time the contract was entered into.

9920. (a) The provisions of Chapter 5 (commencing with Section 5510) and Chapter 6 (commencing with Section 5610) of the new public benefit corporation law apply to any meeting of members of a public benefit corporation, the provisions of Chapter 5 (commencing with Section 7510) and Chapter 6 (commencing with Section 7610) of the new mutual benefit corporation law apply to any meeting of members of a mutual benefit corporation, and the provisions of Chapter 4 (commencing with Section 9410) of the new religious corporation law apply to any meeting of members of a religious corporation, held on or after January 1, 1980, and to any action by such members pursuant to a written ballot, which becomes effective on or after January 1, 1980, and to any vote cast at such a meeting or ballot, given for such action (whether or not a proxy or ballot was executed by the member prior to January 1, 1980)

(b) Notwithstanding subdivision (a)

(1) The prior nonprofit law shall apply to any such meeting of members and to any vote cast at such a meeting if such meeting was initially called for a date prior to January 1, 1980, and notice thereof was given to members entitled to vote thereat, and

(2) Where a proxy would be valid under the prior nonprofit law but would not be valid for a public benefit corporation under the new public benefit corporation law, for a mutual benefit corporation under the new mutual benefit corporation law, or for a religious corporation under the new religious corporation law, and where the proxy by its terms expires during or after 1980, such proxy may be voted at meetings of members during 1980 (prior to its expiration date) but not thereafter

(3) A bylaw which authorizes a corporation to conduct a meeting of members with a quorum, fixed in such bylaw, of less than one-third of the voting power shall be valid if it was duly adopted before January 1, 1980, pursuant to the prior nonprofit law

9921 Section 5710 of the new public benefit corporation law applies to actions commenced on or after January 1, 1980, with respect to a public benefit corporation, and Section 7710 of the new mutual benefit corporation law applies to actions commenced on or after January 1, 1980, with respect to a mutual benefit corporation

The prior nonprofit law governs actions commenced prior to but still pending on January 1, 1980

9922. Chapters 9 (commencing with Section 5910) and 10 (commencing with Section 6010) of the new public benefit corporation law apply to transactions consummated on or after January 1, 1980, by a public benefit corporation or, subject to Sections 9630 and 9640, by a religious corporation, and Chapters 9 (commencing with Section 7910) and 10 (commencing with Section 8010) of the new mutual benefit corporation law apply to transactions consummated on or after January 1, 1980, by a mutual benefit corporation, unless the approval required by the prior nonprofit law has been given prior to January 1, 1980, or has been given on or after January 1, 1980, but at a meeting of members initially called for a date prior to January 1, 1980, in which case the transaction shall be governed by the prior nonprofit law.

9923. Chapters 15 (commencing with Section 6510) and 17 (commencing with Section 6710) of the new public benefit corporation law apply to acts for involuntary dissolution of a public benefit corporation commenced on or after January 1, 1980, and Chapters 15 (commencing with Section 8510) and 17 (commencing with Section 8710) of the new mutual benefit corporation law apply to acts for involuntary dissolution of a mutual benefit corporation commenced on or after January 1, 1980, but the prior nonprofit law governs any such actions commenced prior to but still pending on January 1, 1980

9924 Chapters 16 (commencing with Section 6610) and 17 (commencing with Section 6710) of the new public benefit corporation law apply to any voluntary dissolution proceeding initiated with respect to a public benefit corporation or, subject to Section 9680, with respect to a religious corporation, by the filing on or after January 1, 1980, of an election to wind up and dissolve, and Chapters 16 (commencing with Section 8610) and 17 (commencing with Section 8710) of the new mutual benefit corporation law apply to any voluntary dissolution proceeding initiated with respect to a mutual benefit corporation by the filing on or after January 1, 1980, of an election to wind up and dissolve, but the prior nonprofit law governs any such proceeding so initiated prior to January 1, 1980

9925 When any corporate agent for service of process has been designated prior to January 1, 1980, and such designation of agent included a name of a city, town or village wherein the corporate agent maintained an office, service on such agent may be effected at any office of the agent set forth in the certificate of the corporate agent filed pursuant to Section 6213 of the new public benefit corporation law (applicable to public benefit corporations and, subject to Section 9660, to religious corporations), Section 8213 of the new mutual benefit corporation law, Section 1505 of the Corporations Code, or filed pursuant to Section 3301 5, 3301 6, 6403 5, or 6403 6 of the Corporations Code as in effect prior to January 1, 1977

9926 Any subject corporation that existed on the first day of January, 1873, and was formed under the laws of this state, which corporation has not already elected to continue its existence under the prior nonprofit law, may at any time elect to continue its existence under the provisions of this code applicable thereto by the unanimous vote of all its directors, or such election may be made at any annual meeting of the members, or at any meeting called by the directors especially for considering the subject, if voted by members representing a majority of the voting power, or may be made by the directors upon the written consent of that number of the members.

A certificate of the action of the directors, signed by them and their secretary, when the election is made by their unanimous votes or upon the written consent of the members, or a certificate of the proceedings of the meeting of the members when the election is made at any such meeting, signed by the chairman and secretary of the meeting and a majority of the directors, shall be filed in the office of the Secretary of State, and thereafter the corporation continues its existence under the provisions of this code which are applicable thereto, and possesses all the rights, and powers, and is subject to all the obligations, restrictions, and limitations prescribed thereby.

9927 If the corporate rights, privileges and powers of a corporation have been suspended and are still suspended immediately prior to January 1, 1980, pursuant to the prior nonprofit law as a result of its incorporation of Sections 5700 through 5908 of the prior law (Section 2300), such sections and provisions continue to apply to such a corporation until restoration by the Controller pursuant to such sections.

SEC. 9. Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code is repealed.

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 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 11 This act shall become operative on January 1, 1980, except that Section 9912 of the Corporations Code as set forth in Section 8 of this act shall become operative January 1, 1979.