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and Constitutional Amendments passed by the
California Legislature

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68—648 100

CHAPTER 568

An act to amend Sections 25751 and 30570 of the Public Utilities Code, relating to transit districts.

[Became law without Governor's signature August 30, 1978 Filed with Secretary of State August 30, 1978]

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

SECTION 1. Section 25751 of the Public Utilities Code is amended to read·

25751 The purchase of all supplies, equipment and materials, and the construction of facilities and works, when the expenditure required exceeds ten thousand dollars ($10,000), shall be by contract let to the lowest responsible bidder Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

SEC. 2. Section 30570 of the Public Utilities Code is amended to read:

30570. The purchase of all supplies, equipment, and materials, and the construction of facilities and works, when the expenditure required exceeds ten thousand dollars ($10,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation, which publication shall be made at least 10 days before bids are received. The board may reject any and all bids and readvertise in its discretion.

CHAPTER 569

An act to amend Sections 17041, 17053.5, 17054, 17069, 17171, 20505, and 20544 of, and to add Sections 17052.9, 17155, and 18806 to, the Revenue and Taxation Code, and to amend Section 11008 4 of the Welfare and Institutions Code, relating to taxation, to take effect immediately, tax levy.

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

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

SECTION 1. Section 17041 of the Revenue and Taxation Code is amended to read·

17041 (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state and upon the entire taxable income of every nonresident which is derived from sources within this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income·

If the taxable income is:	The tax is:
Not over $2,000	1% of the taxable income
Over $2,000 but not over $3,500	$20 plus 2% of excess over $2,000
Over $3,500 but not over $5,000	$50 plus 3% of excess over $3,500
Over $5,000 but not over $6,500	$95 plus 4% of excess over $5,000
Over $6,500 but not over $8,000	$155 plus 5% of excess over $6,500
Over $8,000 but not over $9,500	$230 plus 6% of excess over $8,000
Over $9,500 but not over $11,000	$320 plus 7% of excess over $9,500
Over $11,000 but not over $12,500	$425 plus 8% of excess over $11,000
Over $12,500 but not over $14,000	$545 plus 9% of excess over $12,500
Over $14,000 but not over $15,500	$680 plus 10% of excess over $14,000
Over $15,500	$830 plus 11% of excess over $15,500

(b) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state and upon the entire taxable income of every nonresident which is derived from sources within this state, when such resident or nonresident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $4,000	1% of the taxable income
Over $4,000 but not over $6,000	$40 plus 2% of excess over $4,000
Over $6,000 but not over $7,500	$80 plus 3% of excess over $6,000

Over $7,500 but not over $9,000	$125 plus 4% of excess over $7,500
Over $9,000 but not over $10,500	$185 plus 5% of excess over $9,000
Over $10,500 but not over $12,000	$260 plus 6% of excess over $10,500
Over $12,000 but not over $13,500	$350 plus 7% of excess over $12,000
Over $13,500 but not over $15,000	$455 plus 8% of excess over $13,500
Over $15,000 but not over $16,500	$575 plus 9% of excess over $15,000
Over $16,500 but not over $18,000	$710 plus 10% of excess over $16,500
Over $18,000	$860 plus 11% of excess over $18,000

(c) The tax imposed by this part is not a surtax.

(d) For each taxable year beginning on or after January 1, 1978, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (b). Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished to them pursuant to paragraph (1) of this subdivision which exceeds 3 percent, and dividing the result by 100.

(3) For taxable years beginning on and after January 1, 1978, and ending on or before November 30, 1979, the Franchise Tax Board shall recompute the income tax brackets by multiplying each income bracket figure in subdivisions (a) and (b) by the inflation adjustment factor of 1.05222, the amounts of each bracket to be rounded off to the nearest ten dollars ($10).

(4) For each taxable year thereafter, the Franchise Tax Board shall recompute the income brackets in the same manner by multiplying the prior taxable year's income bracket figures by the appropriate inflation adjustment factor, rounded off to the nearest ten dollars

($10).

SEC. 2. Section 17052.9 is added to the Revenue and Taxation Code, to read:

17052.9. (a) In the case of an individual who has attained age 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed under either Section 17041 or 17048, minus the credits for personal exemptions provided in Section 17054 for the taxable year an amount equal to 15 percent of such individual's designated maximum amount for such taxable year.

(b) For purposes of subdivision (a):

(1) An individual's designated maximum amount for the taxable year is the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subdivision (c).

(2) The initial amount is:

(A) Two thousand five hundred dollars ($2,500) in the case of a single individual;

(B) Two thousand five hundred dollars ($2,500) in the case of a joint return where only one spouse is eligible for the credit under subdivision (a),

(C) Three thousand seven hundred fifty dollars ($3,750) in the case of a joint return where both spouses are eligible for the credit under subdivision (a); or

(D) One thousand eight hundred seventy-five dollars ($1,875) in the case of a married individual filing a separate return.

(3) The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity:

(A) Under Title II of the Social Security Act;

(B) Under the Railroad Retirement Act of 1935 or 1937; or

(C) Otherwise excluded from gross income.

No reduction shall be made under this paragraph for any amount otherwise excluded from gross income.

(c) For purposes of this section:

(1) If the adjusted gross income of the taxpayer exceeds:

(A) Seven thousand five hundred dollars ($7,500) in the case of a single individual,

(B) Ten thousand dollars ($10,000) in the case of a joint return, or

(C) Five thousand dollars ($5,000) in the case of a married individual filing a separate return,

the designated maximum amount shall be reduced by one-half of the excess of the adjusted gross income over seven thousand five hundred dollars ($7,500), ten thousand dollars ($10,000), or five thousand dollars ($5,000), as the case may be.

(2) The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed under either Section 17041 or 17048, minus the credits for personal exemptions provided in Section 17054 for such taxable year.

(d) For purposes of this section, except in the case of a husband

and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

(e) For purposes of this section:

(1) In the case of a taxpayer who has not attained age 65 before the close of the taxable year (other than a married individual whose spouse has attained age 65 before the close of the taxable year), his credit (if any) under this section shall be determined under this subdivision

(2) In the case of a married individual who has not attained age 65 before the close of the taxable year but whose spouse has attained such age, this paragraph shall apply for the taxable year only if both spouses elect, at such time and in such manner as the Franchise Tax Board shall by regulations prescribe, to have this paragraph apply. If this paragraph applies for the taxable year, the credit (if any) of each spouse under this section shall be determined under this subdivision.

(3) In the case of an individual whose credit under this section for the taxable year is determined under this subdivision, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the amount received by such individual as retirement income (as defined in paragraph (4) and as limited by paragraph (5)).

(4) For purposes of this subdivision, the term "retirement income" means:

(A) In the case of an individual who has attained age 65 before the close of the taxable year, income from:

(i) Pensions and annuities,

(ii) Interest,

(iii) Rents,

(iv) Dividends,

(v) Bonds which are received under a qualified bond purchase plan or in a distribution from a trust which is exempt from tax or retirement bonds, and

(vi) An individual retirement account or an individual retirement annuity; or

(B) In the case of an individual who has not attained age 65 before the close of the taxable year, income from pensions and annuities under a public retirement system,

to the extent included in gross income without reference to this subdivision, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

(5) For purposes of this subdivision, the amount of retirement income shall not exceed two thousand five hundred dollars ($2,500) less—

(A) The reduction provided by subdivision (b) (3), and

(B) In the case of any individual who has not attained age 72 before the close of the taxable year:

(i) If such individual has not attained age 62 before the close of the taxable year, any amount of earned income (as defined in paragraph (8) (B) in excess of nine hundred dollars ($900) received by such individual in the taxable year, or

(ii) If such individual has attained age 62 before the close of the taxable year, the sum of one-half the amount of earned income received by such individual in the taxable year in excess of one thousand two hundred dollars ($1,200) but not in excess of one thousand seven hundred dollars ($1,700), and the amount of earned income so received in excess of one thousand seven hundred dollars ($1,700)

(6) In the case of a joint return, paragraph (5) shall be applied by substituting "three thousand seven hundred fifty dollars ($3,750)" for "two thousand five hundred dollars ($2,500) " The three thousand seven hundred fifty dollars ($3,750) provided by the preceding sentence shall be divided between the spouses in such amounts as may be agreed on by them, except that not more than two thousand five hundred dollars ($2,500) may be assigned to either spouse

(7) In the case of a married individual filing a separate return, paragraph (5) shall be applied by substituting "one thousand eight hundred seventy-five dollars ($1,875)" for "two thousand five hundred dollars ($2,500) "

(8) For purposes of this subdivision:

(A) The term "public retirement system" means a pension, annuity, retirement, or similar fund or system established by the United States, a state, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

(B) The term "earned income" does not include any amount received as a pension or annuity.

(f) No credit shall be allowed under this section to any nonresident.

(g) For the purpose of Section 17052.6 (relating to child care credit), such credit shall be computed by including the credit provided by this section after the personal exemption credits provided in Section 17054 in paragraph (2) of subdivision (a) of such section. For the purpose of Section 17052.7 (relating to agricultural irrigation credit), such credit shall be computed by including the credit provided by this section after the child care credit in paragraph (1) of subdivision (d) of such section.

SEC. 3. 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 qualifed 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 thirty-seven dollars ($37).

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 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 accomodations 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

(i) The changes made to paragraph (2) of subdivision (c) of this section by the 1977–78 Legislature shall be applied with respect to taxable years beginning on January 1, 1979, and thereafter.

SEC. 4. Section 17054 of the Revenue and Taxation Code is amended to read.

17054. In the case of individuals computing their tax under Section 17041 or Section 17048, the following credits for personal exemption may be deducted from the tax imposed.

(a) In the case of a single individual, or a married individual making a separate return a credit of twenty-five dollars ($25).

(b) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of fifty dollars ($50). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally and the portion deductible by the nonresident shall be determined under Section 17055 The preceding sentence shall not apply to a nonresident active member of the armed forces of the United States or any auxiliary branch thereof and his or her spouse.

(c) Except as provided in subdivision (e) of Section 17057, a credit of eight dollars ($8) for each dependent (as defined in Section 17056)—

(1) Whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than seven hundred fifty dollars ($750), or

(2) Who is a child of the taxpayer and who (A) has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (B) is a student.

(3) No exemption shall be allowed under this subdivision for any dependent who has made a joint return with his spouse under Section 18402 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins

(4) For purposes of paragraph (2), the term "child" means an individual who (within the meaning of Section 17056) is a son, stepson, daughter or stepdaughter of the taxpayer.

(5) For purposes of subparagraph (B) of paragraph (2) of this subdivision and Section 17059, the term "student" means an individual who during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins—

(A) Is a full-time student at an educational institution; or

(B) Is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state.

For purposes of this paragraph, the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(d) A credit for personal exemption of eight dollars ($8) for the taxpayer if he is blind at the close of his taxable year.

(e) A credit for personal exemption of eight dollars ($8) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(f) For the purposes of this section, an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(g) For taxable years beginning after December 31, 1977 and before January 1, 1979, the twenty-five dollars ($25) specified in subdivision (a) shall be one hundred dollars ($100) instead of twenty-five dollars ($25), and the fifty dollars ($50) specified in subdivision (b) shall be two hundred dollars ($200) instead of fifty dollars ($50). If the taxpayer has more than one taxable year beginning after December 31, 1977 and before January 1, 1979, such taxpayer shall be allowed the increased exemption provided by this subdivision only with respect to the taxable year which covers the most number of months.

(h) For each taxable year beginning on or after January 1, 1979, the Franchise Tax Board shall compute the credits prescribed in this section. Such computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of 1978 to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the 1977 taxable year credits by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest one dollar ($1).

SEC 5 Section 17069 of the Revenue and Taxation Code is amended to read

17069 (a) A special tax credit at the percentage provided in

subdivision (b) or (c) shall be allowed against the amount of "net tax" (as defined in Section 17069.5), with respect to taxable years beginning after December 31, 1972, and before January 1, 1974. If the taxpayer has more than one taxable year beginning after December 31, 1972, and before January 1, 1974, such taxpayer shall be allowed the credit provided by this section only with respect to the taxable year which covers the most number of months.

(b) In the case of a single person, or a married person filing a separate return, the special tax credit percentage shall be as follows:

If the adjusted gross income is	The percentage of credit is
$4,000 or less	100%
Over $4,000 but not over $7,500	35
Over $7,500 but not over $10,000	30
Over $10,000 but not over $12,500	25
Over $12,500	20

(c) In the case of a head of household, a surviving spouse (as defined in Section 17046), or a married couple filing a joint return, the special tax credit percentage shall be as follows:

If the adjusted gross income is	The percentage of credit is
$8,000 or less	100%
Over $8,000 but not over $15,000	35
Over $15,000 but not over $20,000	30
Over $20,000 but not over $25,000	25
Over $25,000	20

(d) For taxable years beginning on or after January 1, 1974, and ending on or before November 30, 1976, there shall be allowed against the amount of "net tax" (as defined in Section 17069.5) a special tax credit of 100 percent (1) for a single person or a married person filing a separate return with an adjusted gross income of four thousand dollars ($4,000) or less, or (2) for a head of household, a surviving spouse (as defined in Section 17046), or a married couple filing a joint return with an adjusted gross income of eight thousand dollars ($8,000) or less.

(e) For taxable years beginning on or after January 1, 1976, a nonrefundable special tax credit in the amount provided in paragraph (1) or (2) shall be allowed as follows:

(1) In the case of a single person, or a married person filing a separate return, the special tax credit shall be forty dollars ($40) if the adjusted gross income of the taxpayer is five thousand dollars ($5,000) or less. If the adjusted gross income exceeds five thousand dollars ($5,000) for the taxable year, the amount of the special tax credit shall be reduced by fifty cents ($0 50) for each one dollar ($1) of such income in excess of five thousand dollars ($5,000).

(2) In the case of a head of household, a surviving spouse, or a married couple filing a joint return, the special tax credit shall be

eighty dollars ($80) if the adjusted gross income of the taxpayer is ten thousand dollars ($10,000) or less. If the adjusted gross income of the taxpayer exceeds ten thousand dollars ($10,000) for the taxable year, the amount of the special tax credit shall be reduced by fifty cents ($0.50) for each one dollar ($1) of such income in excess of ten thousand dollars ($10,000).

(3) The special tax credit set forth in this subdivision shall not be available to a single person or a married person filing a separate return whose total income (as defined in subdivision (i)) exceeds ten thousand dollars ($10,000), or a head of household, a surviving spouse, or a married couple filing a joint return whose total income exceeds twenty thousand dollars ($20,000).

(4) The special tax credit set forth in this subdivision shall not be available to any taxpayer required to pay the tax on preference income imposed in Chapter 2.1 (commencing with Section 17062), during the taxable year.

(f) If, after the tax credit provided by this section is claimed, the Franchise Tax Board determines that the taxpayer's tax liability is more or less than the amount shown on the return, a corresponding adjustment shall be made by the Franchise Tax Board for the special tax credit

(g) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part or to nonresidents as of the close of the taxable year for which the credit is claimed.

(h) For the purposes of this section, the adjusted gross income of a nonresident means gross income from sources both within and without this state less the deductions allowed by Section 17072.

(i) For the purposes of this section, total income means adjusted gross income, as defined in Section 17072, increased by the adjustments to income provided in subdivision (h) of Section 17072 (relating to forfeited interest penalty), Section 17138 (relating to sick pay), Sections 17146 to 17147, inclusive (relating to military exclusion), Sections 17202 to 17202.3, inclusive (relating to employee business expenses), Section 17240 (relating to individual retirement accounts, annuities, and bond deductions), Section 17266 (relating to moving expenses), Section 17502.9 (relating to self-employed defined benefit plans), and Section 17524 (relating to self-employed retirement plan deductions)

(j) For the purposes of subdivision (e),

(1) For each taxable year beginning on or after January 1, 1979, the Franchise Tax Board shall recompute credits prescribed in such subdivision Such computation shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year

(B) The Franchise Tax Board shall add 100 percent to the percentage change figure which is furnished to them pursuant to

subparagraph (A) and divide the result by 100.

(C) The Franchise Tax Board shall multiply each of the prior taxable year's credits by the inflation adjustment factor provided in subparagraph (B), rounded off to the nearest one dollar ($1).

SEC. 6. Section 17155 is added to the Revenue and Taxation Code, to read:

17155 (a) A taxpayer may elect to exclude from gross income up to one hundred thousand dollars ($100,000) of any gain realized on the sale or exchange of the taxpayer's principal residence.

(b) The election provided by this section shall be made at such time and in such manner as shall be provided by rules prescribed by the Franchise Tax Board The election provided by this section shall not be available if, with respect to the same property, an election is made under either Section 18082 (relating to involuntary conversions) or under Section 18091 (relating to nonrecognition treatment for rollovers). The election shall be available only once in a taxpayer's lifetime. In the case of a married taxpayer, an election may be made only if the taxpayer's spouse, at the time of the sale or exchange, joins in such election

(c) For purposes of this section, a sale or exchange includes destruction, theft, seizure, requisition, or condemnation of such property.

(d) For purposes of this section, principal place of residence means a dwelling owned and occupied by the taxpayer as the taxpayer's principal place of residence for at least two years prior to its sale or exchange, located in this state and receiving either the homeowner's exemption under Section 218 or the disabled veteran's exemption under Section 205 5. It includes a residential unit in a cooperative housing corporation (as defined in Section 17265) and a portion of a multidwelling or multipurpose dwelling occupied as a principal residence by the taxpayer.

(e) For purposes of this section, a realized gain from the sale or exchange of a principal residence shall be computed without regard to Section 18162.5 (relating to capital gains).

(f) This section shall apply to sales or exchanges occurring on or after January 1, 1978, with respect to taxable years beginning on or after such date.

(g) A taxpayer shall not elect to apply this section to any sale or exchange to which such taxpayer has elected to apply the exclusion contained in Section 17154

SEC 7 Section 17171 of the Revenue and Taxation Code is amended to read

17171 (a) A taxpayer, at his election, may take a standard deduction as follows.

(1) In the case of a taxpayer, other than a head of a household or a surviving spouse (as defined in Section 17046) or a married couple filing a joint return, the standard deduction shall be one thousand dollars ($1,000),

(2) In the case of a head of household or a surviving spouse (as

defined in Section 17046) or a married couple filing a joint return, the standard deduction shall be two thousand dollars ($2,000).

(3) If the adjusted gross income (for purposes of Section 17048) of a taxpayer is less than ten thousand dollars ($10,000), the standard deduction shall be determined under the tax table provided in Section 17048.

(b) The standard deduction provided for in subsection (a) shall be in lieu of all deductions other than those which under Section 17072 are to be subtracted from gross income in computing adjusted gross income.

(c) For each taxable year beginning on or after January 1, 1979, the Franchise Tax Board shall recompute the standard deductions prescribed in this section, as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that portion of the percentage change figure which is furnished to them pursuant to paragraph (1) of this subdivision and dividing the result by 100.

(3) The Franchise Tax Board shall multiply the prior taxable year's standard deduction amounts by the inflation adjustment factor provided in paragraph (2), rounded off to the nearest ten dollars ($10)

SEC. 8. Section 18806.5 is added to the Revenue and Taxation Code, to read:

18806.5 Unless otherwise specifically provided, the provisions of any law effecting changes in withholding shall begin with withholding in the calendar year succeeding the year such provision was chaptered, or provision is operative, whichever is later.

SEC. 9. Section 20505 of the Revenue and Taxation Code is amended to read·

20505. "Claimant" means an individual who—

(a) For purposes of this chapter was either (1) 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, or (2) totally disabled, as defined in Section 12050 of the Welfare and Institutions Code, 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. 10. 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
$3,000	$250	96%
3,200	250	94
3,400	250	92
3,600	250	90
3,800	250	88
4,000	250	86
4,200	250	84
4,400	250	82
4,600	250	80
4,800	250	78
5,000	250	76
5,200	250	73
5,400	250	69
5,600	250	65
5,800	250	61
6,000	250	57
6,200	250	53
6,400	250	49
6,600	250	45
6,800	250	41
7,000	250	37
7,200	250	34
7,400	250	31
7,600	250	28
7,800	250	25

8,000		250	22
8,200		250	20
8,400		250	18
8,600		250	16
8,800		250	14
9,000		250	12
9,500		250	10
10,000		250	8
10,500		250	7
11,000		250	6
11,500		250	5
12,000		250	4

SEC 11. Section 11008.4 of the Welfare and Institutions Code is amended to read:

11008 4. Property taxes (1) as defined in Section 20584 of the Revenue and Taxation Code, which are postponed by a person pursuant to Chapter 2, 2.5, or 3 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 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 1000) of the Welfare and Institutions Code.

This section shall not be construed to limit the provisions of Section 11008 or 11008 1.

SEC. 12 This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, except as otherwise provided the changes in this act relating to the Personal Income Tax Law shall be applied with respect to taxable years beginning on and after January 1, 1978, and the changes in the Senior Citizens' Property Tax Assistance Law shall be applied to claims for assistance for property tax fiscal years for 1978–1979 and thereafter

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CHAPTER 570

An act to add Section 14931 1 to the Government Code, relating to state communications.

[Approved by Governor August 30, 1978 Filed with Secretary of State August 31, 1978]

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

SECTION 1 Section 14931.1 is added to the Government Code, to read:

14931 1. The department shall acquire, install, equip, maintain, and operate all new or replacement microwave communications systems operated by the state, excepting microwave equipment used exclusively for traffic signal and signing control, traffic metering, and roadway surveillance systems. To accomplish that purpose, it may, in the name of the state, enter into contracts, obtain licenses, acquire property, install necessary equipment and facilities, and do such other acts as will provide adequate and efficient microwave communications systems. Any system established shall be available to all public agencies in the state on such terms as may be agreed upon by the public agency and the department.

CHAPTER 571

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

[Approved by Governor August 30, 1978 Filed with Secretary of State August 31, 1978]

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

SECTION 1. The sum of fifteen thousand dollars ($15,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation for allocation to the Department of General Services for expenditure during the 1978–79, 1979–80, and 1980–81 fiscal years for the purposes of this act. Notwithstanding the provisions of Section 16346 of the Government Code, the Department of General Services shall cause to be deposited in the Collier Park Preservation Fund any moneys in its possession remaining from moneys appropriated in Section 8.7 of the Budget Act of 1959 (Chapter 1300, Statutes 1959) and reappropriated in Section 10 of the Budget Act of 1961 (Chapter 888, Statutes 1961) for the acquisition of Frank's Tract State Recreational Area.

SEC 2. The Department of General Services shall proceed expeditiously, on behalf of the Department of Parks and Recreation, to acquire or extinguish any and all rights in real property now encumbering or affecting the state's title to Frank's Tract State Recreational Area The Department of General Services shall attempt to negotiate a settlement for the acquisition of such rights, but shall bring suit to acquire such rights by eminent domain or to extinguish such rights if efforts at negotiating a settlement have not been successful by November 1, 1978 In purchasing such rights through negotiation, the Department of General Services may not

expend an amount that is in excess of a fair and reasonable price for such rights

SEC 3. Upon the acquisition of such rights, the Department of General Services shall pay to the grantor of the property acquired from the California Peat Co., Inc, for Frank's Tract State Recreational Area, or its successor in interest, the sum of ten thousand dollars ($10,000), less the amount disbursed for the acquisition of such rights, whether by negotiated purchase or the exercise of eminent domain, and less all costs and expenses, exclusive of litigation costs, incurred pursuant to this act in acquiring such rights. If, however, such rights are acquired without payment of consideration, the Department of General Services shall pay to the grantor or its successor the sum of ten thousand dollars ($10,000), less all costs and expenses, including litigation costs in an amount not in excess of one hundred dollars ($100), incurred pursuant to this act in extinguishing such rights.

SEC 4 This act shall become operative July 1, 1978.

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:

Because an opportunity has arisen for the prompt settlement, during 1978, of matters relating to the conclusion of the acquisition of Frank's Tract State Recreational Area, it is necessary that this act take effect immediately

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CHAPTER 572

An act to amend Sections 2620 5, 2635.1, 2636.5, 2638, 2639, 2650 1, 2660, and 2688 of, to add Sections 2688.5, 2689, and 2693.5 to, and to repeal Section 2693 5 of, the Business and Professions Code, relating to physical therapy, and making an appropriation therefor

[Approved by Governor August 30, 1978 Filed with Secretary of State August 31, 1978]

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

SECTION 1 Section 2620 5 of the Business and Professions Code is amended to read

2620 5 A physical therapist may, upon specified authorization of a physician and surgeon, perform tissue penetration for the purpose of evaluating neuromuscular performance as a part of the practice of physical therapy, as defined in Section 2620, provided such person is certified by the committee to perform such tissue penetration and evaluation, and provided the physical therapist does not develop or make diagnostic or prognostic interpretations of the data obtained

The committee, after meeting and conferring with the Division of

Allied Health Professions, shall:

(a) Adopt standards and procedures for tissue penetration for the purpose of evaluating neuromuscular performance by certified physical therapists.

(b) Establish standards for the certification of physical therapists to perform tissue penetration for the purpose of evaluating neuromuscular performance.

(c) Certify physical therapists meeting standards established by the committee pursuant to this section.

SEC. 2. Section 2635.1 of the Business and Professions Code is amended to read·

2635 1 (a) An applicant whose application is based on a diploma issued to him by a foreign physical therapy school shall furnish documentary evidence, satisfactory to the examining committee, that he has completed in a physical therapy school or schools a resident course of professional instruction equivalent to that required in Section 2650 for a physical therapist applicant.

(b) Applicants under this section shall satisfactorily complete a period of service not to exceed nine months under the continuous direction and immediate supervision of a registered physical therapist licensed by the Board of Medical Quality Assurance in a physical therapy service and in an institution both of which have been approved by the committee for providing such a period of service. The committee may waive all or any portion of the required period of service. The committee shall adopt regulations for granting such waiver During this period of service the applicant shall identify himself or herself only as a "physical therapist license applicant" until issuance of the license by the board.

(c) Before a license may be issued, the applicant must not only meet the requirements of subdivisions (a) and (b) but must pass the written examination as provided under Section 2636 prior to commencing the period of service, and may be required to pass an oral examination at the completion of the period of service if such period of service has not been completed to the satisfaction of the supervising registered physical therapist. The requirements to pass the written examination shall not apply to an applicant who at the time of his or her application has passed, to the satisfaction of the examining committee, an examination for licensing or registration in another state, district or territory of the United States that is, in the opinion of the examining committee, comparable to the examination given in this state

(d) Nothing contained in this section shall prohibit the examining committee from disapproving any foreign physical therapy school nor from denying the applicant if, in the opinion of the examining committee, the instruction received by the applicant or the courses were not equivalent to that required in this chapter for a physical therapist applicant

SEC 3 Section 2636.5 of the Business and Professions Code is amended to read

2636.5. (a) An applicant may be issued a license without a written examination if he or she meets all of the following:

(1) He or she is at the time of application licensed or registered as a physical therapist in a state, district, or territory of the United States having, in the opinion of the examining committee, requirements for licensing or registration equal to or higher than those in California, and he or she has passed, to the satisfaction of the examining committee, an examination for such licensing or registration that is, in the opinion of the examining committee, comparable to the examination used in this state.

(2) He or she is a graduate of a school of physical therapy approved by the examining committee.

(3) He or she files an application as provided in Section 2632 and meets the requirements prescribed by Sections 2635 and 2650.

(b) An applicant for licensure under subdivision (a), whose application is based on a certificate issued by a physical therapy licensing authority of another state five or more years prior to the date of the filing of his or her application with the board, shall be required to pass an oral examination given by the examining committee.

(c) An applicant who has filed a physical therapy application under this section with the committee may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her license, perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state.

During this period such an applicant shall identify himself or herself only as a "physical therapist license applicant."

If the applicant under this section does not qualify and receive a license as provided in this section and does not qualify under Section 2639 all privileges under this section shall automatically cease.

SEC. 4 Section 2638 of the Business and Professions Code is amended to read·

2638 Any applicant who fails to pass the examination, but has received a grade of 75 percent or higher in one or more parts of the examination and not less than 65 percent in any part thereof, may, within 12 months thereafter, be reexamined in the part or parts in which he or she received less than 75 percent upon paying the reexamination fee for each such reexamination. An applicant who fails to receive an average grade of 75 percent after three such reexaminations shall not be eligible for further reexamination unless he or she pays the reexamination fee, and is examined as in the case of an original applicant.

SEC. 5. Section 2639 of the Business and Professions Code is amended to read·

2639 Every graduate of an approved physical therapy school who has filed a physical therapy application with the committee may, between the date of receipt of notice that his application is on file and the date of receipt of his license, perform as a physical therapist

under the direct and immediate supervision of a physical therapist licensed in this state. During this period such an applicant shall identify himself only as a "physical therapist license applicant."

If such an applicant shall fail to take the next succeeding examination without due cause or fails to pass the examination and receive a license, all privileges under this section shall automatically cease.

SEC. 6. Section 2650.1 of the Business and Professions Code is amended to read:

2650.1. During the period of clinical practice referred to in Section 2650 or in any similar period of observation or related educational experience involving recipients of physical therapy, a person so engaged shall be identified only as a "physical therapy student", or as a "physical therapy intern" as authorized by the committee in its regulations.

SEC. 7. Section 2660 of the Business and Professions Code is amended to read:

2660. The board may, after the conduct of appropriate proceedings by the examining committee under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes.

(a) Advertising in violation of Section 17500 of the Business and Professions Code.

(b) Fraud in the procurement of any license under this chapter.

(c) Procuring or aiding or offering to procure or aid in criminal abortion.

(d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Habitual intemperance.

(g) Addiction to the excessive use of any habit-forming drug

(h) Gross negligence in his or her practice as a physical therapist.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

(j) The aiding or abetting of any person to violate the provisions of this chapter or any regulations duly adopted under this chapter

(k) The aiding or abetting of any person to engage in the unlawful practice of physical therapy

SEC 8 Section 2688 of the Business and Professions Code is amended to read·

2688 The amount of fees provided in connection with licenses,

certificates or approvals for the practice of physical therapy is as follows·

(a) The application fee shall be fixed by the examining committee at not more than fifty dollars ($50) The application fee for an applicant under Section 2635.1 shall be fixed by the examining committee at not more than one hundred dollars ($100).

(b) The reexamination fee shall be fixed by the examining committee at not more than fifty dollars ($50).

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

(d) The renewal fee shall be fixed by the examining committee at not more than fifty dollars ($50).

(e) A fee to be set by the examining committee of not more than fifty dollars ($50) shall be charged for each application for approval as a physical therapist assistant and such approval which may be granted

(f) A fee to be set by the examining committee of not more than fifty dollars ($50) shall be charged for renewal of each such approval as a physical therapist assistant

(g) A fee to be set by the examining committee of not more than fifty dollars ($50) shall be charged for each application for approval to supervise a physical therapist assistant or physical therapist assistants and for any such approval which may be granted.

(h) The examining committee shall renew approval to supervise a physical therapist assistant or physical therapist assistants upon application for such renewal, provided the physical therapist submits evidence that his practice or the physical therapists submit evidence that their practice and the way in which the physical therapist assistant or assistants are being utilized would have led to approval as an initial application under Section 2655 1 A fee to be set by the examining committee of not more than fifty dollars ($50) shall be paid for such renewal

(i) The delinquency fee shall be 50 percent of the renewal fee in effect, but not more than twenty-five dollars ($25)

(j) The duplicate license fee is two dollars ($2).

(k) The endorsement fee is five dollars ($5)

SEC 9 Section 2688 5 is added to the Business and Professions Code, to read

2688 5 The amount of fee payable in connection with permits issued under Section 2693 5 is as follows

(a) The initial permit fee shall be fixed by the committee at not more than forty dollars ($40), except that if the permit will expire

less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the fee fixed by the committee.

(b) The renewal fee shall be fixed by the committee at not more than forty dollars ($40).

(c) The delinquency fee shall be 50 percent of the renewal fee in effect, but not more than twenty-five dollars ($25).

SEC. 10. Section 2689 is added to the Business and Professions Code, to read:

2689 The committee may establish by regulation suitable certification and renewal fees of not more than two hundred dollars ($200), for persons certified pursuant to Section 2620.5, based upon the cost of operating the certification program. The certification fee shall be paid by the applicant at the time the application is filed and the renewal fee shall be paid as provided in Section 2683.

SEC. 11. Section 2693.5 of the Business and Professions Code is repealed.

SEC 12. Section 2693.5 is added to the Business and Professions Code, to read:

2693 5. (a) The name of a physical therapy corporation and any name or names under which it may do business, shall contain the words "physical therapy", or "physical therapist", and wording or abbreviations denoting corporate existence.

(b) The name of a physical therapy corporation and any name or names under which it may do business, shall be restricted to the name or the last name of one or more of the present, prospective or former shareholders, unless the corporation obtains a permit authorizing the use of a fictitious name which complies with subdivision (a) and is not found by the board to be false or misleading, to have a tendency to mislead the public, or so similar to a name previously authorized in the same geographical area as to be misleading or subject to confusion with a previously approved fictitious name.

(c) Before a permit may be issued the applicant shall pay the initial permit fee required in Section 2688.5. Permits issued pursuant to this section shall expire and become invalid unless renewed as provided in Section 2683. All applications for renewal shall be on a form that shall be provided by the board and shall be accompanied by the renewal fee required by Section 2688.5.

(d) In the event charges of unprofessional conduct are filed against the physical therapy corporation, proceedings may be commenced concurrently for suspension or revocation of the permit issued under this section

CHAPTER 573

An act to amend Section 11828 of, to repeal and add Section 11865 of, and to repeal Section 11866 of, the Public Utilities Code, relating to municipal utility districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1978 Filed with Secretary of State August 31, 1978]

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

SECTION 1. 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. If nomination papers for an incumbent director are not filed by 5 o'clock p.m. on the 74th day before the election, the voters shall have until 5 o'clock p.m. on the 64th day before the election to nominate candidates other than the incumbent for such office. 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 62 days prior to the date of the election so that the names of the candidates may be placed upon the ballot.

SEC. 2. Section 11865 of the Public Utilities Code is repealed.

SEC 3 Section 11865 is added to the Public Utilities Code, to read:

11865. Vacancies on the board shall be filled as provided in this section:

(a) The remaining board members may fill the vacancy by appointment until the next district general election that is scheduled 90 or more days after the effective date of the vacancy. The appointment shall be made within a period of 60 days immediately subsequent to the effective date of such vacancy. A notice of such 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 a special election to fill the vacancy. The person elected at such special election shall hold office for the remainder of the term in which the vacancy occurred.

(b) If the vacancy is not filled by appointment as provided in subdivision (a), or if the board has not called for an election within 60 days of the vacancy, 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 by appointment within 90 days of the effective date of the vacancy or may order the district to call a special election to fill the vacancy.

(c) If within 90 days of the effective date of the vacancy, the remaining members of the board or the appropriate board of supervisors have not filled the vacancy by appointment and no election has been called for, the district shall call a special election to fill the vacancy.

(d) A person elected at an election to fill a position to which an appointment was made pursuant to this section shall take office immediately upon issuance of the certificate of election by the secretary of the district, after qualifying according to law, and shall hold office for the remainder of the term in which the vacancy occurs.

SEC. 4 Section 11866 of the Public Utilities Code 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 constituting such necessity are:

The present system of electing directors of municipal utility districts has created severe limitations on opportunities for nonincumbent candidates to succeed in electoral challenges. In order that the benefits of this act, intended to ensure greater participation in the electoral process, be made available to the voting public in the 1978 district election, it is necessary that this act take effect immediately.

CHAPTER 574

An act to amend Sections 12110, 12111, 12112, 12113, 12115, 12116, and 12117 of the Education Code, relating to the California State Agency for Surplus Property, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1978 Filed with Secretary of State August 31, 1978]

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

SECTION 1. Section 12110 of the Education Code is amended to read:

12110. The State Department of Education is hereby designated as the California State Agency for Surplus Property.

SEC. 2. Section 12111 of the Education Code is amended to read:

12111. The California State Agency for Surplus Property is authorized and directed to cooperate with the federal government and its agencies in securing the expeditious and equitable distribution of surplus personal property and food commodities donated by the federal government to public agencies, institutions, and organizations in California, to assist such public agencies, institutions, and organizations in securing such property or food commodities and to do all things necessary to the execution of its powers and duties.

The state agency may enter into cooperative agreements with federal agencies to assist it in carrying out the purposes of this article.

SEC. 3. Section 12112 of the Education Code is amended to read:

12112 Whenever by the provisions of any act of Congress or any rule or regulation adopted thereunder the agency is authorized to accept, receive, or purchase for resale from the federal government or any agency thereof, or any state agency at the request of, and with the approval of, the Department of General Services, any property or food commodities and to provide for its disposition or resale, it is authorized to do so and is vested with all necessary power and authority to accomplish such acceptance, purchase, receipt, disposition and resale. The agency is hereby exempted from the provisions of Article 2 (commencing with Section 14790), Chapter 6, Part 5.5, Division 3, Title 2 of the Government Code.

SEC. 4. Section 12113 of the Education Code is amended to read:

12113. (1) The California State Agency for Surplus Property in providing for the disposition of such property or food commodities shall require the payment of such charges by the parties to whom property or food commodities are transferred as the agency estimates will reimburse the agency for the averge costs of

procuring, storing, handling, and disposing of such property or food commodities. All moneys received by the agency for charges under this section or its predecessor shall be paid into the State Treasury to the credit of the Surplus Property Revolving Fund. The agency may reduce or eliminate charges on property or food commodities found not to be usable for the purpose for which procured. Any moneys found by the agency to be in excess of the costs incurred in procuring, storing, handling and disposing of such property or food commodities may, upon approval of the Department of Finance, be refunded to the parties from whom such moneys were received. Moneys refunded to the state agencies specified in subdivision (2) of this section shall be deposited in the State Treasury as provided in that subdivision.

(2) Notwithstanding any other provision of law, (a) the Department of Education, acting for state agencies supported principally from the General Fund, and (b) state agencies supported principally from a special fund of the State Treasury, shall deposit refunds received under subdivision (1) of this section to the credit of the state fund from which the state agency receives its principal support. The Department of Finance shall determine the fund from which the state agency receives its principal support.

SEC. 5. Section 12115 of the Education Code is amended to read:

12115. There is hereby created in the State Treasury the Surplus Property Revolving Fund. Accumulated reserves resulting from handling and service charges shall be transferred from the appropriation made by Chapter 95 of the Statutes of the First Extraordinary Session of the 56th Legislature to said fund, upon the approval of the Director of Finance. All costs of the California State Agency for Surplus Property, including but not limited to costs of procuring, transporting, shipping, and storing surplus property or food commodities of the federal government or other agencies or individuals and its distribution to public agencies and other eligible institutions and organizations, costs of general assistance and real property procurement, and costs of consultant and contract services, shall be paid from this fund. The Surplus Property Revolving Fund shall be reimbursed from the support appropriation for the agency for costs of general assistance and real property procurement in accordance with Sections 11251 and 11252 of the Government Code.

SEC. 6. Section 12116 of the Education Code is amended to read:

12116. The California State Agency for Surplus Property may send representatives out of this state for the purpose of inspecting property or food commodities or conferring with federal and other state officials, provided such traveling and expenses have been approved by the Governor and by the Department of Finance. Such out-of-state travel shall not come within the limitation imposed in Section 33335 or 71049.

SEC. 7. Section 12117 of the Education Code is amended to read:

12117. The State Agency for Surplus Property may, without at the time furnishing vouchers or itemized statements, draw from the

Surplus Property Revolving Fund for use as a departmental revolving fund:

(a) A sum of not to exceed thirty thousand dollars ($30,000), or

(b) With the approval of the Department of Finance a sum in excess of thirty thousand dollars ($30,000).

Any moneys so withdrawn may only be used, in accordance with law and the Board of Control rules, for payment of compensation earned, traveling expense, traveling expense advances or where immediate payment is otherwise necessary. All disbursements from such revolving fund must be substantiated by vouchers filed with and audited by the Controller. From time to time, disbursements, supported by vouchers, may be reported to the Controller in connection with claims for reimbursement of the departmental revolving fund. At any time upon the demand of the Department of Finance or the Controller, such revolving fund must be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

SEC. 8. Notwithstanding Item 426.2 of the Budget Act of 1978, Chapter 359 of the Statutes of 1978, the sum of twenty-three million seven hundred twenty thousand three hundred ninety-eight dollars ($23,720,398) is hereby appropriated from the Surplus Property Revolving Fund, formerly known as the Educational Surplus Property Revolving Fund, to and in augmentation of Item 301 of the Budget Act of 1978, Chapter 359 of the Statutes of 1978, for expenditure by the State Agency for Surplus Property, formerly known as the State Educational Agency for Surplus Property.

SEC. 9. It is the intent of the Legislature that any savings to a state agency from the use of unbudgeted federal food commodities be reverted to the General Fund in the State Treasury and not utilized for any other purpose unless submitted to the Legislature for review through the procedures prescribed by Section 28 of the Budget Act of 1978 (Chapter 359 of the Statutes of 1978)

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:

This act makes an appropriation for the support of state and local government for the 1978–79 fiscal year in continuation of existing programs, and to allow such programs to utilize the full entitlement of commodities made available by the United States Department of Agriculture. So that the programs will be able to order and accept these commodities without delay, it is essential that this act go into immediate effect.

CHAPTER 575

An act relating to school employees, and declaring the urgency thereof, to take effect immediately

[Approved by Governor August 31, 1978 Filed with Secretary of State August 31, 1978]

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

SECTION 1. Sections 44956 and 44957 of the Education Code shall not be applicable to require the reappointment of any permanent or probationary employee who was terminated pursuant to Section 44955 of the Education Code by the San Bruno Park Elementary School District if the termination under Section 44955 of the Education Code arose because of the discontinuance of a service subsequently made mandatory as a result of the enactment of the Education for All Handicapped Children Act of 1975 (P.L. 94-142) and occurred prior to October 1, 1977; provided, the discontinued service can be reestablished by the reassignment of one or more permanent or probationary employees of the district who are certificated and competent to render the service involved.

Nothing contained herein shall be construed as limiting the rights provided for pursuant to Sections 44956 and 44957 of the Education Code of any permanent or probationary employee to which this section applies for reemployment to any certificated position that becomes available other than a position that is necessitated as a result of the enactment of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

SEC. 2 Due to the unique circumstances concerning the ability of San Bruno Park Elementary School District to offer educational programs brought about by federal law and a recent California tax limitation-initiative constitutional amendment approved by the electorate on June 6, 1978, 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. 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 San Bruno Park Elementary School District may provide adequate services to handicapped pupils at the earliest possible time which, without the passage of this act, they could not provide and still maintain their fiscal integrity, it is essential that this act take immediate effect.

CHAPTER 576

An act to amend Sections 16190, 16191, 16192, and 27321 of, and to add Section 16181.5 to, the Government Code, to amend Sections 107, 110.1, 2505, 2514, 2515, 3375, 20503, 20505, 20542, 20583, 20585, 20586, 20605, and 20641.5 of, to add Chapter 3.5 (commencing with Section 20640) to Part 10 5 of Division 2 of, the Revenue and Taxation Code, relating to property tax, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 31, 1978 Filed with Secretary of State August 31, 1978]

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

SECTION 1 Section 16181.5 is added to the Government Code, to read:

16181.5 For purposes of this chapter, "real property" shall include possessory interests in real property for which property taxes have been postponed pursuant to the provisions of Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code.

SEC. 2. Section 16190 of the Government Code, as amended by Chapter 43 of the Statutes of 1978, 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 or sole possessory interest holder of the residential dwelling, as defined in Section 20583 or Section 20640 of the Revenue and Taxation Code, or a coowner or copossessory interest holder with a person other than a spouse or other individual eligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581) or Chapter 3.5 (commencing with Section 20640) 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 Section 20583 of such code to become delinquent. If the sole owner or possessory interest holder 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 interest in the property.

(b) The claimant, who is a coowner or copossessory interest holder of the residential dwelling, as defined in Section 20583 or Section 20640.2 of the Revenue and Taxation Code, with a spouse or another individual eligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581) or Chapter 3 5

(commencing with Section 20640) 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 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 interest in 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. 3 Section 16191 of the Government Code is amended to read:

16191 The amounts paid pursuant to Section 16180 shall continue to draw interest but amounts owing pursuant to Article 1 (commencing with Section 16180) of this chapter shall not become due and payable if any of the following occurs:

(a) The claimant continues to own and occupy or hold the possessory interest and occupy the premises as a residential dwelling, but ceases to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581) or Chapter 3.5 (commencing with Section 20640) of Part 10 5 of Division 2 of the Revenue and Taxation Code, and does not allow any tax or assessment against the premises, as described in Section 20583 of such code, to become delinquent.

(b) The surviving spouse of a claimant continues to own and occupy or hold the possessory interest and occupy the premises as a residential dwelling, but is ineligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581) or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code, or elects not to postpone such taxes, and does not allow any tax or assessment against the premises, as described in Section 20583 of such code, to become delinquent

(c) The surviving individual otherwise eligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581) or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code continues to own and occupy or hold the possessory interest and occupy the premises as a residential dwelling, but elects not to postpone the property taxes pursuant to such chapter, and does not allow any tax or assessment against the premises, as described in Section 20583 of such code, to become delinquent

SEC. 4 Section 16192 of the Government Code is amended to read

16192 If, at any time, a person meeting the requirements of subdivision (a) or (c) of Section 16191 elects, or any surviving spouse described in subdivision (b) of such section becomes eligible, or otherwise elects, to postpone property taxes pursuant to Chapter 2

(commencing with Section 20581) or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code, payments made pursuant to Section 16180 shall be added to the amount of the lien existing against the residential dwelling.

SEC 4.5 Section 27321 of the Government Code is amended to read·

27321. The recorder shall endorse upon each instrument the book and page in which it is recorded, and shall thereafter mail, or if specified to the contrary deliver, it to the person named in the instrument for return mail, and if no such person is named, to the party leaving it for record.

SEC. 4.7 Section 107 of the Revenue and Taxation Code is amended to read:

107 "Possessory interests" means the following:

(a) Possession of, claim to, or right to the possession of land or improvements, except when coupled with ownership of the land or improvements in the same person.

(b) Taxable improvements on tax-exempt land.

All possessory interests may, in the discretion of the county board of supervisors, be considered as sufficient security for the payment of any taxes levied thereon and may be placed on the secured roll This paragraph shall be operative only in counties having a population of 4,000,000 or more, and, for the 1978–79 fiscal year only, shall be operative in all counties, regardless of population, in which the maximum property tax rate imposed on property on the unsecured roll exceeds the tax rate specified in Section 2237.

Leasehold estates for the production of gas, petroleum and other hydrocarbon substances from beneath the surface of the earth, and other rights relating to such substances which constitute incorporeal hereditaments or profits a prendre, are sufficient security for the payment of taxes levied thereon Such estates and rights shall not be classified as possessory interests, but shall be placed on the secured roll

If the tax on any possessory interest or leasehold estate for the production of gas, petroleum and other hydrocarbon substances is unpaid when the last installment of secured taxes become delinquent, the tax collector shall use those collection procedures which are available for the collection of assessments on the unsecured roll

If the tax on any possessory interest or leasehold estate for the production of gas, petroleum and other hydrocarbon substances remains unpaid at the time set for the sale to the state for taxes carried on the secured roll, such possessory interest tax together with such penalty and costs which may be accrued thereon while on the secured roll shall be transferred to the unsecured roll.

SEC. 5 Section 110.1 of the Revenue and Taxation Code, as amended by Chapter 332 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, including possessory interests in real 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, including possessory interests in 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, including possessory interests in 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. 6. Section 2505 of the Revenue and Taxation Code, as amended by Chapter 43 of the Statutes of 1978, 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), Chapter 3.5 (commencing with Section 20640), or Chapter 4 (commencing with Section 20641) 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 any installment if tendered after the delinquency date thereof, 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 expiration date designated thereon.

SEC 7 Section 2514 of the Revenue and Taxation Code, as amended by Chapter 43 of the Statutes of 1978, is amended to read:

2514 (a) Upon receipt of a certificate of eligibility described in Section 20602 or Section 20640.6 signed by the claimant, the claimant's spouse, or authorized agent appointed under regulations adopted by the Controller pursuant to Section 20603 or Section 20640.7, 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 roll In the case of the secured roll, this information may be entered in that portion of the roll which has been designated for sale to the state information required by Section 3439

(2) In the case of a certificate of eligibility issued pursuant to Section 20602, 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 8. Section 2515 of the Revenue and Taxation Code, as amended by Chapter 43 of the Statutes of 1978, 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, mortgagees, lessees and other lienors.

SEC 11. Section 3375 of the Revenue and Taxation Code is amended to read·

3375 The tax collector shall notify the Controller, in such manner as the Controller shall direct, of all property subject to a "Notice of Lien for Postponed Property Taxes" recorded pursuant to Section 16182 of the Government Code, which:

(a) Is sold to the state for unpaid taxes subsequent to the date of entry on the secured roll of the information required by paragraph (1) of subdivision (a) of Section 2514; or

(b) Becomes subject to those collection procedures that are available for collection of delinquent taxes or assessments on the unsecured roll.

SEC. 12. Section 20503 of the Revenue and Taxation Code, as amended by Chapter 123 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 three hundred dollars ($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), Chapter 3 (commencing with Section 20625) and Chapter 3.5 (commencing with Section 20640) 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. 13. Section 20505 of the Revenue and Taxation Code, as added by Section 40 of Chapter 123 of the Statutes of 1978, is amended to read:
20505. "Claimant" means an individual who—
(a) For purposes of this chapter was either (1) 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, or (2) totally disabled, as defined in Section 12050 of the Welfare and Institutions Code, 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. An individual who qualifies as an owner-claimant may not qualify as a renter-claimant for the same year.

(b) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625) and Chapter 3.5 (commencing with Section 20640) was a member of the household and either an owner-occupant, or a tenant stockholder occupant, or a possessory interest holder occupant, as the case may be, 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. 14. Section 20542 of the Revenue and Taxation Code, as added by Section 44 of Chapter 123 of the Statutes of 1978, 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 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.

(4) If an individual postponed taxes for any given property tax fiscal year under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), or Chapter 3.5 (commencing with Section 20640) 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 15 Section 20583 of the Revenue and Taxation Code, as amended by Chapter 43 of the Statutes of 1978, 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, except as provided in Chapter 3.5 (commencing with Section 20640) of Part 10 5 of Division 2 of the Revenue and Taxation Code.

(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 16. Section 20585, as amended by Chapter 43 of the Statutes of 1978, is amended to read:

20585 Postponement shall not be allowed under this chapter or Chapter 3 (commencing with Section 20625) or Chapter 3.5 (commencing with Section 20640) 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, Chapter 3 (commencing with Section 20625) or Chapter 3.5 (commencing with Section 20640) if household income exceeds an amount determined as follows

(1) On or before March 1 of each year, the California Department of Industrial Relations shall transmit to the Franchise Tax Board the percentages of increase in the California Consumer Price Index for all Urban Consumers and in the California Consumer Price Index for Urban Wage Earners and Clerical Workers of December of the prior calendar year over December of the preceding calendar year.

(2) The Franchise Tax Board shall compute an inflation

adjustment factor by adding 100 percent to the larger of the California Consumer Price Index percentage increases 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 17. Section 20586 of the Revenue and Taxation Code, as added by Chapter 43 of the Statutes of 1978, is amended to read·

20586 For the purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625) and Chapter 3.5 (commencing with Section 20640), 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. 18. Section 20605 of the Revenue and Taxation Code is amended to read.

20605. The postponement of property taxes pursuant to this part shall not affect the obligation of a borrower to continue to make payments to a lender with respect to an impound, trust, or other type of account described in Section 2954 of the Civil Code.

SEC. 19 Chapter 3.5 (commencing with Section 20640) is added to Part 10 5 of Division 2 of the Revenue and Taxation Code, to read.

CHAPTER 3 5 SENIOR CITIZENS POSSESSORY INTEREST HOLDER PROPERTY TAX POSTPONEMENT LAW

20640 This chapter shall be known and may be cited as the "Senior Citizens Possessory Interest Holder Property Tax Postponement Law."

20640.1 (a) 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

(b) Unless the context otherwise dictates or unless otherwise provided in this chapter, the provisions of Chapter 1 and Chapter 2 of this code, Civil Code Section 2924b, Civil Code Section 2931c, Chapter 4 5 (commencing with Section 14735) of Part 5 5 of Division

3 of Title 2 of the Government Code, Chapter 6 (commencing with Section 16180) of Part 1 of Division 4 of Title 2 of the Government Code shall be applicable to property tax postponements made pursuant to this chapter

20640.2. For the purposes of this chapter:

(a) "Possessory interest" means (1) possession of, or right to the possession of land located in this state whether or not coupled with ownership of the residential dwelling on the same, or (2) a possessory interest or right of occupancy on tax exempt land;

(b) "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, located on possessory interest property. It shall include condominiums and mobilehomes upon which property taxes, as defined in subdivision (c), are assessed. It also includes part of a multidwelling or multipurpose building and a part of the land upon which it is built

(c) "Property taxes" means the amount of property tax for which the claimant is personally liable as assessee or is obligated to pay directly to the tax collector pursuant to the terms of the agreement establishing the possessory interest, including all ad valorem property taxes, special assessments, capitalization of leasehold interest, 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, capitalization of leasehold interest, or other charges or user fees appearing on the tax bill of any chartered city which levies and collects its own property taxes

20640.3 A claimant is an individual who·

(a) Holds a right to a possessory interest pursuant to a validly recorded instrument conveying such possessory interest for a term of years no less than 45 years beyond the last day of the calendar year ending immediately prior to the fiscal year for which taxes are initially postponed;

(b) Occupies as a principal place of residence the residential dwelling affixed to such possessory interest real property on the last day of the year designated in Section 20503(c) of this code;

(c) Is 62 years of age or older on or before December 31 of the fiscal year for which postponement is claimed.

20640.4 (a) Subject to the limitations provided in Chapter 1, Chapter 2, or this chapter, a claimant may file with the Franchise Tax Board, a claim for postponement of a sum equal to, but not exceeding the amount of property taxes, for the fiscal year for which the claim is made

(b) Upon verification of the eligibility requirements set forth in Section 20640 9 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 to Postpone must be mailed to the State Controller with a copy of the instrument creating the possessory interest, said copy to be certified by the county recorder of the county in which such real property is located. Where a memorandum of lease has been recorded in lieu of such instrument, a certified copy of said memorandum shall accompany the copy of the instrument creating the possessory interest

(c) (1) Except as provided in this section, any possessory interest or improvement on which property taxes 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 are delinquent at the time the application for postponement under this chapter is made shall not be eligible for postponement.

(2) For 1978–79 and thereafter, any taxes or assessments which became delinquent after the claimant was 62 and before a lien is established pursuant to Section 16182 of the Government Code shall not disqualify an otherwise eligible claimant for postponement under this chapter. An application to postpone taxes for 1978–79 or thereafter also constitutes an application for 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

(d) The Controller shall mail to claimant for due execution the appropriate security instrument for claimant's form of lease, including the consent to assignment required by Section 20640.5(b).

20640.5 (a) The Controller may require as security for the postponement of property taxes pursuant to this chapter any of the following:

1. An assignment to the State of California of the remaining term of the claimant's possessory interest.

2 A security interest in any improvement owned or leased by claimant located on the land which is subject to the possessory interest

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.

(b) On the form supplied by the Controller, the claimant shall obtain the written consent of any coholder of the possessory interest and of the grantor of the possessory interest to the assignment by claimant of the remaining term of claimant's possessory interest The consent shall be in such form and contain such provisions as the

Controller shall prescribe, and shall provide for written notice by the grantor of the possessory interest to the Controller of the occurrence of a default by the claimant under the terms of the instrument creating the possessory interest, a coholder or a prior recorded possessory interest holder which would result in the termination or diminution of claimant's interest.

The term "grantor of the possessory interest," as used in this section shall be deemed to include the fee owner of the real property subject to the possessory interest and the holders of all prior recorded unterminated possessory interests.

20640.6 (a) Upon receipt of the information described in Section 20640.4 and Section 20640.5, the State Controller shall determine whether the state's interest would be adequately protected if postponement is granted, and if so, (a) shall issue to the claimant a certificate of eligibility containing the name of claimant, 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 Controller shall issue a duplicate certificate of eligibility to pay all or any part of property taxes appearing on such city's tax bill.

(b) The Controller shall cause to be recorded with the county recorder of the county in which the real property is located, a copy of any instrument creating a security interest, which shall include applicable consent forms, in favor of the state. Such instrument shall contain a legal description of the real property subject to the possessory interest; and, if the legal description of the possessory interest describes an area less than the entire property ownership, the notice or document shall also contain a reference to the record of the acquisition instrument to the entire parcel from which the possessory interest was created. The priority of the security interest shall be as of the date of recordation.

(c) The Controller shall prescribe the form of 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 the certificates and mail the certificates to the tax collector and (2) those taxpayers will receive a refund check from the county or city in the amount they entered on the 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.

(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 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 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)

20640.7. The Controller shall prescribe the manner in which a claimant eligible under this chapter, who for any reason is incapacitated, may appoint his or her spouse or an authorized agent, or have any such person appointed for such claimant, for all purposes of claiming and using certificates of eligibility for the postponement of property taxes.

20640 8 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.

20640 9 Each claimant applying for postponement under 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 person was a "senior citizen claimant "

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling in such manner as the Franchise Tax Board may prescribe.

(d) The name of the county in which the residential dwelling is located and the address of the residential dwelling.

(e) The county assessor's parcel number applicable to the property for which the claimant is applying for the postponement of property taxes

(f) Other information required by the Franchise Tax Board to establish eligibility

20640 10. The Controller shall maintain a record of all persons who have received postponment amounts pursuant to this chapter Such record shall include the name and address of the claimant, the name and address of the fee title owner of the real property, the name and address of any other party whose consent to the assignment is required by this chapter, and any other information

deemed necessary by the Controller for administration purposes.

20640 11. All amounts postponed pursuant to this chapter shall be due if any of the following occurs:

(a) The claimant ceases to occupy the residential dwelling as the principal place of residence, sells or otherwise disposes of his possessory interest, or the possessory interest agreement expires by its terms

(b) The claimant dies. However, if the surviving spouse or another person eligible to postpone pursuant to this chapter continues to occupy the residential dwelling, then the postponed amounts shall not be due unless such person dies, or ceases to occupy the residential dwelling.

(c) The failure of the claimant, the fee title owner, or any owner of a prior recorded possessory interest 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

20640 12 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 cotenant with the claimant pursuant to the possessory interest agreement

(b) Direct the Department of General Services to sell any property pledged by the claimant as security for postponement

(c) Request the Attorney General to bring an action to recover amounts postponed under this chapter by the claimant.

(d) Utilize any or all of the enforcement and foreclosure provisions set forth in Article 3, Chapter 6 of Part 1 of Division 4 of Title 2 of the Government Code

SEC. 20. Section 20641.5 of the Revenue and Taxation Code, as added by Chapter 43 of the Statutes of 1978, is amended 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), Chapter 3 (commencing with Section 20625) or Chapter 3 5 (commencing with Section 20640) may be granted However, no extension shall be granted beyond April 15 of the fiscal year for which postponement is claimed.

SEC. 21 The provisions of this act shall apply with respect to postponement claims for the 1978–79 property tax fiscal year and thereafter.

SEC 22 The Legislature hereby finds and declares that the amendments to Section 27321 of the Government Code effected by Section 4 5 of this act do not constitute a change in but are declaratory of existing law

SEC. 23 Section 20542 of the Revenue and Taxation Code, as added by Section 44 of Chapter 123 of the Statutes of 1978, 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 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 full value of the residential dwelling up to, and including, thirty-four thousand dollars ($34,000). No assistance shall be allowed for property taxes paid on that portion of full value of a residential dwelling exceeding thirty-four thousand dollars ($34,000) 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

(4) If an individual postponed taxes for any given property tax fiscal year under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), or Chapter 3 5 (commencing with Section 20640) 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. 24 It is the intent of the Legislature, if this bill and Senate Bill No 1656 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 20542 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1656, that Section 20542 of the Revenue and Taxation Code, as amended by Section 14 of this act shall remain operative only until the operative date of Senate Bill No. 1656, and that on the operative date of Senate Bill No 1656 Section 20542 of the Revenue and Taxation Code as amended by Section 14 of this act be further amended in the form set forth in Section 23 of this act to incorporate the changes in Section 20542 proposed by Senate Bill No. 1656. Therefore, Section 23 of this act shall become operative only if this bill and Senate Bill No 1656 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 20542, and this bill is chaptered after Senate Bill No. 1656, in which case Section 23 of this act shall become operative on the operative date of Senate Bill No. 1656.

SEC 25. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are:

In order to implement property tax postponement privileges for senior citizen possessory interest holders for the 1978–79 fiscal year, it is necessary for this act to take effect immediately

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CHAPTER 577

An act to amend Sections 120227 and 120240 of, to amend the heading of Article 4 (commencing with Section 120260) of Chapter 4 of Division 11 of, to add Section 120264 to, and to add Chapter 5 (commencing with Section 120500) to Division 11 of, the Public Utilities Code, and to amend Section 199.2 of the Streets and Highways Code, relating to transit development boards.

[Approved by Governor August 31, 1978 Filed with Secretary of State August 31, 1978]

The people of the State of California do enact as follows

SECTION 1 Section 120227 of the Public Utilities Code is amended to read

120227 The board and the Board of Administration of the Public Employees' Retirement System shall enter into a contract, and the board shall make all of its officers and employees members of the system, except as follows

(a) Members of the board.

(b) Officers and employees excluded pursuant to Section 20492 of the Government Code.

SEC. 2 Section 120240 of the Public Utilities Code is amended to read.

120240. The board may take by grant, purchase, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and hold and enjoy, real and personal property of every kind necessary to the full or convenient exercise of its powers. The board may lease, mortgage, sell, or otherwise dispose of any real or personal property necessary to the full or convenient exercise of its powers.

SEC. 3. Chapter 5 (commencing with Section 120500) is added to Division 11 of the Public Utilities Code, to read:

CHAPTER 5. PERSONNEL

Article 1. Employees Relations

120500. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities as permitted under the Federal Labor Management Relations Act, 1947, as amended, for the purpose of collective bargaining or other mutual aid or protection.

It is declared to be in the public interest that the board shall not express any preference for one union over another.

120501. Whenever a majority of the employees employed by the board in a unit that is the appropriate unit for collective bargaining indicate a desire to be represented by a labor organization and upon determining as provided in Section 120505, that such labor organization represents the majority of the employees in that appropriate unit, the board shall meet and confer in a good-faith effort to agree on the terms of a written contract with the recognized representatives of such employees governing wages, salaries, hours, working conditions, and benefits, including, but not limited to, health and welfare, sick leave, insurance, or pension or retirement provisions.

120502. In case of a labor dispute over wages, salaries, hours, working conditions, and benefits on the making or maintaining of collective-bargaining agreements and the terms to be included in such agreements, which is not resolved by negotiations in good faith between the board and the labor organization, upon the joint request of both, the board and the labor organization may submit the dispute to the decision of the majority of an arbitration panel

The arbitration panel shall be composed of one representative of the board, and one representative of the labor organization, and they shall endeavor to agree upon the selection of the third member. If they are unable to agree, the names of five persons experienced in labor arbitration shall be obtained from the State Conciliation

Service The labor organization and the board shall, alternately, strike a name from the list so supplied, and the name remaining, after the labor organization and the board have stricken four names, shall be designated as the third arbitrator. The labor organization and the board shall determine by lot who shall first strike a name from the list The decision of a majority of the arbitration board shall be final and binding upon the parties thereto The expenses of arbitration shall be borne equally by the parties. Each party shall bear its own costs.

120503 In the event the board and the representatives of the employees do not agree to submit the dispute to an arbitration panel as provided in Section 120502, the State Conciliation Service may be notified by either party that a labor dispute exists and that there is no agreement to arbitrate.

The service shall determine whether or not the labor dispute may be resolved by the parties and, if not, the issues concerning which the dispute exists. Upon such determination, the service shall certify its findings to the Governor of the State of California who shall, within 10 days of receipt of certification, appoint a factfinding commission consisting of three persons. The commission shall immediately convene and inquire into and investigate the issues involved in the dispute and shall report to the Governor within 30 days of the date of its creation

After the creation of such commission, and for 30 days after such commission has made its report to the Governor, no change, except by mutual agreement, shall be made by the parties to the controversy in the conditions out of which the labor dispute arose and service to the public shall be provided

120504 No contract or agreement shall be made with any labor organization, association, or group which denies membership to, or in any manner discriminates against, any employee on the grounds of race, creed, color, or sex

The board shall not discriminate in regard to employment against any person because of race, creed, color, or sex

120505 If there is a question of whether a labor organization represents a majority of employees or whether the proposed unit is the appropriate unit for collective bargaining, the question shall be submitted to the State Conciliation Service for disposition. The service shall promptly hold a public hearing, after due notice to all interested parties, and shall thereupon determine the unit appropriate for the purposes of collective bargaining In making such determination and in establishing rules and regulations governing petitions and the conduct of hearings and elections, the service shall be guided by relevant federal law and administrative practice developed under the Labor Management Relations Act, 1947, as amended

The service shall provide for an election to determine the question of representation and shall certify the results to the parties. Any certification of a labor organization to represent or act for the

employees in any collective-bargaining unit shall not be subject to challenge on the grounds that a new substantial question of representation within such collective unit exists until the lapse of one year from the date of certification or the expiration of any collective-bargaining agreement, whichever is later, except that no collective-bargaining agreement shall be construed to be a bar to representation proceedings for a period of more than two years.

120506. The obligation of the board to meet and confer in good faith with the duly certified labor organization and to agree on the terms of a written collective-bargaining agreement with such labor organization covering the wages, hours, working conditions, and benefits of the employees represented by such labor organization in the appropriate unit, and to comply with the terms thereof, shall not be limited or restricted by the provisions of the Government Code or other laws or statutes. The obligations of the board to bargain collectively shall extend to all subjects of collective bargaining which are, or may be, mandatory subjects of collective bargaining with a private employer, including retroactive provisions and benefits for retired employees.

120507 Notwithstanding the provisions of the Government Code, employees of the board may authorize and, upon such authorization, the board may make deductions from wages and salaries of such employees:

(a) Pursuant to a collective-bargaining agreement with a duly designated or certified labor organization for the payment of union dues, fees, or assessments.

(b) For the payment of contributions pursuant to any health and welfare plan or pension or retirement plan.

(c) For any purpose for which deductions may be authorized by employees of any private employer

Article 2 Rights of Employees of Existing Facilities

120520 Whenever the board acquires the San Diego Transit Corporation, or other existing facilities from a privately or publicly owned utility, either in proceedings by eminent domain or otherwise, to the extent necessary for operation of facilities, any of the employees whose duties pertain to the facilities acquired who have been employed by the corporation or utility, as the case may be, for at least 75 days shall be appointed to comparable positions by the board without examination. These employees shall be given sick leave, seniority, and vacation credits in accordance with the records of the corporation or other acquired utility, as the case may be. No employee of the corporation or of any acquired utility shall suffer any worsening of wages, seniority, pension, vacation, or other benefits as they exist at the time of and by reason of the acquisition.

The board shall assume and observe all existing labor contracts of the corporation or of the acquired utility, as the case may be, insofar as they relate to the acquired facilities.

The provisions of this section shall apply only to those officers or supervisory employees of the corporation or of the acquired utility, as the case may be, as shall be designated by the board.

120521. Whenever the board acquires the San Diego Transit Corporation, or other existing facilities from a privately or publicly owned public utility, either in proceedings in eminent domain or otherwise, that has a pension plan in operation, members and beneficiaries of such pension plan shall continue to have the rights, privileges, benefits, obligations, and status with respect to such plan.

The board shall consider, and take into account, the outstanding obligations and liabilities of the corporation or of the publicly or privately owned public utility, as the case may be, by reason of such pension plan, and may negotiate an allowance in the purchase price of the corporation or the utility for the assumption of such obligations and liabilities when acquiring the corporation or the utility.

Article 3. Employee Protection

120540 It shall be a condition of the operation of any transit facility owned or controlled by the board that subsection (c) of Section 1609 of Title 49 of the United States Code shall be given effect to the extent required by law.

SEC 4. The heading of Article 4 (commencing with Section 120260) of Chapter 4 of Division 11 of the Public Utilities Code is amended to read:

Article 4 Facilities and Services

SEC. 5. Section 120264 is added to the Public Utilities Code, to read·

120264. The transit development board may acquire, construct, maintain, and operate (or let a contract to operate) public transit systems and related transportation facilities and services as it deems necessary to carry out the purposes of this division.

SEC. 6. Section 199.2 of the Streets and Highways Code is amended to read:

199.2 (a) All funds allocated for exclusive public mass transit guideway construction purposes pursuant to Sections 199 and 199.1 or made available for such purposes pursuant to subdivision (b) shall be retained in the State Highway Account until such time as such funds are needed for expenditure by the local entities and the transit development board The department, local entities, and the board shall jointly establish procedures for the orderly implementation of this section.

(b) Upon application by the transit development board created by Section 120050 of the Public Utilities Code, the commission may by resolution adopt a plan under which the department shall advance State Highway Account funds to the transit development board for exclusive public mass transit guideway construction

purposes. The plan shall provide for the method and timing of amortization of the principal of, and interest on, the advance. The maximum amount which shall be advanced under this subdivision shall not exceed an amount equal to the total allocations to the transit development board under Section 199.1 for the succeeding five fiscal years based upon the state transportation improvement program adopted pursuant to Section 14529 of the Government Code and in effect at the time the plan is adopted by the commission. The amount of funds advanced in excess of that to which the transit development board is currently entitled under Section 199.1 shall earn interest at the rate of interest equal to that which is earned on the State Pooled Money Investment Fund. No advances shall be made after June 30, 1983. After June 30, 1983, allocations to the transit development board under Section 199.1 shall be applied to the amortization of the advances in excess of entitlement during the previous years until the advances, including the interest thereon, have been fully paid.

(c) The application of the transit development board to the commission for an advance shall include an operating plan which indicates the estimated cost of operating the system and the proposed sources of the operating revenues. The staff of the commission shall provide an analysis of the application, with special attention to be given to the financial element of the application.

(d) Notwithstanding Section 199, the funds so advanced shall not be deemed an expenditure on the state highway system solely within the year of the advance, but rather shall be deemed so expended over the five-year period in an amount during each year equal to the amount calculated for each of those years in arriving at the five-year total.

CHAPTER 578

An act to add and repeal Chapter 5 (commencing with Section 13840) to Title 6 of Part 4 of the Penal Code, relating to community crime resistance

[Approved by Governor September 5, 1978 Filed with Secretary of State September 6, 1978]

The people of the State of California do enact as follows

SECTION 1. Chapter 5 (commencing with Section 13840) is added to Title 6 of Part 4 of the Penal Code, to read

CHAPTER 5 CALIFORNIA COMMUNITY CRIME RESISTANCE PROGRAM

13840 The Legislature hereby finds the resistance to crime and juvenile delinquency requires the cooperation of both community

and law enforcement officials; and that successful crime resistance programs involving the participation of citizen volunteers and community leaders shall be identified and given recognition. In enacting this chapter, the Legislature intends to recognize successful crime resistance and prevention programs, disseminate successful techniques and information and to encourage local agencies to involve citizen volunteers in efforts to combat crime and related problems

13841 As used in this chapter:

(a) "Community" means cities, counties, or combinations thereof.

(b) "Elderly or senior citizen" means individuals 55 years of age or older

13842 (a) There is hereby established in the Office of Criminal Justice Planning an advisory group entitled, "The California Crime Resistance Task Force." All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the Executive Director of such office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes. Differences between applicants and the executive director on matters relating to the award or curtailment of funding decisions will be resolved by the California Council on Criminal Justice in accordance with its appeals procedure.

(b) The crime resistance task force, to consist of not more than 16 members, shall be composed of two elected city officials, two elected county officials, six community members, and six law enforcement officials designated by the Governor in recognition of successful endeavors in the area of crime prevention and other forms of crime resistance When this chapter takes effect the existing members of the Crime Resistance Task Force shall continue as full members.

(c) Members of the task force shall assist the Governor and the California Council on Criminal Justice in furthering citizen involvement in local law enforcement and crime resistance efforts.

(d) The California Crime Resistance Task Force shall be chaired by the Governor or his designated representative.

(e) The Executive Director of the Office of Criminal Justice Planning shall serve as secretary of the task force. He shall accept and administer on behalf of the task force any funds made available to the crime resistance program

(f) Funds awarded under this program as local assistance grants shall not be subject to review as specified in Section 14780 of the Government Code

13843 (a) Allocation and award of funds made available under this act shall be made upon application to the Office of Criminal Justice Planning. All applications shall be reviewed and evaluated by the crime resistance task force in accordance with its established criteria, policy, and procedures Applications deemed appropriate for funding consideration and those deemed not appropriate for

funding will be transmitted, with explanatory comments to the Executive Director of the Office of Criminal Justice Planning.

(b) The Executive Director of the Office of Criminal Justice Planning is authorized to allocate and award funds to communities developing citizen involvement and crime resistance programs in compliance with the policies and criteria developed by the California Crime Resistance Task Force as set forth in Sections 13844 and 13845. Applications receiving funding under this section shall be selected from among those deemed appropriate for funding by the crime resistance task force. Comprehensive crime prevention programs for the elderly as set forth in paragraph (1) of subdivison (a) of Section 13844 shall, in the aggregate, be included among program activities in local assistance grants receiving not less than 50 percent of funds available under this chapter.

(c) No single award of funds under this chapter shall exceed a maximum of one hundred twenty-five thousand dollars ($125,000) for a 12-month grant period. It is intended that at least eight local project awards will be supported with funds made available under this chapter.

(d) Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the Community Crime Resistance Program, be made available to support crime resistance programs in local law enforcement agencies.

(e) Within 90 days following the effective date of this chapter and in consultation with the California Crime Resistance Task Force, the executive director shall prepare and issue written program and administrative guidelines and procedures for the California Community Crime Resistance Program, consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures, a complete and final draft of them shall be submitted no later than 60 days following the effective date of this chapter to the Chairpersons of the Criminal Justice Committee of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

(f) Annually, commencing November 1, 1978, the executive director shall prepare a report to the Legislature describing in detail the operation of the program and results obtained from the California Community Crime Resistance Program.

13844. (a) Local projects supported under the California Community Crime Resistance Program shall include at least three (3) of the following activities:

(1) Comprehensive crime prevention programs for the elderly, to include but not limited to, education, training and victim and witness assistance programs.

(2) Efforts to promote neighborhood involvement, such as, but not limited to block clubs and other community based resident-sponsored anticrime programs.

(3) Home and business security inspections.

(4) Efforts to deal with domestic violence.

(5) Prevention of sexual assaults.

(6) Programs which make available to community residents and businesses information on locking devices, building security and related crime resistance approaches.

(7) Training for peace officers in community orientation and crime prevention.

(b) Those activities which shall be included in approved programs are

(1) The use of volunteers or paraprofessions to assist local law enforcement agencies in implementing and conducting community crime resistance programs.

(2) The applicant's commitment to continue the citizen involvement program with local funds after they have been developed and implemented with state moneys.

13845 Criteria for selection of communities to receive funding shall include consideration of, but need not be limited to, all of the following:

(1) Compliance with paragraph (2) of subdivision (a) of Section 13844

(2) The rate of reported crime, by type, including, but not limited to, the seven major offenses, in the community making the application.

(3) The number of elderly citizens residing in the community.

(4) The number and ratio of elderly crime victims compared to the total senior citizen population in that community.

(5) The display of efforts of cooperation between the community and their local law enforcement agency in dealing with the crime problem

(6) Demonstrated effort on the part of the applicant to show how funds that may be awarded under this program may be coordinated or consolidated with other local, state or federal funds available for the activities set forth in Section 13844.

13846 (a) Evaluation and monitoring of all grants made under this section shall be the responsibility of the Office of Criminal Justice Planning.

(b) Information on successful programs shall be made available and relayed to other California communities through the California Crime Resistance Task Force technical assistance procedures.

SEC. 2. The California Council on Criminal Justice is encouraged to make funds available from the local share of federal money under its control to carry out this act.

SEC. 3. Section 1 of this act shall remain operative only until January 1, 1983, and on such date is repealed.

SEC. 4. The crime rate in California has substantially increased over a 10-year period. The rate of increase over the last five years has been 20 percent (20%); and over the last 10 years has been at a rate of 93 percent (93%). This represents an average increase of almost 10 percent (10%) per year. The types of crime resistance activities to be supported under this act have generally been demonstrated to

have a substantial and rapid effect in reducing local crime incidence.

CHAPTER 579

An act to amend Sections 182, 190, 193, 204, 208, 211a, 213, 216, 217, 217.1, 219.1, 220, 246, 264, 264.1, 286, 288, 288a, 447a, 448a, 454, 459, 460, 461, 464, 653f, 664, 669, 1170, 1170.2, 3046, 4501, 4501 5, 4502, 4503, 4530, 4532, 4574, 12022 7, 12303 1, 12303.2, 12303.3, 12308, 12309, and 12312 of the Penal Code, relating to imprisonment

[Approved by Governor September 5, 1978 Filed with Secretary of State September 6, 1978]

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

SECTION 1. Section 182 of the Penal Code is amended to read:

182. If two or more persons conspire:

1. To commit any crime.

2. Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime

3 Falsely to move or maintain any suit, action or proceeding

4. To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain money or property by false pretenses or by false promises with fraudulent intent not to perform such promises.

5. To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.

6. To commit any crime against the person of the President or Vice President of the United States, the Governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States.

They are punishable as follows:

When they conspire to commit any crime against the person of any official specified in subdivision 6, they are guilty of a felony and are punishable by imprisonment in the state prison for five, seven, or nine years

When they conspire to commit any other felony, they shall be punishable in the same manner and to the same extent as is provided for the punishment of the said felony. If the felony is one for which different punishments are prescribed for different degrees, the jury or court which finds the defendant guilty thereof shall determine the degree of the felony defendant conspired to commit. If the degree is not so determined, the punishment for conspiracy to commit such felony shall be that prescribed for the lesser degree, except in the case of conspiracy to commit murder, in which case the punishment shall be that prescribed for murder in the first degree.

If the felony is conspiracy to commit two or more felonies which

have different punishments and the commission of such felonies constitute but one offense of conspiracy, the penalty shall be that prescribed for the felony which has the greater maximum term.

When they conspire to do an act described in subdivision 4 of this section, they shall be punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year, or by a fine not exceeding five thousand dollars ($5,000), or both.

When they conspire to do any of the other acts described in this section they shall be punishable by imprisonment in the county jail for not more than one year, or in the state prison, or by a fine not exceeding five thousand dollars ($5,000) or both.

All cases of conspiracy may be prosecuted and tried in the superior court of any county in which any overt act tending to effect such conspiracy shall be done

SEC. 2. Section 190 of the Penal Code is amended to read·

190. Every person guilty of murder in the first degree shall suffer death, confinement in state prison for life without possibility of parole, or confinement in state prison for life. The penalty to be applied shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5 Every person guilty of murder in the second degree is punishable by imprisonment in the state prison for five, seven, or 11 years.

SEC 3. Section 193 of the Penal Code is amended to read:

193. (a) Voluntary manslaughter is punishable by imprisonment in the state prison for two, four, or six years.

(b) Involuntary manslaughter is punishable by imprisonment in the state prison for two, three or four years.

(c) A violation of subsection 3 of Section 192 of this code is punishable as follows: In the case of a violation of subdivision (a) of said subsection 3 the punishment shall be either by imprisonment in the county jail for not more than one year or in the state prison, and in such case the jury may recommend by their verdict that the punishment shall be by imprisonment in the county jail; in the case of a violation of subdivision (b) of said subsection 3, the punishment shall be by imprisonment in the county jail for not more than one year. In cases where, as authorized in this section, the jury recommends by their verdict that the punishment shall be by imprisonment in the county jail, the court shall not have authority to sentence the defendant to imprisonment in the state prison, but may nevertheless place the defendant on probation as provided in this code

SEC. 4 Section 204 of the Penal Code is amended to read:

204. Mayhem is punishable by imprisonment in the state prison for two, four, or six years.

SEC. 5. Section 208 of the Penal Code is amended to read:

208 Kidnapping is punishable by imprisonment in the state prison for three, five, or seven years.

SEC 6 Section 211a of the Penal Code is amended to read:

211a The robbery of any person who is performing his duties as

operator of any motor vehicle, streetcar, or trackless trolley used for the transportation of persons for hire, is punishable by imprisonment in the state prison for three, four, or six years.

SEC. 7. Section 213 of the Penal Code is amended to read:

213. Except as provided in Section 211a, robbery is punishable by imprisonment in the state prison for two, three, or five years.

Notwithstanding Section 664, attempted robbery is punishable by imprisonment in the state prison.

SEC. 8. Section 216 of the Penal Code is amended to read:

216. Every person who, with intent to kill, administers, or causes or procures to be administered, to another, any poison or other noxious or destructive substance or liquid, but by which death is not caused, is punishable by imprisonment in the state prison for two, four, or six years.

SEC. 9. Section 217 of the Penal Code is amended to read:

217. Every person who assaults another with intent to commit murder, is punishable by imprisonment in the state prison for two, four, or six years.

SEC. 10. Section 217.1 of the Penal Code is amended to read:

217.1. Every person who attempts to kill, or who commits any assault upon the President or Vice President of the United States, the Governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States, is guilty of a felony and is punishable by imprisonment in the state prison for three, five, or seven years.

SEC. 11. Section 219.1 of the Penal Code is amended to read:

219.1. Every person who unlawfully throws, hurls or projects at a vehicle operated by a common carrier, while such vehicle is either in motion or stationary, any rock, stone, brick, bottle, piece of wood or metal or any other missile of any kind or character, or does any unlawful act, with the intention of wrecking such vehicle and doing bodily harm, and thus wrecks the same and causes bodily harm, is guilty of a felony and punishable by imprisonment in the state prison for two, four, or six years.

SEC. 12. Section 220 of the Penal Code is amended to read:

220. Every person who assaults another with intent to commit rape, sodomy, or mayhem is punishable by imprisonment in the state prison for two, four, or six years.

SEC. 13. Section 246 of the Penal Code is amended to read:

246. Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, inhabited house car, as defined in Section 362 of the Vehicle Code, or inhabited camper, as defined in Section 243 of the Vehicle Code, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for two, three or four years, or by imprisonment in the county jail not exceeding one year. As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

SEC. 14. Section 264 of the Penal Code is amended to read:

264. Rape, as defined in Section 261, is punishable by imprisonment in the state prison for three, six, or eight years Unlawful sexual intercourse, as defined in Section 261.5, is punishable either by imprisonment in the county jail for not more than one year or in the state prison, and in such case the jury shall recommend by their verdict whether the punishment shall be by imprisonment in the county jail or in the state prison; provided, that when the defendant pleads guilty to an offense under Section 261.5 the punishment shall be in the discretion of the trial court, either by imprisonment in the county jail for not more than one year or in the state prison.

SEC 15. Section 264.1 of the Penal Code is amended to read:

264.1. The provisions of Section 264 notwithstanding, in any case in which defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed the rape, either personally or by aiding and abetting such other person, such fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, defendant shall suffer confinement in the state prison for five, seven, or nine years.

SEC 16. Section 286 of the Penal Code is amended to read:

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person

(b) (1) Any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony

(c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he, or who has compelled the participation of another person in an act of sodomy by force, violence, duress, menace, or threat of great bodily harm, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of sodomy by force or violence and against the will of the victim shall be punished by imprisonment in the state prison for five, seven, or nine years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to

the person committing the act, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

SEC. 17. Section 288 of the Penal Code is amended to read:

288. Any person who shall willfully and lewdly commit any lewd or lascivious act including any of the acts constituting other crimes provided for in Part 1 of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the state prison for a term of three, five, or seven years.

SEC. 18. Section 288a of the Penal Code is amended to read:

288a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ of another person

(b) (1) Any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age shall be guilty of a felony

(c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he, or who has compelled the participation of another person in an act of oral copulation by force, violence, duress, menace, or threat of great bodily harm, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of oral copulation by force or violence and against the will of the victim shall be punished by imprisonment in the state prison for five, seven, or nine years.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031 4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

SEC. 19 Section 447a of the Penal Code is amended to read:

447a Any person who willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of any trailer coach, as defined in Section 635 of the Vehicle Code, or any inhabited house car, as defined in Section 362 of the Vehicle Code, or inhabited camper, as defined in Section 243 of the

Vehicle Code, or any dwelling house, or any kitchen, shop, barn, stable or other outhouse that is parcel thereof, or belonging to or adjoining thereto, whether the property of himself or of another, shall be guilty of arson, and upon conviction thereof, be sentenced to the state prison for two, four, or six years. As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

SEC. 20. Section 448a of the Penal Code is amended to read:

448a. Any person who willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of any barn, stable, garage or other building, whether the property of himself or of another, not a parcel of a dwelling house; or any shop, storehouse, warehouse, factory, mill or other building, whether the property of himself or of another; or any church, meetinghouse, courthouse, workhouse, school, jail or other public building or any public bridge, shall, upon conviction thereof, be sentenced to the state prison for two, four, or six years.

SEC. 21. Section 454 of the Penal Code is amended to read·

454. Every person who violates the provisions of Section 447a, 448a, 449a, 449b, 449c or 450a during and within the area of a state of insurrection or a state of emergency as proclaimed by the Governor pursuant to Section 143 of the Military and Veterans Code or pursuant to Section 8625 of the Government Code, provided that such state of emergency is proclaimed because of riot, is punishable by imprisonment in the state prison for three, five, or seven years.

SEC. 22. Section 459 of the Penal Code is amended to read:

459. Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, railroad car, trailer coach, as defined in Section 635 of the Vehicle Code, any house car, as defined in Section 362 of the Vehicle Code, inhabited camper, as defined in Section 243 of the Vehicle Code, vehicle as defined by the Vehicle Code when the doors of such vehicle are locked, aircraft as defined by the Harbors and Navigation Code, mine or any underground portion thereof, with intent to commit grand or petit larceny or any felony is guilty of burglary. As used in this chapter, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

SEC. 23 Section 460 of the Penal Code is amended to read:

460. 1. Every burglary of an inhabited dwelling house or trailer coach as defined by the Vehicle Code, or the inhabited portion of any other building committed in the nighttime, is burglary of the first degree.

2. All other kinds of burglary are of the second degree.

3. This section shall not be construed to supersede or affect Section 464 of the Penal Code.

SEC. 24 Section 461 of the Penal Code is amended to read.

461. Burglary is punishable as follows:

1 Burglary in the first degree: by imprisonment in the state prison

for two, four, or six years.

2. Burglary in the second degree· by imprisonment in the county jail not exceeding one year or in the state prison.

SEC 25 Section 464 of the Penal Code is amended to read·

464. Any person who, with intent to commit crime, enters, either by day or by night, any building, whether inhabited or not, and opens or attempts to open any vault, safe, or other secure place by use of acetylene torch or electric arc, burning bar, thermal lance, oxygen lance, or any other similar device capable of burning through steel, concrete, or any other solid substance, or by use of nitroglycerine, dynamite, gunpowder, or any other explosive, is guilty of a felony and, upon conviction, shall be punished by imprisonment in the state prison for a term of three, five, or seven years.

SEC. 26. Section 653f of the Penal Code is amended to read·

653f. (a) Every person who solicits another to offer or accept or join in the offer or acceptance of a bribe, or to commit or join in the commission of robbery, burglary, grand theft, receiving stolen property, extortion, rape by force and violence, perjury, subornation of perjury, forgery, kidnapping, arson or assault with a deadly weapon or instrument or by means of force likely to produce great bodily injury, is punishable by imprisonment in the county jail not more than one year or in the state prison, or by fine of not more than five thousand dollars ($5,000), or the amount which could have been assessed for commission of the offense itself, whichever is greater, or by both such fine and imprisonment.

(b) Every person who solicits another to commit or join in the commission of murder is punishable by imprisonment in the state prison for two, four, or six years.

(c) An offense charged in violation of subdivision (a) or (b) must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances

SEC. 27. Section 664 of the Penal Code is amended to read

664. Every person who attempts to commit any crime, but fails, or is prevented or intercepted in the perpetration thereof, is punishable, where no provision is made by law for the punishment of such attempts, as follows:

1. If the offense so attempted is punishable by imprisonment in the state prison, the person guilty of such attempt is punishable by imprisonment in the state prison for one-half the term of imprisonment prescribed upon a conviction of the offense so attempted; provided, however, that if the crime attempted is one in which the maximum sentence is life imprisonment or death the person guilty of such attempt shall be punishable by imprisonment in the state prison for a term of five, seven, or nine years.

2. If the offense so attempted is punishable by imprisonment in a county jail, the person guilty of such attempt is punishable by imprisonment in a county jail for a term not exceeding one-half the term of imprisonment prescribed upon a conviction of the offense so attempted

3 If the offense so attempted is punishable by a fine, the offender convicted of such attempt is punishable by a fine not exceeding one-half the largest fine which maybe imposed upon a conviction of the offense so attempted

SEC. 28. Section 669 of the Penal Code is amended to read:

669 When any person is convicted of two or more crimes, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same judge or by different judges, the second or other subsequent judgment upon which sentence is ordered to be executed shall direct whether the terms of imprisonment or any of them to which he is sentenced shall run concurrently or consecutively; life sentences, whether with or without the possibility of parole, may be imposed to run consecutively with one another or with any other term of imprisonment for a felony conviction. Whenever a person is committed to prison on a life sentence which is ordered to run consecutive to any determinate term of imprisonment imposed pursuant to Sections 1170, 1170 1, 667.5, 12022, 12022.5, 12022.6, and 12022 7, the determinate term of imprisonment shall be served first and no part thereof shall be credited toward the person's eligibility for parole as calculated pursuant to Section 3046

In the event that the court at the time of pronouncing the second or other judgment upon such person had no knowledge of a prior existing judgment or judgments, or having knowledge, fails to determine how the terms of imprisonment shall run in relation to each other, then, upon such failure so to determine, or upon such prior judgment or judgments being brought to the attention of the court at any time prior to the expiration of 60 days from and after the actual commencement of imprisonment upon the second or other subsequent judgments, the court shall, in the absence of the defendant and within 60 days of such notice, determine how the term of imprisonment upon said second or other subsequent judgment shall run with reference to the prior incompleted term or terms of imprisonment. Upon the failure of the court so to determine how the terms of imprisonment on the second or subsequent judgment shall run, the term of imprisonment on the second or subsequent judgment shall run concurrently.

The Department of Corrections shall advise the court pronouncing the second or other subsequent judgment of the existence of all prior judgments against the defendant, the terms of imprisonment upon which have not been completely served.

SEC. 29. Section 1170 of the Penal Code is amended to read·

1170 (a) (1) The Legislature finds and declares that the purposes of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be

achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three or five years; three, four, or five years; two, four, or six years, three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years, five, seven, or 11 years, or any other specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he had committed his crime prior to July 1, 1977 In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Director of Corrections However, any such sentence shall be deemed a separate prior prison term under Section 667 5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime At least four days prior to the time set for imposition of judgment either party may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution or the defendant, and any further evidence introduced at the sentencing hearing The court shall set forth on the record the facts and reasons for imposing the upper or lower term The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed

under Section 667.5, 1170.1, 12022, 12022.5, 12022.6, or 12022.7. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Community Release Board, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(f) In all cases the Community Release Board shall, not later than one year after the commencement of the term of imprisonment, review the sentence and shall by motion recommend that the court recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not been previously sentenced if the board determines the sentence is disparate. The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in subdivisions (b), (c), (d), and (e) of Section 1170.3 and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

SEC. 30. 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 April 1, 1978, or within 120 days of receipt of the prisoner, whichever is later. The board may by resolution extend this period an additional 90 days. However, such resolution shall have no force or effect if vetoed by resolution of either house of the Legislature. 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. 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 31 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. 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. 32 Section 3046 of the Penal Code is amended to read.

3046. No prisoner imprisoned under a life sentence may be paroled until he has served at least seven calendar years. Where two or more life sentences are ordered to run consecutively to each other pursuant to Section 669, no prisoner so imprisoned may be paroled until he has served at least seven calendar years on each of the life sentences which are ordered to run consecutively. The Community Release Board shall, in considering a parole for such prisoner, consider all statements and recommendations which may have been submitted by the judge, district attorney, and sheriff, pursuant to Section 1203.01, or in response to notices given under Section 3042, and recommendations of other persons interested in the granting or denying of such parole. The board shall enter on its order granting or denying parole to such prisoners, the fact that such statements and recommendations have been considered by it.

SEC. 33. Section 4501 of the Penal Code is amended to read:

4501. Every person confined in a state prison of this state except one undergoing a life sentence who commits an assault upon the person of another with a deadly weapon or instrument, or by any means of force likely to produce great bodily injury, shall be guilty of a felony and shall be imprisoned in the state prison for two, four, or six years to be served consecutively

SEC 34. Section 4501 5 of the Penal Code is amended to read·

4501 5 Every person confined in a state prison of this state who commits a battery upon the person of any individual who is not

himself a person confined therein shall be guilty of a felony and shall be imprisoned in the state prison for two, three, or four years, to be served consecutively

SEC 35 Section 4502 of the Penal Code is amended to read·

4502 Every person confined in a state prison or who, while being conveyed to or from any state prison or while at any prison road camp, prison forestry camp, or other prison camps or prison farms or while being conveyed to or from any such place or while under the custody of prison officials, officers or employees, possesses or carries upon his person or has under his custody or control any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, or metal knuckles or any explosive substance or any dirk or dagger or sharp instrument, or any pistol, revolver or other firearm, is guilty of a felony and shall be punishable by imprisonment in a state prison for two, three, or four years to be served consecutively.

SEC 36 Section 4503 of the Penal Code is amended to read.

4503 Any person confined therein who holds as hostage any person within any prison or facility under the jurisdiction of the Director of Corrections, or who by force or threat of force holds any person or persons against their will in defiance of official orders within any such prison or facility, shall be guilty of a felony and shall be imprisoned in the state prison for three, five, or seven years to be served consecutively.

SEC 37. Section 4530 of the Penal Code is amended to read:

4530. (a) Every prisoner confined in a state prison who, by force or violence, escapes or attempts to escape therefrom and every prisoner committed to a state prison who, by force or violence, escapes or attempts to escape while being conveyed to or from such prison or any other state prison, or any prison road camp, prison forestry camp, or other prison camp or prison farm or any other place while under the custody of prison officials, officers or employees; or who, by force or violence, escapes or attempts to escape from any prison road camp, prison forestry camp, or other prison camp or prison farm or other place while under the custody of prison officials, officers or employees; or who, by force or violence escapes or attempts to escape while at work outside or away from prison under custody of prison officials, officers, or employees, is punishable by imprisonment in a state prison for a term of two, four, or six years The second term of imprisonment of a person convicted under this subdivision shall commence from the time he would otherwise have been discharged from said prison No additional probation report shall be required with respect to such offense

(b) Every prisoner who commits an escape or attempts an escape as described in subdivision (a), without force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively. No additional probation report shall be required with respect to such offense

(c) The willful failure of a prisoner who is employed or continuing

his education, or who is authorized to secure employment or education, or who is temporarily released pursuant to the provisions of Section 2690, 2910, or 6254 of this code, or Section 3306 of the Welfare and Institutions Code, to return to the place of confinement not later than the expiration of a period during which he is authorized to be away from such place of confinement, is an escape from such place of confinement punishable as provided in this section A conviction of violation of this subdivision, not involving force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense

SEC. 38. Section 4532 of the Penal Code is amended to read

4532 (a) Every prisoner arrested and booked for, charged with, or convicted of a misdemeanor, and every person committed under the terms of Section 5654, 5656, or 5677 of the Welfare and Institutions Code as an inebriate, who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is employed or continuing in his regular educational program or authorized to secure employment or education away from the place of confinement, pursuant to the Work Furlough Rehabilitation Law (Section 1208), or who is authorized for temporary release for family emergencies or for purposes preparatory to his return to the community pursuant to Section 4018 6, and who thereafter escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged in or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for not exceeding one year and one day to be served consecutively, regardless of any prior convictions, or in the county jail not exceeding one year, provided, however, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in the county jail not exceeding one year; provided, that when said second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from said jail

The willful failure of a prisoner, whether convicted of a felony or a misdemeanor, employed or continuing in his regular educational program or authorized to secure employment or education pursuant to the Work Furlough Rehabilitation Law (Section 1208) or authorized for temporary release for family emergencies or for purposes preparatory to his return to the community pursuant to Section 4018 6, to return to the place of confinement not later than the expiration of a period during which, pursuant to that law, he is authorized to be away from such place of confinement, is an escape

from such place of confinement punishable as provided in this subdivision

A conviction of violation of this subdivision, not by force or violence, shall not be charged as a prior felony conviction in any subsequent prosecution for a public offense

(b) Every prisoner arrested and booked for, charged with, or convicted of a felony who is confined in any county or city jail or prison or industrial farm or industrial road camp or who is engaged on any county road or other county work or who is in the lawful custody of any officer or person, or who is confined pursuant to Section 4011 9, who escapes or attempts to escape from such county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged on or going to or returning from such county work or from the custody of any officer or person in whose lawful custody he is, or from such confinement pursuant to Section 4011 9, is guilty of a felony and, if such escape or attempt to escape was not by force or violence, is punishable by imprisonment in the state prison for 16 months, or two or three years to be served consecutively, or in the county jail not exceeding one year; provided, that if such escape or attempt to escape is by force or violence, such person is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years to be served consecutively, or in the county jail not exceeding one year, provided that when such second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise have been discharged from such jail

SEC. 39 Section 4574 of the Penal Code is amended to read·

4574 Except when otherwise authorized by law, or when authorized by the person in charge of the prison or other institution referred to in this section or by an officer of the institution empowered by the person in charge of the institution to give such authorization, any person, who knowingly brings or sends into, or knowingly assists in bringing into, or sending into, any state prison or prison road camp or prison forestry camp, or other prison camp or prison farm or any other place where prisoners of the state prison are located under the custody of prison officials, officers or employees, or any jail or any county road camp in this state, or within the grounds belonging or adjacent to any such institution, any firearms, deadly weapons or explosives, and any person who, while lawfully confined in a jail or county road camp possesses therein any firearm, deadly weapon, or explosive, is guilty of a felony and punishable by imprisonment in the state prison for two, three, or four years

SEC 40 Section 12022 7 of the Penal Code is amended to read

12022 7 Any person who, with the intent to inflict such injury, personally inflicts great bodily injury on any person other than an accomplice in the commission or attempted commission of a felony shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he has been convicted, be

punished by an additional term of three years, unless infliction of great bodily injury is an element of the offense of which he is convicted.

As used in this section, great bodily injury means a significant or substantial physical injury.

This section shall not apply to murder or manslaughter. The additional term provided in this section shall not be imposed unless the fact of great bodily injury is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

SEC. 41. Section 12303 1 of the Penal Code is amended to read:

12303.1. Every person who willfully does any of the following is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years·

(a) Carries any explosive or destructive device on any vessel, aircraft, car, or other vehicle that transports passengers for hire.

(b) Places or carries any explosive or destructive device, while on board any such vessel, aircraft, car or other vehicle, in any hand baggage, roll, or other container.

(c) Places any explosive or destructive device in any baggage which is later checked with any common carrier.

SEC. 42. Section 12303 2 of the Penal Code is amended to read:

12303 2. Every person who recklessly or maliciously has in his possession any destructive device or any explosive on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, cable road or cable car, vessel engaged in carrying passengers for hire, or other public place ordinarily passed by human beings is guilty of a felony, and shall be punishable by imprisonment in the state prison for a period of two, four, or six years.

SEC. 43. Section 12303 3 of the Penal Code is amended to read:

12303 3 Every person who possesses, explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to injure, intimidate, or terrify any person, or with intent to wrongfully injure or destroy any property, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of three, five, or seven years

SEC. 44. Section 12308 of the Penal Code is amended to read·

12308 Every person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to commit murder is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of five, seven, or nine years

SEC 45. Section 12309 of the Penal Code is amended to read·

12309 Every person who willfully and maliciously explodes or ignites any destructive device or any explosive which causes bodily injury to any person is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of five, seven, or nine years

SEC 46. Section 12312 of the Penal Code is amended to read:

12312 Every person who possesses any substance, material, or any combination of substances or materials, with the intent to make any destructive device or any explosive without first obtaining a valid permit to make such destructive device or explosive, is guilty of a felony, and is punishable by imprisonment in the state prison for two, three, or four years

SEC 47. It is the intent of the Legislature, if this bill and Assembly Bill No. 2632 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 Assembly Bill No. 2632, that Section 1170.2 of the Penal Code, as amended by Section 1 of Assembly Bill No. 2632, be further amended on the effective date of this act in the form set forth in Section 31 of this act to incorporate the changes in Section 1170 2 proposed by this bill. Therefore, if this bill and Assembly Bill No 2632 are both chaptered and become effective on or before January 1, 1979, and Assembly Bill No 2632 is chaptered before this bill and amends Section 1170.2, Section 31 of this act shall become operative on the effective date of this act and Section 30 of this act shall not become operative.

SEC. 48. This act shall apply prospectively only for crimes committed on or after January 1, 1979.

SEC 49. 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

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CHAPTER 580

An act relating to burglary prevention, and making an appropriation therefor

[Approved by Governor September 5, 1978 Filed with Secretary of State September 6, 1978]

The people of the State of California do enact as follows

SECTION 1 The Legislature finds and declares that

The California Department of Justice reports that in 1976 burglaries represented over one-half of "seven major offenses", as classified by the FBI; and,

From 1971 to 1975, burglaries increased an average of 5 percent per year, and,

From 1971 to 1975, residential burglaries comprised approximately two-thirds of all reported burglaries, and residential burglaries have increased at a rate of 13 times faster than nonresidential burglaries, and from 1975-76, residential burglaries increased 1 9 percent while

nonresidential burglaries decreased 5.5 percent; and,

Forced and attempted forced entry burglary have consistently accounted for about 70 percent of all burglaries reported since 1971; and,

Burglary crimes of residences have increased from 247,000 in 1971 to 318,000 in 1976, and,

Many residential burglaries are not reported to the police, and,

Reduced burglaries will reduce home insurance for the community; and,

Efforts by police departments, homeowner groups, and community organizations to encourage and assist homeowners to protect their homes from entry and their possessions from burglary are successful when implemented, but limited by cost and manpower; and,

Such antiburglary efforts also include printing and distributing brochures which describe burglary prevention methods, and community lectures by police officers which describe burglary prevention; and,

Marking valuable property for identification is the best protection for securing the future return of property in case it is stolen and discovered by law enforcement authorities.

SEC 2 The sum of twenty thousand dollars ($20,000) is hereby appropriated from the General Fund to the Department of Justice without regard to fiscal years The Department of Justice is hereby authorized to expend any of such funds in combination with a grant of federal funds, if such expenditure consists of at least 90 percent federal and not to exceed 10 percent state funds, to promote burglary prevention and education activities as a pilot project in a low income, high crime, urban residential community to reduce crime and its financial and psychological effects. Such activities may include, but not be limited to, the following·

To print and distribute brochures to residents which describe burglary prevention methods;

To encourage police officers to visit homes to encourage burglary prevention methods, including marking property for identification;

To assist residents who want to improve security in their home with the purchase and installation of door and window locks.

The pilot project shall be completed one year after its commencement and the department shall report its findings to the Legislature within one year after the completion of the project

The department may accept grants, contributions, and appropriations from federal, state, local, or private sources to further the ends of the pilot project

CHAPTER 581

An act to amend Section 1203 of the Penal Code, relating to probation.

[Approved by Governor September 5, 1978 Filed with Secretary of State September 6, 1978]

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

SECTION 1. Section 1203 of the Penal Code is amended to read:

1203. (a) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his findings and recommendations, including his recommendations as to the granting or denying of probation and the conditions of probation, if granted. The probation officer shall also include in his report his determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the means and manner of payment The report shall be made available to the court and the prosecuting and defense attorneys at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person, it may place him on probation If probation is denied, the clerk of the court shall

immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered

(b) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(c) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily grant or deny probation. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning him which could have been included in a probation report The court shall inform the person of the information to be considered and permit him to answer or controvert it For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced

(d) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons

(1) Unless he had a lawful right to carry a deadly weapon, other than a firearm, at the time of the perpetration of the crime or his arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, assault with intent to commit murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of such crimes and was armed with such weapon at either of such times

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he has been convicted

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he has been convicted

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless he has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, assault with intent to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, or a conspiracy to commit one or more of such crimes

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he committed any of the following acts

(i) Unless he had a lawful right to carry a deadly weapon at the

time of the perpetration of such previous crime or his arrest for such previous crime, he was armed with such weapon at either of such times

(ii) He used or attempted to use a deadly weapon upon a human being in connection with the perpetration of such previous crime.

(iii) He willfully inflicted great bodily injury or torture in the perpetration of such previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(e) When probation is granted in a case which comes within the provisions of subdivision (d), the court shall specify the circumstances indicating that the interests of justice would best be served by such a disposition.

(f) If a person is not eligible for probation, the judge may, in his discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his findings

(g) No probationer shall be released to enter another state unless his case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

CHAPTER 582

An act to amend Sections 3000 and 3057 of, to amend and renumber Section 3001 of, and to add Section 3001 to, the Penal Code, relating to parole

[Approved by Governor September 5, 1978 Filed with Secretary of State September 6, 1978]

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

SECTION 1 Section 3000 of the Penal Code is amended to read:

3000 The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and

discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section. Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter:

(a) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170, or at the expiration of such term as reduced pursuant to Section 2931, if applicable, the inmate shall be released on parole for a period not exceeding three years, unless the board for good cause waives parole and discharges the inmate from custody of the department.

(b) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned under a life sentence, and shall not exceed three years in the case of an inmate whose prison sentence does not consist of imprisonment under a life sentence, unless in either case the board for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall be also applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170 2.

(c) The board shall consider the request of any inmate regarding the length of his parole and the conditions thereof.

(d) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under subdivision (a) or (b), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and subdivisions (a) and (b) shall be computed from the date of initial parole, or July 1, 1977, whichever is later, and shall be a period chronologically determined Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward such period of parole unless the prisoner is found not guilty of the parole violation However, in no case, except as provided in Section 3064, may a prisoner sentenced pursuant to Section 1170 be retained under parole supervision or in custody for a period longer than four years from the date of his initial parole, and, except as provided in Section 3064, in no case may a prisoner sentenced pursuant to subdivision (b) of Section 1168 be retained under parole supervision or in custody for a period longer than seven years from the date of his initial parole.

(e) It is not the intent of this section to diminish resources presently allocated to the Department of Corrections for parole functions

(f) The Department of Corrections shall meet with each inmate at least 30 days prior to his good time release date, unless such release date is within 30 days of July 1, 1977, and shall provide, under guidelines specified by the Community Release Board, the conditions of parole and the length of parole up to the maximum period of time provided by law The inmate has the right to reconsideration of the length of parole and conditions thereof by the

Community Release Board

SEC. 2 Section 3001 is added to the Penal Code, to read·

3001 (a) Notwithstanding any other provision of law, when any person referred to in subdivision (a) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for one year since release from confinement, the board shall, within 30 days, discharge such person from parole, unless the board, for good cause, determines that such person will be retained on parole. The board shall make a written record of its determination and transmit a copy thereof to the parolee.

(b) Notwithstanding any other provision of law, when any person referred to in subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for three years since release from confinement, the board shall, within 30 days, discharge such person from parole, unless the board, for good cause, determines that such person will be retained on parole. The board shall make a written record of its determination and transmit a copy thereof to the parolee.

(c) In the event of a retention on parole, the parolee shall be entitled to a review by the board each year thereafter until the maximum statutory period of parole has expired

SEC 3 Section 3001 of the Penal Code is amended and renumbered to read·

3002 In considering the imposition of conditions of parole upon a prisoner convicted of violating any section of this code in which a minor is a victim of an act of abuse or neglect, the Department of Corrections shall provide for a psychological evaluation to be performed on the prisoner to determine the extent of counseling which may be mandated as a condition of parole Such examination may be performed by psychiatrists, psychologists, or licensed clinical social workers

SEC. 4 Section 3057 of the Penal Code is amended to read

3057 (a) Confinement pursuant to a revocation of parole in the absence of a new conviction and commitment to prison under other provisions of law, shall not exceed twelve months.

(b) Upon completion of confinement pursuant to parole revocation without a new commitment to prison, the inmate shall be released on parole for a period which shall not extend beyond that portion of the maximum statutory period of parole specified by Section 3000 which was unexpired at the time of each revocation

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CHAPTER 583

An act to add Section 2 25 to Chapter 359 of the Statutes of 1978, relating to state property, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 5, 1978 Filed with Secretary of State September 6, 1978]

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

SECTION 1. Section 2.25 is added to Chapter 359 of the Statutes of 1978, to read:

Sec. 2 25. 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.

For capital outlay, Department of General Services... $3,316,778

Schedule

(a) Acquisition of property for office building in Van Nuys $400,000

Said property shall be acquired for the purposes of construction of a state-owned building in the area of the Van Nuys Civic Center.

(b) Preliminary plans for an on-site parking structure for the new state office building in Van Nuys $36,278

(c) Planning and construction —new state building, Sacramento (Site No 1— phase A) for transfer to, and in augmentation of, Item 373(a), Budget Act of 1977 . . .. . $2,880,500

Said sum is in addition to any other amounts heretofore appropriated and subject to all of the limitations applicable thereto.

SEC 2 The Director of General Services with the approval of the State Public Works Board is hereby authorized to sell the existing vacant state property at the southeast corner of Van Nuys Boulevard and Sylvan Street to the City of Los Angeles The proceeds of such sale shall revert to the General Fund This authorization to sell shall not be operative and shall have no effect unless the full sum appropriated in subdivision (a) of Section 1 of this act is available for expenditure, and shall cease to be operative if the sale to the City of Los Angeles is not consummated by July 1, 1980.

SEC 3 It is the intent of the Legislature in enacting this act to

implement the land acquisition plan authorized pursuant to the provisions of Chapter 715 of the Statutes of 1977.

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 benefits and savings which will result from this act to be maximized, it is necessary that this act become effective immediately

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CHAPTER 584

An act to amend Section 5303 of the Food and Agricultural Code, and to amend Section 26559 of the Health and Safety Code, relating to health

[Approved by Governor September 6, 1978 Filed with Secretary of State September 7, 1978]

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

SECTION 1 Section 5303 of the Food and Agricultural Code is amended to read:

5303 All quarantine regulations which involve another state, territory, district, or foreign country shall be made by the director. The regulations shall be approved and proclaimed by the Governor, or by the director as the Governor's designee

SEC 2 Section 26559 of the Health and Safety Code is amended to read:

26559 (a) Any food fabricated from two or more ingredients is misbranded unless it bears a label clearly stating the common or usual name of each ingredient in descending order of predominance by weight, provided, however, that labels for orange, grapefruit, or lemon juice from concentrate shall not be required to declare water as an ingredient Any spice, flavoring, or coloring, except any spice, flavoring, or coloring sold as such, may be designated as spice, flavoring, or coloring without naming each

Exemptions may be established by the department, when compliance with any requirement of this subdivision is impractical or results in deception or unfair competition

In adopting any regulations relating to this subdivision, the department shall take into consideration the current regulations established by the Secretary of Health, Education, and Welfare under authority contained in the federal law

Notwithstanding Section 26052 or any other provision of law, as used in this subdivision, the term "food" includes, but is not limited to, meat The term "food" does not, however, include any alcoholic beverage

This subdivision shall not apply to any food sold for consumption on or off the premises of any restaurant, as defined in Section 28522, in the course of its business as a restaurant, or to any milk or dairy product.

(b) Whenever any bread is wrapped, in any wrapping, for sale through retail outlets, there shall appear on the body of the wrapping or on the insert band a list specifying each ingredient in the bread in the order of predominance, by weight, of each such ingredient This subdivision shall not be construed to require the listing of ingredients constituting less than 1 percent of the weight of the bread

This subdivision does not apply to bread which is sold on the premises upon which it is baked

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CHAPTER 585

An act to add and repeal Chapter 8 5 (commencing with Section 57001) of Division 20 of the Food and Agricultural Code, relating to unloaders

[Approved by Governor September 6, 1978 Filed with Secretary of State September 7, 1978]

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

SECTION 1 Chapter 8 5 (commencing with Section 57001) is added to Division 20 of the Food and Agricultural Code, to read·

CHAPTER 8 5 PRODUCE MARKETS IN ALAMEDA, SAN FRANCISCO, AND SAN MATEO COUNTIES

Article 1 Definitions

57001 Unless the context otherwise requires, the definitions in this article govern the construction of this chapter

57002 "Association" means an association of produce dealers which is organized to carry out the responsibilities of produce dealers which are imposed by this chapter

57003 "City" includes city and county

57004 "Commissioner," with respect to any matter which relates to a particular market, means the deputy labor commissioner who is in charge of the office of the Labor Commissioner which is located nearest to that market

57005 "Director" means the Director of Industrial Relations

57006 "Employer" means the hauler, or his representative, who hires registered unloaders

57007 "Farm product" means any fruit, nut, vegetable, or berry

57008 "Hauler" means any trucker or carrier

57009 "Market" means the places of business, collectively, of produce dealers that operate in a city, or the vicinity of a city, and that deal in any farm product which is intended, in whole or in part, for ultimate sale for consumption in a fresh state within the city and the vicinity of the city This chapter applies only to any market in which five or more produce dealers operate in the Counties of Alameda, San Francisco, and San Mateo and the provisions of Chapter 8 (commencing with Section 56801) of this division shall not be applicable to any such market

57010. "Produce dealer" includes "commission merchant," as defined in Section 56105, and "dealer," as defined in Section 56107. It does not, however, include a "broker," as defined in Section 56103, nor "processor," as defined in Section 55407.

57011 "Producer" means any person who commercially grows and markets farm products.

57012 "Registered unloader" means a person who unloads any farm product in a market. It does not, however, include any of the following·

(a) A producer of farm products, or his son or daughter, father or mother, or regularly employed employee of such producer.

(b) The operator of any vehicle which is engaged in the transportation of any farm product to market if the operation of such vehicle is subject to the jurisdiction of the Public Utilities Commission and the rate which is charged for such transportation includes the charge for unloading the farm product which is so transported

57013 "Union" means the labor union which has been recognized by the National Labor Relations Board, or other governmental agency which has jurisdiction, as the bargaining agency for employees who are employed in a market.

Article 2 General Provisions and Exceptions

57015 It is the purpose of this chapter to promote the orderly marketing of farm products and the establishment of reasonable charges for unloading such products at markets in this state. It is declared that in some of the markets of this state the charges for unloading farm products have been found to be exorbitant and unreasonable and that this chapter is enacted to remedy such evils and in the interests of the public welfare.

57016. The director may make such regulations as he may deem necessary to carry out this chapter and to effectuate its purposes.

57017 This chapter does not apply to any market in which less than five produce dealers operate

57018 This chapter does not apply to any produce dealer at whose place of business every farm product which is delivered is unloaded without charge by employees of the produce dealer either with or without the assistance of the operator of the vehicle which transports such product or other persons who accompany the

operator on such vehicle. This chapter does not prohibit any employee of a produce dealer from assisting in unloading any farm product

Article 3 Registered Unloaders

57021 Every person who unloads any farm product in a market and who is a registered unloader shall register his name, federal social security number, and address and union affiliation, if any, with the commissioner The commissioner shall supply each registered unloader with a badge of registration Each registered unloader shall wear such badge at all times while employed or seeking employment in unloading any farm product in a market A person within the definition of the term registered unloader shall not unload any farm product in a market unless he is registered as provided in this chapter

57022 Every producer who transports any farm product to a market may register himself, his father or mother, and his sons or daughters, and regular full-time employees, with the commissioner Such registration shall show the name of the producer and the relationship of the registrant to the producer The commissioner shall supply each such registrant with an appropriate badge, which the registrant shall wear at all times while engaged in unloading any farm product at a market

This chapter does not prohibit a person from unloading any farm product, and no person is required to employ any other person to unload or assist in unloading such farm product nor to pay for any services which are not requested to be performed

57023 Every produce dealer, except as provided in Section 57018, that operates in a market is responsible for providing registered unloaders when specifically requested by the producer or hauler of farm products to be delivered to the produce dealers' place of business He is also responsible for having on hand at his place of business a responsible person to receipt for any farm product which is unloaded at his place of business during posted receiving hours.

Article 4 Association of Produce Dealers

57025 In order to facilitate the carrying out of their responsibilities pursuant to this chapter, the produce dealers that operate in a market may organize an association. A produce dealer shall not be required to become or to be a member of such association, but any such association shall admit to membership any produce dealer that operates in the market If a produce dealer is admitted to membership in the association, he shall not be subject to any assessment or payment except those which are necessary to carry out his responsibilities pursuant to this chapter

57027 An association may provide for watchman service to protect and give a receipt for any farm product which is delivered

to a market at times when the market is not otherwise in operation.

57028 The costs of services of an association to its members for carrying out any of the activities which are provided for or required by this chapter are subject to review by the director No cost or expenditure for any other purpose shall be payable by any produce dealer except on an entirely voluntary basis

The director shall from time to time on his own motion, or at the request of a produce dealer, review the activities of the association to determine if any charge is made against any produce dealer in violation of this chapter.

Article 5. Charges for Unloading Produce

57031 (a) Any union representing registered unloaders is authorized and entitled to bargain with the employer of the registered unloaders to establish a scale of charges for unloading produce

(b) If the union or unions representing registered unloaders and the employer of registered unloaders are unable to agree on a scale of charges, the director shall mediate the dispute pursuant to Section 65 of the Labor Code.

57032. The scale of charges which is established shall be the standard charge for unloading any farm product in the market

57033 A person shall not charge or receive any payment for unloading any farm product in excess of the standard charge which is established for the market

57034 Each produce dealer shall post and maintain a legible copy of the effective scale of charges established under this article in a conspicuous place at his place of business where it is readily visible at all times during which any farm product is delivered to such place of business

57035 The commissioner or his representative shall investigate any complaint brought to his attention involving produce dealers or registered unloaders

Article 6. Penalties

57041 Violation of any provision of this chapter or laws affecting personal injury or property damage by a produce dealer or registered unloader is grounds for license or registration revocation or suspension

Before suspending or revoking any registration or license under this chapter, the commissioner shall afford the holder of such registration or license an opportunity to be heard in person or by counsel The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein

57042 The director may assess a fee not to exceed twenty-five

cents ($0.25) per unloading payable by produce dealers for use exclusively in administering the provisions of this chapter

57043 The violation of any provision of this chapter by any person is a misdemeanor.

Article 7. Termination

57051 This chapter shall remain in effect only until January 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date.

SEC 2 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the 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 586

An act to amend Sections 54040, 54116, and 54204 of the Food and Agricultural Code, relating to agricultural cooperatives

[Approved by Governor September 6, 1978 Filed with Secretary of State September 7, 1978]

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

SECTION 1. Section 54040 of the Food and Agricultural Code is amended to read:

54040 The General Corporation Law (Division 1 (commencing with Section 100) of Title 1 of the Corporations Code) as added by Chapter 682 of the Statutes of 1975 and as heretofore or hereinafter amended and all powers and rights under such law applies to each association which is organized pursuant to this chapter, except where such provisions are in conflict with or inconsistent with the express provisions of this chapter. For the purpose of associations organized without shares of stock, the members shall be deemed to be "shareholders" as the term is used in the General Corporation Law

SEC. 2 Section 54116 of the Food and Agricultural Code is amended to read.

54116 (a) The bylaws may prescribe the qualifications, compensation, duties, and term of office of directors and officers and the time of their election.

(b) The number of directors set forth in the articles of incorporation shall be either a fixed number or a variable number.

If a fixed number, it shall not be less than three, and if a variable number, the stated minimum shall not be less than three and the stated maximum shall not be greater than two times the stated minimum minus one

(c) The number of directors may also be set forth in the bylaws either as a fixed number or as a variable number subject to the same limitations as in subdivision (b) After shares have been issued or members have been admitted, any adoption or amendment of such bylaw provision shall be approved by the outstanding shares as provided in Section 152 of the Corporations Code.

(d) In the event of an inconsistency between an article provision referred to in subdivision (b) and a bylaw provision referred to in subdivision (c), the provision more recently adopted or amended shall prevail.

(e) If a variable number of directors is set forth in the articles of incorporation or the bylaws, the exact number of directors shall be fixed, within the limits specified, by approval of the board of directors or the shareholders as provided in Section 153 of the Corporations Code in the manner designated in the bylaws.

SEC 3 Section 54204 of the Food and Agricultural Code is amended to read

54204 The board of directors of every association shall cause to be sent to the members of the association not later than 120 days after the close of the fiscal or calendar year an annual report of the operations of the association, unless such report is expressly dispensed with in the bylaws

If required by the bylaws, interim reports of the operations of the association for the three month, six month, or nine month periods of the current fiscal year of the association shall be furnished to the members of the association

Such annual report and any such interim reports shall include a balance sheet as of such closing date Such financial statement shall be prepared from, and be in accordance with, the books It shall be prepared in a form which is sanctioned by sound accounting practice for the association or approved by a duly certified public accountant or a public accountant

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CHAPTER 587

An act to amend Section 29643 of, to add Sections 29409.5 and 29415 5 to, and to repeal Section 29411 of, the Food and Agricultural Code, relating to honey

[Approved by Governor September 6, 1978 Filed with Secretary of State September 7, 1978]

The people of the State of California do enact as follows

SECTION 1 Section 29409.5 is added to the Food and Agricultural Code, to read:

29409.5 "Domestic honey" means comb or extracted honey produced within one of the states of the United States.

SEC. 2. Section 29411 of the Food and Agricultural Code is repealed.

SEC. 3 Section 29415 5 is added to the Food and Agricultural Code, to read:

29415.5 "Imported honey" means comb or extracted honey imported from any territory or foreign country or honey which is repackaged into subcontainers as a blend with honey imported from one or more other countries.

SEC. 4 Section 29643 of the Food and Agricultural Code is amended to read:

29643. Every container and subcontainer of imported honey shall be labeled with the name of the territory or foreign country from which it is imported or, when it is repackaged subsequent to importation, in accordance with subdivision (a) or (b):

(a) As "imported," if repackaged either as a blend with honey imported from one or more other foreign countries or is repackaged without such blending.

(b) As "domestic and imported blend," if blended with domestic honey.

CHAPTER 588

An act to amend Sections 56271, 56280, 56281, 56282, and 56351 of the Food and Agricultural Code, relating to marketing of agricultural products

[Approved by Governor September 6, 1978 Filed with Secretary of State September 7, 1978]

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

SECTION 1 Section 56271 of the Food and Agricultural Code is amended to read

56271. Every commission merchant, that receives any farm product for sale as a commission merchant, shall promptly make and keep a correct record which shows in detail all of the following with reference to the handling, sale, or storage of such farm product:

(a) The name and address of the consignor.

(b) The date it was received.

(c) The condition and quantity upon arrival.

(d) Date of such sale for the account of the consignor.

(e) The price for which it was sold.

(f) An itemized statement of the charges to be paid by the consignor in connection with the sale Any services rendered for which charges are made, if not filed with the director, shall be charged at cost if not covered by a written contract Cost-supporting data shall be available for verification.

(g) The names and addresses of all purchasers if the commission merchant has any financial interest in the business of the purchasers, or if the purchasers have any financial interest in the business of the commission merchant, directly or indirectly, as holder of the other's corporate stock, as copartner, as lender or borrower of money to or from the other, or otherwise Such interest shall be noted in such records following the name of any such purchaser

(h) A lot number or other identifying mark for each consignment, which number or mark shall appear on every sales tag and every other essential record which is needed to identify each consignment from receipt through final sale. When requested by the consignor, as provided by Section 56281, a lot number shall appear on each individual farm product container When containers are on pallets, then only the exposed containers shall be marked When stamping or otherwise identifying each container is impractical due to the type of packaging, the container need not be marked.

(i) Any claim which has been or may be filed by the commission merchant against any person for overcharges or for damages which result from the injury or deterioration of such farm product by the act, neglect, or failure of such person Such records shall be open to the inspection of the director and the consignor of the farm product for whom such claim is made

SEC. 2. Section 56280 of the Food and Agricultural Code is amended to read

56280. A commission merchant shall notify each consignor with whom he does business of the provisions of this section. Such notice shall be given in writing prior to the shipping season of the particular farm product

No charge shall be made against a consignor's account for a downward price adjustment or a reduction in quantity of farm products delivered due to a breach of contract, unless the commission merchant has, in his files, a federal-state inspection certificate, issued pursuant to the United States Agricultural Marketing Act of 1946, (7 U S C 1621, et seq.), indicating the type and the extent of the substandard condition of the lot involved in such breach of contract, thereby supporting the amount charged against the consignor's account The commission merchant need not obtain a federal-state inspection certificate unless the lot involved is of a substandard condition

Notwithstanding Section 56281, this section does not preclude a consignor from agreeing to a downward price adjustment or a reduction in the quantity of farm products delivered and waiving the right to inspection when such agreement was made prior to the particular shipping season of the farm product and was in writing

Such federal-state inspection certificate may be substituted by a private third-party inspection, based on the standards prescribed under the United States Agricultural Marketing Act of 1946, if the director determines, to his satisfaction, that a federal-state inspection certificate could not reasonably be obtained. In the event that the director determines, to his satisfaction, that neither a federal-state inspection certificate nor private, third-party inspection, can be reasonably obtained, a signed statement of two or more disinterested, or otherwise independent parties, who have sufficient knowledge, acquired through education or experience, to evaluate the farm product involved, may be used as substitute for such a federal-state certificate or third-party inspection, in order to make a statement as to the quality and condition of the lot of farm product at the time of inspection

Where the condition of the lot is not substandard but for other reasons, including a decline in market demand, there is a downward price adjustment, the commission merchant shall affirm in writing that the lot was at least of standard quality at the time of sale The affirmation shall be attached to or made part of the records of the consignment

As used in this section, "lot" means the farm product identified by the procedure set forth in subdivision (h) of Section 56271.

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

SEC 3 Section 56281 of the Food and Agricultural Code is amended to read.

56281 A commission merchant shall notify each consignor with whom he does business of the provisions affecting such consignor which are contained in Sections 56271, 56280, 56281, 56282, and 56351. Such notice shall be given in writing prior to the shipping season of the particular farm product. Such notice shall include a form whereby the consignor may request notice of any adjustment by the commission merchant. The form shall also include a provision whereby the consignor may request lot numbers be affixed on each individual farm product container as provided in subdivision (h) of Section 56271 It shall be the responsibility of the commission merchant to keep the records necessary to prove that such notices were given to each consignor in accordance with this section. When requested by his consignor, prior to, or at any time during the shipping season, a licensee operating as a commission merchant shall notify the consignor of any adjustment on a transaction, and provide reasons for such an adjustment, within 48 hours.

In the event the commission merchant is unable to contact the consignor by telephone or in person such notification shall be immediately provided by mail

SEC 4 Section 56282 of the Food and Agricultural Code is amended to read.

56282 Pursuant to the provisions of this chapter, the director

may disallow, to a commission merchant, all or part of, any adjustment charged back to a consignor, if the director determines that there is insufficient justification of the condition or circumstances requiring such adjustment.

In determining whether there is insufficient justification for such an adjustment, the director shall consider, among other things, the following

(a) The certificate issued pursuant to Section 56280 or 56351 does not support breach of contract.

(b) The perishability of the farm product involved and the timely issuance of the certificate pursuant to Section 56280 or 56352

(c) Market reports or other market evidence does not support a downward price adjustment in accordance with Section 56279.

SEC. 5 Section 56351 of the Food and Agricultural Code is amended to read:

56351. A claim may not be made against the seller of any farm product by a licensee pursuant to this chapter, and no credit may be allowed to such licensee against a producer of any farm product by reason of damage to, or loss, dumping, or disposal of any farm product which is sold to such licensee, in any payment, accounting, or settlement which is made by the licensee to the producer, unless the licensee has secured and is in possession of a certificate, which is issued by a commissioner, as defined in Section 26, a county health officer, the director, a duly authorized officer of the State Board of Health, or by some other official now or hereafter authorized by law, to the effect that the farm product which is involved has been damaged, dumped, destroyed, or otherwise disposed of as unfit for human consumption or as in violation of the fruit and vegetable standards which are contained in Division 17 (commencing with Section 42501) of this code.

A private, third-party inspection based on the standards prescribed in the United States Agricultural Marketing Act of 1946 may be substituted for such certificate if the director determines that an inspection certificate cannot be reasonably obtained. Where the director determines that neither an inspection certificate nor a private, third-party inspection can be reasonably obtained, the signed statement of two or more disinterested or otherwise independent parties who have sufficient knowledge acquired through education or experience to evaluate the farm product involved may be used to describe the type and extent of the quality and condition factors present upon inspection.

CHAPTER 589

An act to add Section 23 7 to, and to amend Section 58605 of, the Food and Agricultural Code, relating to agriculture

[Approved by Governor September 6, 1978 Filed with Secretary of State September 7, 1978]

The people of the State of California do enact as follows

SECTION 1 Section 23 7 is added to the Food and Agricultural Code, to read·

23 7 The Legislature hereby finds and declares that vermiculture in the state is a growing industry and that use of vermiculture and vermiculture by-products for the commercial purpose of producing agricultural commodities should be encouraged As used in this section, "vermiculture" is the raising of animals belonging to the order Oligochaeta, class Chaetopoda, phylum Annelida

Vermiculture, and the processing, packaging, sale, and use of its by-products, shall be considered a branch of the agricultural industry

SEC 2 Section 58605 of the Food and Agricultural Code is amended to read·

58605. "Commodity," except as otherwise provided in Section 58747, means any agricultural, horticultural (including floricultural), vermicultural, viticultural (including wine) or vegetable product which is produced in this state, any fish or seafood, or any class, variety, or utilization of such product, either in its natural state or as processed by a processor or as processed by a producer for the purpose of marketing such product. It includes bees, honey, and milk as defined in Section 32511 It does not, however, include timber or any timber product

The Legislature hereby declares that the addition of the phrase "(including wine)" in this section is made for the purpose of clarification only and is in nowise to be construed or interpreted as an indication that wine is not a commodity as originally defined by Chapter 404, Statutes of 1937, and as heretofore amended. The Legislature further declares that at the time of the original enactment of the definition of the term "commodity" and at all times since, it intended that wine be, and wine was, included within the definition of the term Every marketing order issued, signed, or declared effective prior to July 15, 1941, and every act of the director prior to such date which was performed pursuant to the provisions of this chapter and consistent with the declarations which are contained in this paragraph are hereby confirmed, ratified, and validated

CHAPTER 590

An act to add and repeal Section 35555 to the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 6, 1978 Filed with Secretary of State September 7, 1978]

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

SECTION 1. Section 35555 is added to the Vehicle Code, to read:

35555. Notwithstanding subdivision (b) of Section 35551 and Section 35551.5, a cotton module mover, as defined in Section 35400.5, may carry a gross weight on each set of tandem axles in excess of 34,000 pounds while being operated on any county highway, unless the county board of supervisors having jurisdiction over the county highway adopts a resolution prohibiting or limiting the operation of any cotton module mover exceeding the allowable axle weight limits on that county highway or on all county highways under its jurisdiction.

This section shall be applicable only to highways within the counties of Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Benito, San Bernardino, and Tulare.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1980, deletes or extends such date.

SEC. 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 cotton module movers be available for the timely and efficient harvesting of cotton so that the harvesting may be completed by the time required by regulations of the Department of Food and Agriculture to prevent the spread of the pink bollworm, it is necessary that this act take effect immediately

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CHAPTER 591

An act to amend Section 5784 of the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 6, 1978 Filed with Secretary of State September 7, 1978]

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

SECTION 1 Section 5784 of the Food and Agricultural Code is amended to read·

5784 The regulations adopted by the director upon the establishment of a cotton host-free period or district for a particular pest shall, insofar as practical, be uniform and shall be uniformly enforced in all cotton host-free periods or districts established for that pest Any exemptions or variances thereafter shall be extended to all other districts or periods unless the director finds that it will be detrimental to the eradication or effective control of the particular pest to do so

Any violation of this article or any regulation adopted pursuant thereto relating to the eradication or control of cotton pests is an infraction and shall be subject to a fine of one hundred dollars ($100) plus one dollar ($1) per acre of land not in compliance. Subsequent violations shall be subject to a fine of one hundred dollars ($100) plus three dollars ($3) per acre of land not in compliance. Any punishment, other than a fine, imposed on or after July 1, 1977, pursuant to such provisions shall be terminated.

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 a violation of regulations relating to a cotton host-free period or district, resulting from circumstances beyond the control of a farmer, will not result in such farmer having a criminal record, and that such violation be reduced from a misdemeanor to an infraction, it is necessary that this act take effect immediately

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CHAPTER 592

An act to repeal and add Chapter 4 (commencing with Section 52851) to Division 18 of the Food and Agricultural Code, relating to cotton, and making an appropriation therefor.

[Approved by Governor September 6, 1978 Filed with Secretary of State September 7, 1978]

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

SECTION 1. Chapter 4 (commencing with Section 52851) of Division 18 of the Food and Agricultural Code is repealed.

SEC. 2 Chapter 4 (commencing with Section 52851) is added to Division 18 of the Food and Agricultural Code, to read·

CHAPTER 4 ONE-VARIETY COTTON DISTRICT

Article 1 General Provisions

52851 The Legislature hereby declares that the purposes of this chapter are to promote, encourage, aid, and protect the planting and growing of cotton in the State of California, that it believes that these purposes can best be accomplished by restricting within certain areas the planting and growing of but one variety or species of cotton, which is "Acala", that by this means alone is it possible to bring the cotton-growing industry in the state to its highest possible development and to insure the growing of the most superior variety or species of cotton, that the planting of pure seed is essential to the production of a more merchantable and better grade of cotton and cottonseed, and for the production of a grade of fiber best suited for manufacturing purposes, and that the planting of impure seed or plants other than that permitted in these areas is an economic harm and loss to the planter thereof and an irreparable injury to the adjoining or neighboring growers

52852 The Legislature also declares that the restriction of the use to which cotton lands may be used, as provided in this chapter, is essential to the highest development of the cotton-growing industry; that it is essential that but one variety of cotton should be ginned in the district which is established in this chapter, otherwise the gin will mix the different kinds of seed, crossing will take place in the field, the varieties will be mongrelized and cease to be uniform, the fiber will deteriorate in quality, and the seed will be rendered unfit for planting; that solely by restricting the growing of one variety or species of cotton in certain areas can the fiber be grown of uniform quality, and can the production of fiber with superior spinning performance be promoted and maintained

52853 The Legislature declares that the development of varieties or species of cotton which meet the desired quality of Acala cotton should be encouraged, provided that reasonable restrictions are imposed to prevent contamination and preserve integrity of the one quality cotton produced within the district.

52854 The production and marketing of Acala cotton produced in this state is hereby declared to be affected with public interest. The provisions of this chapter are enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

52855 No action taken by the board, nor by an individual in accordance with this chapter or with rules or regulations adopted under the chapter, shall be deemed a violation of the Cartwright Act, the Unfair Practices Act, the Fair Trade Act, Section 1673 of the Civil Code, or any rule of statutory or common law against monopolies or combinations in restraint of trade

Article 2. Definitions

52861 "Board" means the Acala Cotton Board.

52862 "Industry members" means cottonseed oil crushers, handlers of raw cotton fiber, and cotton ginners or employees thereof.

52863. "Handlers of raw cotton fiber" means any person or organization who is primarily engaged in the business of buying and selling spot cotton.

52864 "Cotton ginning organization" means any person or organization owning or operating one or more cotton gins.

52865. "One-variety cotton district" is comprised of all counties in the San Joaquin Valley where cotton is produced.

Article 3. Acala Cotton Board

52871. There is in the state government an Acala Cotton Board. The board shall be composed of 10 cottongrowers, as provided for in subdivision (a), six cotton industry members operating in the San Joaquin Valley, and one public member

(a) The grower members shall be elected by the cottongrowers in the county they represent, as follows:

(1) There shall be six elected growers representing each of the significant cotton producing counties within the one-variety cotton district.

(2) There shall be an additional elected grower from each of the four largest cotton producing counties in the one-variety district.

(b) The six cotton industry members shall be elected as follows:

(1) Two members elected from and by cottonseed processing organizations involved in seed crushing operations.

(2) Two elected from and by handlers of raw cotton fiber.

(3) Two members elected from and by cotton ginning organizations.

(c) One public member shall be appointed by the director. The board shall submit a list of three public members to the director. The director shall choose one public member from the list to serve as a member on the board. If the director determines that those on the list are unacceptable, the board shall submit a new list containing the names of three public members from which the director shall choose one. This procedure shall continue until a public member has been selected by the director to serve on the board.

(d) In addition, the board shall select one representative each from the United States Department of Agriculture and the University of California; and two representatives each from cotton planting seed delinting organizations, and organizations involved in the reproduction, sale, and distribution of cottonseed in the district, to serve as nonvoting ex officio members of the board. Such members shall not be selected from the same organization.

52872 Within 90 days after January 1, 1979, the director shall

establish a list of growers and other persons and organizations subject to the provisions of this chapter. Each person or organization on the list shall have one vote in any election conducted pursuant to Section 52860 in which such person or organization is authorized to vote

52873 The director shall supervise and conduct any election held pursuant to the provisions of Section 52871 and this section Elections for grower members and elections for industry members shall be conducted as follows·

(a) The director shall distribute nomination petitions to each person or organization listed pursuant to Section 52872, and authorized to vote under Section 52871 in the election being held. A petition of signatures in support of a nominee shall be submitted to the director in order to nominate any candidate for election to the board within 30 days from the date of the director's distribution of such petitions There shall be at least 10 signatures on each petition of nomination for a cottongrower candidate; at least two signatures on each petition of nomination for cottonseed processing candidates; at least six signatures on each petition of nomination for handlers of raw cotton fiber candidates, and at least 10 signatures on each petition of nomination for cotton ginning candidates.

(b) The submitted petitions for nomination shall be verified by the director, and an election ballot containing the names of persons nominated shall thereafter be mailed to the persons and organizations eligible to vote in the election.

52874 Each member of the board, except the ex officio members, shall have an alternate member, who shall be elected in the same manner as the member. In the event of a tie vote in electing members or alternates, another election shall be held. An alternate member shall, in the absence of the member for whom he is alternate, sit in place of the member on the board, and shall have, and be able to exercise, all the rights, privileges, and powers of the member when sitting on the board. In the event of death, removal, resignation, or the disqualification of a member, the alternate shall act as a member on the board until a successor is elected and has qualified

52875 Any vacancy on the board occurring by the failure of any person elected to the board as a member or alternate member to continue in his position due to a change in status making him ineligible to serve, or through death, removal, or resignation, shall be filled, for the unexpired portion of the term, by the board by majority vote; provided, however, that such member shall fulfill all the qualifications set forth in this article as required for the member whose office he is to fill. Qualification of any member on the board to fill vacancies shall be certified, in writing, by the director

52876. Grower members and their alternates on the board shall have a financial interest in producing, or causing to be produced, cotton for market

Cotton industry members or their alternates shall have a financial interest in, or be employed by, any person or organization handling

cotton for markets

Except for the election of another public member, the public member or his alternate on the board shall have all the powers, rights, and privileges of any other member on the board. He shall not have any financial interest in the cotton industry

52878 The term of office for each voting member, alternate, and ex officio member of the board is four years. When board members are first elected, one-half of the total members elected pursuant to subdivision (a) of Section 52871, and one-half of the total members elected pursuant to each paragraph of subdivision (b) of Section 52871, shall be elected for terms of four years, and the remaining members shall be elected for terms of two years Thereafter, elected members shall serve four-year terms Terms of office of each board member shall be limited to two consecutive terms

52879. Upon implementation of Article 9.5 (commencing with Section 52951) of this chapter, the board may declare itself to be a corporate body, have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation, and adopt a corporate seal. Copies of its proceedings, records, and acts, when certified by the secretary of the board and authenticated with the corporate seal, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein

52880 The board may appoint its own officers, including a chairman, one or more vice chairmen, and such other officers as it deems necessary The officers shall have the powers and duties as may be delegated to them by the board

52881 The board shall have the power to appoint committees composed of both members and nonmembers of the board to advise the board in carrying out the provisions of this chapter.

52882. The board shall meet at least once a year, or at the call of the chairman or the director, or at the request of any 12 voting members of the board

52883. A quorum of the board shall be any 12 voting members or their alternates. The vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the board

52884 The director or his representatives shall be notified and may attend each meeting of the board

52885 No board member, alternate, member of a committee who is a nonmember of the board, or ex officio member shall receive a salary, but may, if approved by the board, be allowed per diem in accordance with State Board of Control rules for each day spent in actual attendance on, or in traveling to and from, meetings of the board or committees of the board, or on special assignment for the board

52886 Upon board action, all moneys received by any person from the assessments levied under the authority of Article 9 5 (commencing with Section 52951) of this chapter shall be deposited

in such banks as the board may designate and shall be disbursed by order of the board through such agent or agents as it may designate for that purpose. Any such agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business as such in the State of California, in favor of the board, conditioned upon the faithful performance of his duties, and in addition, as to any such agent, the strict accounting of all funds of the board in the amount as determined by the board.

52887. The state shall not be liable for the acts of the board or its contracts. Payment of all claims arising by reason of the administration of this chapter or acts of the board shall be limited to the funds collected under this chapter No member of the board or alternate member, or any employee or agent thereof, shall be personally liable on the contracts of the board nor shall a board member, alternate member, or employee of such board be responsible individually or jointly in any way to any cottongrower or handler or any other person for error in judgment, mistakes, or other acts, either of the board or omission, as principal, agent, or employee, except for his own individual acts of dishonesty or crime. No board member or alternate member shall be held responsible individually for any act or omission of any member of such board. The liability of the board members shall be several and not joint, and no board members shall be liable for the default of any other board member.

52889. The director may require the board to correct or cease any activity or function which is determined by the director not to be in the public interest or which is in violation of this chapter. If the board refuses or fails to cease such activities or functions or to make such corrections as required by the director, the director may, upon written notice, suspend all or a portion of the activities of the board until such time that the cessation or correction of activities or functions as required by the director have been accomplished.

Written notice to cease any such activity which is the subject of a contract entered into by the board prior to such notice, shall not be effective until after the period of notice for termination provided in such contract or 120 days, whichever is shorter. Upon service of the written notice, the director shall give written notification to the board of the specific acts which he determines are not in the public interest or are in violation of this chapter.

52890. Either the director or the board may bring an action for judicial relief in a court of competent jurisdiction, which may thereafter issue a temporary restraining order, a permanent injunction, or other applicable relief.

Article 4. Duties and Powers of the Board

52891. The powers or duties of the board shall include, but not be limited to, all of the following:

(a) Establish the Acala quality standard for all cotton grown within the district When determining the standard the board shall

consider fiber length, strength, uniformity, micronaire, seed quality, productivity, resistence to disease, including verticillium wilt, and spinning characteristics

(b) Annually review test data and approve for release and planting within the district, cotton varieties which meet the existing Acala quality standard but are superior in some meaningful respect, as determined by the board, and which is generally recognized by the cotton industry to be an essential factor in producing cotton within the district, or significant area within the district

(c) Conduct or commission tests for cotton production and quality evaluation in accordance with procedures to be adopted pursuant to Section 52902, and assess fees necessary for administering such tests.

(d) Conduct periodic referendums, as specified in this chapter, regarding the continuation of the one variety district A referendum shall also be conducted whenever the board proposes substantive changes in the Acala quality standard

(e) Require all cotton varieties approved for release for planting, and produced in the district, to contain the word "Acala" in labeling.

(f) The board shall advise and make recommendations to the director on all matters pertaining to this chapter including, but not limited to, the program for enforcing the provisions of this chapter and the setting of an appropriate seed assessment rate necessary for the administration of this chapter

52892 Upon implementation of Article 9 5 (commencing with Section 52951) of this chapter the powers and duties of the board shall also include, but not be limited to, all of the following:

(a) To adopt, and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations, and orders for carrying out the provisions of this chapter and for exercising its powers and the performance of its duties, including rules for regulation of appeals from any rule, regulation, or order of the board

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to or in connection with or deemed reasonably necessary, proper or advisable to effectuate the purposes of this chapter

(c) To employ a manager to serve, at the pleasure of the board, as president and chief executive officer of the board and other personnel, including legal counsel, that is necessary to carry out the provisions of this chapter

(d) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the board, for the proper administration and enforcement of this chapter and the performance of its duties.

(e) To promote the sale of cotton by advertising and other promotional means for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for cotton

(f) To enter into cost-sharing advertising with other products

considered, by the board, to be fair and equitable to both parties.

(g) In the discretion of the board, to make, in the name of the board, contracts to render service in formulating and conducting plans and programs, and such other contracts or agreements as the board may deem necessary for the promotion of the sale of cotton

(h) In the discretion of the board, to conduct, and contract with others to conduct, scientific research, including the study, analysis, dissemination, and accumulation of information obtained from such research or elsewhere respecting the marketing and production of cotton. In connection with such research, the board shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for such purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting such research.

(i) In the discretion of the board, to publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the cotton industry to growers and other industry members

52893. The board may require that all Acala seed sold for planting be certified by the California Crop Improvement Association if the board determines that contaminated seed is being sold.

Article 5 Nonapproved Variety Research

52901 The planting, possessing for planting, growing, picking, harvesting, or ginning of cotton by anyone conducting research on nonapproved varieties shall be in compliance with regulations adopted by the department. The department shall adopt regulations to accomplish the following purposes.

(a) To maintain the integrity of approved one-variety cotton and prevent contamination of such cotton.

(b) To require that growers notify the department regarding the location of test sites and of the dates and procedures for planting, harvesting, and ginning of cotton

(c) To establish a procedure for importing cottonseed into the district

52902 Before any nonapproved cotton is approved by the board for release and planting in the district, it shall be submitted to the board for production and quality evaluation and tests. The director in consultation with the board and the University of California shall adopt procedures for testing nonapproved cotton varieties. Such variety tests shall be conducted for a minimum of three years prior to approval and release of the variety

Article 6 Exceptions

52911 This chapter does not apply to the transportation of cottonseed through the district established by this chapter, from a point outside of the district to a destination outside of the district

Article 7. Seed Distribution

52921 All breeders seed for varieties developed by the United States Department of Agriculture or the University of California, and approved for release and planting by the board shall be allocated to the Foundation Seed and Plant Materials Service (FSPMS) for expansion to foundation seed in cooperation with the board.

FSPMS shall distribute foundation seed to all qualified recipients In the event that there is not enough foundation seed available to satisfy all requests for foundation seed, FSPMS may allocate the seed based upon any reasonable criteria, such as prior years acreage or allocation.

52922. FSPMS shall provide a method which will enable persons requesting foundation seed who have no history of cottonseed distribution to receive an initial allocation of foundation seed.

52923. FSPMS shall develop criteria in consultation with the board for the allocation of foundation seed to qualified recipients. FSPMS shall determine who is a qualified recipient and allocate foundation seed pursuant to such criteria.

Article 8 Referendum

52931. Initially, there shall be a referendum of all cottongrowers within the district not later than January 1, 1983, and thereafter, a referendum shall be conducted once every four years; provided that a petition signed by not less than 5 percent of the qualified cottongrowers in the district, calling for such a referendum, is submitted to the director.

52932. The provisions of this chapter shall remain operative if.

(a) Not less than 65 percent or more of the cottongrowers certified by the director who voted in such referendum, voted in favor of the provisions of this chapter, and that such cottongrowers so voting represent at least a majority of the cotton producing acreage of all cottongrowers who voted in such referendum; or

(b) At least a majority of such cottongrowers who voted in such referendum voted in favor of the provisions of this chapter and that such cottongrowers so voting represent 65 percent of the cotton producing acreage of all cottongrowers who voted in such referendum

52933 Nonreceipt of a ballot shall not invalidate such a referendum

52934 If the director finds that a favorable vote has been given as provided in Section 52932, he shall certify and give notice of such favorable vote by publication in a newspaper of general circulation in the one-variety district in accordance with Section 6066 of the Government Code All provisions of this chapter shall become operative upon completion of such publication and no later than 15 days after such certification by the director.

52935 If the director finds that such assent has not been given as provided in Section 52932, he shall so certify and declare all provisions of this chapter inoperative.

52936 In addition to Section 52931, the board shall hold a referendum vote whenever the board proposes changes to the Acala quality standard as provided for in Section 52891

52937 A referendum vote shall be held, if the board proposes to implement promotion and research funding as provided for in Article 9 5 (commencing with Section 52951) of this chapter

52938 The board may call for a referendum at any time

Article 9 Board and Enforcement Funding

52941 Any person who or organization which engages in the reproduction, sale, and distribution of Acala cottonseed for planting purposes under this chapter, shall annually pay to the director an assessment fee in the amount of not to exceed seventy-five cents ($0 75) per hundredweight of undelinted seed on all planting seed sold within the one-variety cotton district

52942 The assessment shall be used exclusively for enforcement of the provisions of this chapter, and the board functions including cotton variety testing and related administrative expenses

52943 The director, after investigation and due notice, may fix the annual assessment fee provided under Section 52941 at a lesser amount which would provide sufficient funds to defray the board and enforcement costs incurred in administering the provisions of this chapter

52944 The assessment fee shall be paid to the director within one calendar month after July 1 of each year, for cottonseed sales in the preceding fiscal year or portion of a fiscal year beginning July 1, except that no assessment shall be paid by any person or organization for any cottonseed for which the assessment has been previously paid If not paid within such period, a penalty of 10 percent of the assessment fee owed shall be due and payable to the director

52945 All moneys which are received by the director pursuant to this chapter shall be deposited in the Department of Agriculture Fund and shall be expended only for the purposes of this chapter

Article 9 5 Promotion and Research Funding

52951 The board is authorized to annually assess cottongrowers in the district in an amount not to exceed one-half of 1 percent of the grower's gross dollar value from the previous year's cotton crop

52952 Assessments collected under this article are subject to Section 52937 and Section 52932 and shall be used exclusively for promotion, research, and related administrative expenses

52953 The board shall develop a procedure for collecting assessments under this article

(a) Collection of the assessment may be required of

cottongrowers or cotton handlers.

(b) A penalty of 10 percent of the unpaid assessment fee due and payable may be imposed.

Article 10. Enforcement

52961. The director, and the commissioner of each county acting under his supervision, shall enforce this chapter and carry out its provisions and requirements.

Article 11. Violations and Penalties

52971. It is unlawful for any person to violate the provisions of this chapter.

52972. Except as otherwise provided in Article 5 (commencing with Section 52901) of this chapter, in the district established by this chapter it is unlawful for any person to plant, possess for planting, pick, harvest, gin, or delint any variety or species of cotton except the variety or species which is known as "Acala," and which consists of the seeds or plants that are approved for planting within the district.

52973. Any person who violates any provision of this chapter is guilty of a misdemeanor and, in addition thereto, is liable in a civil action for all damages that may be occasioned or caused by a violation of this chapter.

52974. Any seed cotton, cotton plant, or cottonseed which does not comply with the provisions of this chapter is a public nuisance and is subject to seizure on complaint of the director or commissioner to a court of competent jurisdiction in the area in which the seed cotton, cotton plant, or cottonseed is located.

52975 The district attorney of the county in which any such nuisance is found, at the request of the director or the commissioner, shall maintain, in the name of the people of the state, a civil action to abate and prevent such nuisance. Upon judgment and order of the court, such nuisance shall be condemned and destroyed in the manner directed by the court, denatured, or otherwise processed, or released upon such conditions as the court in its discretion may impose to insure that the nuisance will be abated.

52976. If the owner fails to comply with the order of the court within the time which is specified in the order, the court shall order the director, commissioner, sheriff, marshal, or constable to dispose of the seed cotton, cotton plant, or cottonseed and containers, under such terms and conditions as the court may describe.

If the court orders the sale of any of the seed cotton, cotton plants, or cottonseed and containers which can be salvaged, the costs of disposal shall be deducted from the proceeds of sale and the balance shall be paid into court for the owner.

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 593

An act to amend Section 490 5 of the Penal Code, relating to theft

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Because of the rising incidence of library theft, libraries are suffering serious losses of irreplaceable books, manuscripts, and other resources. In order to preserve rare research materials for posterity, the Legislature finds that it is necessary to provide libraries and their employees and agents with additional legal protection to insure greater security for their collections

SEC 2. Section 490 5 of the Penal Code is amended to read

490 5 (a) Upon a first conviction for petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, a person shall be punished by a mandatory fine of not less than fifty dollars ($50) and not more than one thousand dollars ($1,000) for each such violation; and may also be punished by imprisonment in the county jail, not exceeding six months, or both such fine and imprisonment

(b) When an unemancipated minor's willful conduct would constitute petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, any merchant or library facility who has been injured by such conduct may bring a civil action against the parent or legal guardian having control and custody of the minor For the purposes of such actions the misconduct of the unemancipated minor shall be imputed to the parent or legal guardian having control and custody of the minor The parent or legal guardian having control or custody of an unemancipated minor whose conduct violates this subdivision shall be jointly and severally liable with the minor to a merchant for the retail value of his merchandise, if not recovered in merchantable condition or to a library facility for the fair market value of its book or other library materials, plus damages of not less than fifty dollars ($50) nor more than five hundred dollars ($500) plus costs Recovery of such damages may be had in addition to, and is not limited by, any other provision of law which limits the liability of a parent or legal guardian for the tortious conduct of a minor An action for recovery of damages, pursuant to this subdivision, may be brought in small claims court if the total damages do not exceed the jurisdictional limit of such court, or in any other appropriate court, however, total damages, including the value of the merchandise or

book or other library materials, shall not exceed five hundred dollars ($500) for each action brought under this section

The provisions of this subdivision are in addition to other civil remedies and do not limit merchants or other persons to elect to pursue other civil remedies, except that the provisions of Section 1714 1 of the Civil Code shall not apply herein.

(c) In lieu of the fines prescribed by subdivision (a), any person may be required to perform public services designated by the court, provided that in no event shall any such person be required to perform less than the number of hours of such public service necessary to satisfy the fine assessed by the court as provided by subdivision (a) at the minimum wage prevailing in the state at the time of sentencing.

(d) All fines collected under this section shall be collected and distributed in accordance with Sections 1463 and 1463 1 of the Penal Code; provided, however, that a county may, by a majority vote of the members of its board of supervisors, allocate any amount up to, but not exceeding 50 percent of such fines to the county superintendent of schools for allocation to local school districts The fines allocated shall be administered by the county superintendent of schools to finance public school programs, which provide counseling or other educational services designed to discourage shoplifting, theft, and burglary Subject to rules and regulations as may be adopted by the Superintendent of Public Instruction, each county superintendent of schools shall allocate such funds to school districts within the county which submit project applications designed to further the educational purposes of this section The costs of administration of this section by each county superintendent of schools shall be paid from the funds allocated to the county superintendent of schools

(e) (1) A merchant may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the merchant has probable cause to believe the person to be detained is attempting to unlawfully take or has unlawfully taken merchandise from the merchant's premises.

A person employed by a library facility may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the person employed by a library facility has probable cause to believe the person to be detained is attempting to unlawfully remove or has unlawfully removed books or library materials from the premises of the library facility

(2) In making the detention a merchant or a person employed by a library facility may use a reasonable amount of nondeadly force necessary to protect himself and to prevent escape of the person detained or the loss of property

(3) During the period of detention any items which a merchant or any items which a person employed by a library facility has reasonable cause to believe are unlawfully taken from the premises of the merchant or library facility and which are in plain view may

be examined by the merchant or person employed by a library facility for the purposes of ascertaining the ownership thereof.

(4) In any action for false arrest, false imprisonment, slander or unlawful detention brought by any person detained by a merchant, it shall be a defense to such action that the merchant detaining such person had probable cause to believe that the person had stolen or attempted to steal merchandise and that the merchant acted reasonably under all the circumstances.

In any action for false arrest, false imprisonment, slander or unlawful detention brought by any person detained by a person employed by a library facility, it shall be a defense to such action that the person employed by a library facility detaining such person had probable cause to believe that the person had stolen or attempted to steal books or library materials and that the person employed by a library facility acted reasonably under all the circumstances.

(f) As used in this section:

(1) "Merchandise" means any personal property, capable of manual delivery, displayed, held or offered for retail sale by a merchant.

(2) "Merchant" means an owner or operator, and the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises used for the retail purchase or sale of any personal property capable of manual delivery.

(3) The terms "book or other library materials" include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual material in any format, magnetic or other tape, electronic data processing record, artifact, or other documentary, written or printed material regardless of physical form or characteristics, or any part thereof, belonging to, on loan to, or otherwise in the custody of a library facility.

(4) The term "library facility" includes any public library; any library of an educational, historical or eleemosynary institution, organization or society, any museum, any repository of public records

(g) Any library facility shall post at its entrance and exit a conspicuous sign to read as follows:

IN ORDER TO PREVENT THE THEFT OF BOOKS AND LIBRARY MATERIALS, STATE LAW AUTHORIZES THE DETENTION FOR A REASONABLE PERIOD OF ANY PERSON USING THESE FACILITIES SUSPECTED OF COMMITTING "LIBRARY THEFT" (PENAL CODE SECTION 490 5)

SEC. 3 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government

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

CHAPTER 594

An act to amend Section 10326 of the Elections Code, and to add Section 27317 to, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 10326 of the Elections Code is amended to read

10326. The device for marking the ballot may be of any size, shape or form, and the impression made on the ballot may be in the form of a cross, square, circle, rectangle, or any other design that will clearly indicate the choice of the voter Any type of ink or other substance that will clearly show the voter's choice may be used in or in conjunction with the marking device In addition, in the case of absent voter ballots, the voters may be provided with a supply of stickers for indicating their choices

SEC 2 Section 27317 is added to the Elections Code, to read.

27317 Except in the case of a city recall election, a candidate whose recall is being sought may file a candidate's statement with the clerk in accordance with the provisions of Section 10012, to be sent to each voter, together with the sample ballot

SEC. 3 In connection with the conduct of library district, school district, community college district, and county board of education elections scheduled for the first Tuesday after the first Monday in March of 1979 pursuant to the law in effect on the effective date of this act, those provisions of such law, relating to notices, filings, calls, and conduct of such elections, which are required or authorized to occur in 1978 shall be inapplicable for such elections

SEC 4 The provisions of Section 3 of this act shall only become operative if Assembly Bill No 2224 of the 1977–78 Regular Session of the Legislature is also chaptered and it changes the date of library district, school district, community college district, and county board of education elections from the first Tuesday after the first Monday in March of odd-numbered years to the first Tuesday after the first Monday in November of such years

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

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 may become effective for the conduct of elections in 1978, it is necessary that this act take effect immediately

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CHAPTER 595

An act making an appropriation for emergency services, and in this connection augmenting and supplementing Item 37 of the Budget Act of 1978, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

The people of the State of California do enact as follows

SECTION 1. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the General Fund to the Office of Emergency Services, in augmentation of Item 37 of the Budget Act of 1978, for the development and construction of one prototype heavy rescue-firefighting apparatus for the heavy rescue program of the Fire and Rescue Division of the Office of Emergency Services.

SEC 2 Section 1 of this act shall become operative August 25, 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:

This act will provide funds to the Office of Emergency Services for use during the 1978–79 fiscal year In order that such funds may be made available at the beginning of such fiscal year, it is necessary that this act take effect immediately

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CHAPTER 596

An act to add Section 68070 5 to the Government Code, relating to courts

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

The people of the State of California do enact as follows

SECTION 1 Section 68070.5 is added to the Government Code, to read

68070.5. (a) When a case is appealed, there shall be no communication direct or indirect between the judge or judicial officer who heard the case and any judge of the reviewing court concerning the facts or merits of the case.

(b) When a petition for an original writ names a court as a party, there shall be no communication direct or indirect between any judge hearing the writ and the judge or judicial officer of the court named as a party

(c) The prohibitions of subdivisions (a) and (b) shall not apply to a written communication if at the time the communication is transmitted all the parties are sent a copy

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CHAPTER 597

An act to amend Section 1317 of the Education Code, relating to county boards of education, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1. Section 1317 of the Education Code is amended to read

1317 The county board of education shall adopt the merit system as provided in Article 6 (commencing with Section 45240) of Chapter 5 of Part 25 of Division 3 of Title 2, and Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of Division 7 of Title 3, if the county has a merit (civil service) system in effect at the time of the adoption of this article as provided in Section 1310.

This section shall not apply to a county board of education which has been transferred specific duties and functions of the county board of supervisors pursuant to Section 1080 on or after June 1, 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

In order to avoid the confusion and conflict inherent in establishing a personnel commission to deal with matters already subject to a negotiated agreement reached pursuant to Chapter 10 7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code at the earliest possible time, it is necessary that this act take effect immediately

CHAPTER 598

An act to amend Section 2 of Chapter 763 of the Statutes of 1976, relating to the Public Utilities Commission

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 2 of Chapter 763 of the Statutes of 1976 is amended to read·

Sec 2 The sum of two hundred fifteen thousand dollars ($215,000) is hereby appropriated from the General Fund to the Public Utilities Commission to be transferred to and in augmentation of Item 74 of the Budget Act of 1976 for the use and support of the Public Utilities Commission for the 1976–77 fiscal year beginning July 1, 1976, and ending June 30, 1977 The Public Utilities Commission shall use these funds to exercise its jurisdiction to regulate rates, safety, and service of corporations or persons subject to its jurisdiction and to participate in proceedings before federal regulatory agencies which affect the energy needs of the State of California In participating before such federal regulatory agencies, the commission shall consult with state agencies such as the Air Resources Board, the Coastal Commission, the State Energy Resources Conservation and Development Commission, the State Lands Commission, the Resources Agency, and any other state agency which indicates that it has an interest in a federal regulatory energy proceeding as a result of its statutory responsibility in the State of California.

CHAPTER 599

An act to amend Sections 9591 and 9594 of, and to add Section 9595 to, the Food and Agricultural Code, relating to animal quarantine, and making an appropriation therefor.

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

The people of the State of California do enact as follows

SECTION 1 Section 9591 of the Food and Agricultural Code is amended to read

9591 Except as otherwise provided in Section 9595, if any animal or property is destroyed pursuant to Section 9569, the owner of the animal or property shall be paid an amount of money as provided in Section 9593

SEC 2 Section 9594 of the Food and Agricultural Code is

amended to read:

9594 The department may pay from any money which is available for the support of the department all sums that are due or to become due from the state to owners of animals or property which is taken, destroyed, or otherwise disposed of pursuant to any provision of this code that relates to the control, prevention, or eradication of disease in animals.

SEC. 3 Section 9595 is added to the Food and Agricultural Code, to read

9595. Indemnity payments provided by this division shall not be paid for any animal or property which is taken, destroyed, or otherwise disposed of pursuant to any provision of this code that relates to the control, prevention, or eradication of disease, if the owner is in violation of any quarantine order issued pursuant to this division or any regulation adopted pursuant thereto

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CHAPTER 600

An act to add Section 6700 1 to the Business and Professions Code, relating to professional engineers, and making an appropriation therefor

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 6700.1 is added to the Business and Professions Code, to read·

6700 1 The board may establish, by rule, the criteria and filing fee for the establishment of an engineering discipline by petition. Such fee shall be set by the board in an amount not to exceed the cost of the investigation of such petition. In no event shall the fee exceed one thousand five hundred dollars ($1,500)

CHAPTER 601

An act to add Section 12924 to the Water Code, relating to water

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 12924 is added to the Water Code, to read:

12924 (a) The department shall, in conjunction with other public agencies, conduct an investigation of the state's groundwater

basins. The department shall identify the state's groundwater basins on the basis of geological and hydrological conditions and consideration of political boundary lines whenever practical. The department shall also investigate existing general patterns of groundwater pumping and groundwater recharge within such basins to the extent necessary to identify basins which are subject to critical conditions of overdraft.

(b) The department shall report its findings to the Governor and the Legislature not later than January 1, 1980.

CHAPTER 602

An act to amend Sections 18368, 18496 and 18535 of the Financial Code, relating to industrial loan companies.

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 18368 of the Financial Code is amended to read:

18368. Whenever it appears to the commissioner that.

(a) The capital of an industrial loan company is impaired;

(b) An industrial loan company has violated its articles of incorporation or any law of this state;

(c) An industrial loan company is conducting its business in an unsafe or unauthorized manner;

(d) An industrial loan company refuses to submit its books, papers, and affairs to the inspection of any examiner;

(e) An officer of any industrial loan company refuses to be examined upon oath touching the concerns of such industrial loan company;

(f) An industrial loan company has suspended payment of its obligations,

(g) An industrial loan company is in such condition that it is unsound or unsafe for it to transact business;

(h) An industrial loan company neglects or refuses to observe any order of the commissioner made pursuant to this division, unless the enforcement of such order is restrained in a proceeding brought by the industrial loan company;

(i) An industrial loan company fails to participate as a member of Thrift Guaranty Corporation of California in accordance with Chapter 7 (commencing with Section 18475) of this division or fails to pay any assessment levied pursuant thereto within the time specified,

(j) A member industrial loan company of Guaranty Corporation refuses to permit Guaranty Corporation, its

appointed certified public accountant or public accountant, or specialized committees or employees to fulfill their duties under Section 18496,

(k) An industrial loan company has sold or issued investment certificates in violation of the provisions of this division;

(*l*) An industrial loan company has failed to maintain in effect a bond required under the provisions of this division, or

(m) Any fact or condition exists which, if it had existed at the time of the ortginal application for authority to organize and establish a corporation to engage in the industrial loan business reasonably would have warranted the commissioner in disapproving the application,

the commissioner may forthwith take possession of the property and business of such industrial loan company and retain possession until such industrial loan company resumes business or its affairs be finally liquidated as herein provided Such industrial loan company, with the consent of the commissioner, may resume business upon such conditions as he may prescribe

SEC 2 Section 18496 of the Financial Code is amended to read:

18496 (a) Guaranty Corporation shall have independent authority to submit reports and make recommendations to the commissioner regarding the financial condition of any member and shall also do so if requested by the commissioner Such reports and recommendations shall not be public documents There shall be no liability on the part of, and no cause of action of any nature shall arise against, Guaranty Corporation or its members, directors, officers, employees or agents, or the commissioner or his authorized representatives, for any statements made by them in any reports or recommendations made hereunder

(b) In order to permit Guaranty Corporation to fulfill its obligations under subdivision (a), upon the written request of Guaranty Corporation the commissioner may furnish to Guaranty Corporation a copy of financial statements or reports filed by an industrial loan company pursuant to Section 18407, 18408 or 18410 and a copy of the commissioner's analysis of an industrial loan company's receivables Except for reports filed under Sections 18407 and 18410, such statements and reports shall not be public documents, and the information contained therein shall be privileged, and confidential to Guaranty Corporation for its sole use in carrying out its statutory functions There shall be no liability on the part of, and no cause of action of any nature shall arise against the State of California, the commissioner or members of his staff or his authorized representatives, for the release of any information furnished to Guaranty Corporation pursuant to this subdivision

(c) By written consent of a majority of its directors, Guaranty Corporation, in order to fulfill its obligations under subdivision (a), may appoint an independent certified public accountant or public accountant to prepare an audit report containing audited financial statements, together with such other information as Guaranty

Corporation, in good faith, requires regarding the financial condition of any member.

After approval of the commissioner, Guaranty Corporation may have the appointed certified public accountant or public accountant investigate the affairs and examine the books, accounts, records and files used in the business of the member, and prepare an audit report of the member. For the purposes of examination and investigation the certified public accountant or public accountant appointed by Guaranty Corporation shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of the member.

(d) By written consent of a majority of its directors, Guaranty Corporation, in order to fulfill its obligations under subdivision (a), may hire or appoint specialized committees or employees to investigate the operations of a member company. After approval of the commissioner, Guaranty Corporation may have its specialized employees or committees investigate the affairs and examine the books, accounts, records and files used in the business of the member. For the purposes of examination and investigation the specialized employees and committees of Guaranty Corporation shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of the member.

(e) Costs and expenses for such audit report or special investigation report shall be paid by Guaranty Corporation.

(f) Guaranty Corporation, any member of Guaranty Corporation, an agent of Guaranty Corporation or of its members, or any person who uses any information obtained under subdivision (b), (c) or (d) of this section for any purpose not authorized by subdivision (a) is guilty of a misdemeanor.

SEC. 3. Section 18535 of the Financial Code is amended to read:

18535. Guaranty Corporation shall establish and maintain a guarantee fund as follows.

(a) Each new member shall pay fifty thousand dollars ($50,000) to the guarantee fund to become a member.

(b) If the total amount in the fund (less any then unpaid demand made by the commissioner pursuant to Section 18492) on March 15 of any year hereafter is less than 1½ percent of the total outstanding thrift obligations of all members as shown on the most recent independent audit reports required by Section 18405, then on or before May 1 of that year Guaranty Corporation shall levy an assessment Each member shall be assessed an amount equal to fifteen-hundredths of 1 percent of its outstanding thrift obligations as shown on its most recent independent audit report required by Section 18405

(c) If the total amount in the fund (less any then unpaid demand made by the commissioner pursuant to Section 18492) on March 15 of any year hereafter is equal to or in excess of 1½ percent of the total outstanding thrift obligations of all members as shown on the most recent independent audit reports required by Section 18405, then on

or before May 1 of that year Guaranty Corporation shall levy an assessment on each member that has not fulfilled both the following conditions as of March 15 of that year·

(1) Paid total cumulative assessment payments to Guaranty Corporation exceeding in the aggregate 1¼ percent of the total outstanding thrift obligations of that member shown on its most recent independent audit report required by Section 18405;

(2) Has a member's account balance in Guaranty Corporation exceeding 1¼ percent of the total outstanding thrift obligations of that member shown on its most recent independent audit report required by Section 18405

Each member who has failed to fulfill both the preceding conditions as of March 15 of that year shall be assessed an amount equal to fifteen-hundredths of 1 percent of its outstanding thrift obligations as shown on its most recent independent audit report required by Section 18405

CHAPTER 603

An act to amend Sections 1765, 1765 2, 1767, and 1768 of, and to repeal Section 1777 of, the Insurance Code, relating to insurance

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 1765 of the Insurance Code is amended to read

1765 Upon application in such form as the commissioner prescribes, the commissioner shall issue a license authorizing any applicant that is trustworthy and competent to transact an insurance brokerage business in such manner as to safeguard the interest of the insured, to act as a surplus line broker from the date of such license until the first day of July succeeding, on the delivery to the commissioner of a bond to the people of the State of California in the sum of fifty thousand dollars ($50,000) conditioned that such licensee will fully and faithfully comply with the requirements of this chapter, and all applicable provisions of this code Such bond shall be subject to the provisions of Sections 1662, 1663 and 1664 of this code

The commissioner shall charge and collect in advance a fee of two hundred dollars ($200) for filing each application for a license to act as a surplus line broker

The commissioner may deny, suspend or revoke any license applied for or granted pursuant to this chapter on all or any one of the grounds and in accordance with the procedures provided in Article 6 (commencing with Section 1666) and Article 13 (commencing with Section 1737) of Chapter 5 of this part, whenever

he finds that the applicant or licensee has committed a violation of any provision of this code.

SEC. 2 Section 1765.2 of the Insurance Code is amended to read:

1765 2. (a) Such license may be issued to an individual, a corporation or a partnership. If issued to a corporation or a partnership, or to an individual who maintains more than one surplus line office in this state, it shall name the natural person or persons located at each surplus line office maintained in this state by the licensee who is or are to be responsible for the proper discharge at each such office of all duties placed upon such licensee acting as a surplus line broker or who transacts or transact insurance with the public as distinguished from insurance producers. Each such natural person shall meet all of the requirements for such license and if the licensee is a corporation, shall be an officer or employee thereof, or if a partnership, a partner or employee thereof

(b) Every application for a license filed by a corporation shall contain the names and addresses of all stockholders owning 10 percent or more of the corporation's stock, and of all officers and directors of the corporation. Every such licensed corporation shall file a written notice with the commissioner of all changes, except address changes, of its stockholders who own 10 percent or more of the corporation's stock and of all officers and directors of the corporation.

SEC. 3. Section 1767 of the Insurance Code is amended to read·

1767. A surplus line broker at all times shall maintain in good faith an office in this state and if he maintains more than one surplus line office in this state, he shall designate one of them as his principal surplus line office in this state and shall notify the commissioner of such designation He shall report to the commissioner the addresses of all surplus line offices maintained by him in this state and any change in location of any such offices

SEC. 4. Section 1768 of the Insurance Code is amended to read.

1768 Such broker shall keep in this state complete records of the business transacted by him with nonadmitted insurers under his license as a surplus line broker. After notice and hearing, the commissioner shall promulgate reasonable rules and regulations specifying the manner and type of records to be maintained by surplus line brokers and the location or locations where such records shall be kept

SEC 5 Section 1777 of the Insurance Code is repealed.

CHAPTER 604

An act to add Sections 14374 and 16272 to, and to repeal Sections 14374, 14375, and 16272 of, the Revenue and Taxation Code, relating to taxation

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 14374 of the Revenue and Taxation Code is repealed.

SEC. 2 Section 14374 is added to the Revenue and Taxation Code, to read.

14374 Interest shall be allowed and paid upon any overpayment of inheritance tax, including any overpayment resulting from the judgment of any court modifying the amount of tax previously determined to be due, at a rate each calendar year equal to the Federal Reserve rate on each January 1, not to exceed 7 percent per annum Such interest shall be allowed from the date on which payment of the inheritance tax would have become delinquent, if not paid, or the date of actual payment, whichever is later in time, to the date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller.

SEC 3 Section 14375 of the Revenue and Taxation Code is repealed

SEC. 4. Section 16272 is added to the Revenue and Taxation Code, to read:

16272 Interest shall be allowed and paid upon any overpayment of gift tax made because of an error or mistake on the part of the taxpayer, including any overpayment resulting from the judgment of any court modifying the amount of tax previously determined to be due, at a rate each calendar year equal to the Federal Reserve rate on each January 1 not to exceed 7 percent per annum. Such interest shall be allowed from the date on which payment of the gift tax would have become delinquent, if not paid, or the date of actual payment, whichever is later in time, to the date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Controller.

SEC 5. Section 16272 of the Revenue and Taxation Code is repealed

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CHAPTER 605

An act to amend, add, and repeal Section 16480.4 of the Government Code, relating to state funds

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

The people of the State of California do enact as follows

SECTION 1 Section 16480 4 of the Government Code is amended to read

16480 4 (a) Amounts available for investment under this article may be invested and reinvested by the State Treasurer in any securities described in Section 16430 of this code or in loans to the General Fund as provided in Section 16310 of this code Such securities may be sold by the State Treasurer or exchanged by him for other securities of the kind authorized to be purchased hereunder, if, in his discretion, such sale or exchange appears to be in the best interests of the state The State Treasurer may enter into repurchase agreements or reverse repurchase agreements of any securities described in Section 16430.

The State Treasurer may enter into futures contracts for any securities described in subdivision (a) of Section 16430 upon a contract market designated and regulated by the Commodity Futures Trading Commission.

(b) The State Treasurer may hire or engage the services of an investment analyst to assist in such investment decisions

(c) For purposes of this section, the term "repurchase agreement" means a purchase of securities by the State Treasurer pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount

(d) For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the State Treasurer pursuant to an agreement by which the State Treasurer will repurchase such securities on or before a specified date and for a specified amount

(e) Commencing January 15, 1980, and annually thereafter, the State Treasurer shall submit to the Legislature a full and accurate report of all futures contracts, repurchase agreements, and reverse repurchase agreements entered into during the prior year

(f) This section shall remain in effect until December 31, 1982, and on such date is repealed

SEC 2 Section 16480 4 is added to the Government Code, to read·

16480.4 (a) Amounts available for investment under this article may be invested and reinvested by the State Treasurer in any securities described in Section 16430 of this code or in loans to the General Fund as provided in Section 16310 of this code Such securities may be sold by the State Treasurer or exchanged by him for other securities of the kind authorized to be purchased hereunder, if, in his discretion, such sale or exchange appears to be in the best interests of the state The State Treasurer may enter into repurchase agreements or reverse repurchase agreements of any securities described in Section 16430

(b) The State Treasurer may hire or engage the services of an investment analyst to assist in such investment decisions

(c) For purposes of this section, the term "repurchase agreement" means a purchase of securities by the State Treasurer

pursuant to an agreement by which the seller will repurchase such securities on or before a specified date and for a specified amount.

(d) For purposes of this section, the term "reverse repurchase agreement" means a sale of securities by the State Treasurer pursuant to an agreement by which the State Treasurer will repurchase such securities on or before a specified date and for a specified amount.

SEC. 3. Section 2 of this act shall become operative on January 1, 1983.

CHAPTER 606

An act to add Section 19325 to the Education Code, relating to regional libraries for the blind and physically handicapped, and making an appropriation therefor.

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978.]

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

SECTION 1. Section 19325 is added to the Education Code, to read:

19325. There is hereby appropriated from the General Fund the sum of fifteen thousand dollars ($15,000) to the Division of Libraries in the State Department of Education for the purpose of providing toll-free telephone services during the 1978–79 fiscal year for registered patrons of the federally designated regional libraries for the blind and physically handicapped, in order to enable such persons to have direct patron access to library services.

The State Librarian shall administer these funds and shall adopt regulations governing their use by federally designated regional libraries for the blind and physically handicapped.

CHAPTER 607

An act to amend Sections 82033 and 82034 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978.]

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

SECTION 1 Section 82033 of the Government Code is amended to read:

82033. "Interest in real property" includes any leasehold,

beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction if the fair market value of the interest is greater than one thousand dollars ($1,000), provided that a leasehold interest does not include a lessee's interest in a lease on real property which expires within 10 years of the first day of the period covered by the filer's statement of economic interest. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a ten percent interest or greater.

SEC. 2 Section 82034 of the Government Code is amended to read:

82034. "Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title No asset shall be deemed an investment unless its fair market value exceeds one thousand dollars ($1,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or spouse owns, directly, indirectly or beneficially, a ten percent interest or greater The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the Commission

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.

SEC. 4 The amendments effected 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 effected

CHAPTER 608

An act to amend Section 1010 of the Water Code, relating to water.

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1. Section 1010 of the Water Code is amended to read.

1010 Cessation of or reduction in the use of water under any existing right regardless of the basis of right, as the result of the use of reclaimed water or water polluted by waste to a degree which unreasonably affects such water for other beneficial uses, shall be and is deemed equivalent to, and for purposes of maintaining any right shall be construed to constitute, a reasonable beneficial use of water to the extent and in the amount that such reclaimed or polluted water is being used not exceeding, however, the amount of such reduction. No lapse, reduction, or loss of any existing right shall occur under such conditions and, to the extent and in the amount that reclaimed or polluted water is used in lieu of water appropriated by a permittee pursuant to Chapter 6 (commencing with Section 1375) of Part 2 of this division, the board shall not reduce the appropriation authorized in the user's permit. Such use of reclaimed or polluted water shall constitute good cause under Section 1398 to extend the period specified in a permit for application of appropriated water to beneficial use to the extent and in the amount that reclaimed or polluted water is used. Such extension by the board shall be granted upon the same terms as are set forth in the user's permit, and for a period sufficient to enable the permittee to perfect his appropriation, while continuing to use reclaimed or polluted water.

The board, in issuing a license pursuant to Article 3 (commencing with Section 1610) of Chapter 9 of Part 2 of this division, shall not reduce the appropriation authorized by permit, to the extent and in the amount that reduction in a permittee's use, during the perfection period, including any extention as provided in this section, has resulted from the use of reclaimed or polluted water in lieu of the permittee's authorized appropriation.

The board may require that any user of water who seeks the benefit of this section file periodic reports describing the extent and amount of the use of reclaimed or polluted water. To the maximum extent possible, such reports shall be made a part of other reports required by the board relating to the use of water.

For purposes of this section, the term "reclaimed water" shall have the same meaning as in Division 7 (commencing with Section 13000).

CHAPTER 609

An act to amend Sections 4826, 4836, 4840, and 4842.5 of the Business and Professions Code, relating to veterinary medicine, and making an appropriation therefor.

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1. Section 4826 of the Business and Professions Code is amended to read:

4826. Any person practices veterinary medicine, surgery, and dentistry and the various branches thereof, when he does any one of the following:

(a) Represents himself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches

(b) Diagnoses or prescribes a drug, medicine, appliance or application or treatment of whatever nature for the prevention, cure or relief of a wound, fracture, or bodily injury or disease of animals.

(c) Administers a drug, medicine, appliance or application or treatment of whatever nature for the prevention, cure or relief of a wound, fracture, or bodily injury or disease of animals, except where such drug, medicine, appliance or application or treatment is administered at the direction of and under the direct supervision of a licensed veterinarian subject to the provisions of Article 2.5 (commencing with Section 4832) of this chapter.

(d) Performs a surgical or dental operation upon an animal.

(e) Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock.

(f) Uses any words, letters or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, veterinary surgery or veterinary dentistry. Such use shall be prima facie evidence of the intention to represent himself as engaged in the practice of veterinary medicine, veterinary surgery or veterinary dentistry.

SEC. 2. Section 4836 of the Business and Professions Code is amended to read:

4836 (a) The board shall adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks which may be performed only by a registered animal health technician or a licensed veterinarian.

(b) The board also may adopt regulations establishing animal health care tasks which may be performed by an unregistered assistant as well as by a registered animal health technician or a licensed veterinarian The board shall establish an appropriate degree of supervision by a registered animal health technician or a

licensed veterinarian over an unregistered assistant for any tasks established under this subdivision and the degree of supervision for any of those tasks shall be higher than, or equal to, the degree of supervision required when a registered animal health technician performs the task.

Such regulations required by this section shall take effect at such time as the board determines that a sufficient number of animal health technicians have been registered pursuant to this article to insure that no decrease occurs in the level of animal health care services provided in this state, but in any event no later than January 1, 1983

SEC 3 Section 4840 of the Business and Professions Code is amended to read·

4840 Animal health technicians are approved to perform those animal health care services prescribed by law under the supervision of a veterinarian licensed or authorized to practice in this state

Animal health technicians may perform animal health care services on those animals impounded by a state, county, city, or city and county agency pursuant to the direct order, written order or telephonic order of a veterinarian licensed or authorized to practice in this state

SEC 4 Section 4842.5 of the Business and Professions Code is amended to read·

4842 5 The amount of fees prescribed by the provisions of this chapter is that fixed by the following schedule

(a) The fee for filing an application for examination shall be set by the board at not more than fifty dollars ($50).

(b) The fee for registration shall be set by the board at not more than forty dollars ($40)

(c) The renewal fee shall be set by the board at not more than twenty-five dollars ($25)

(d) The delinquency fee shall be ten dollars ($10).

(e) Any charge made for duplication or other services shall be set at the cost of rendering such services.

(f) The fee for filing an application for approval of a school pursuant to Section 4843 shall be set by the board at an amount not to exceed the cost of the approval process.

CHAPTER 610

An act to amend Section 7000 of the Government Code, relating to scenic conservation

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1. Section 7000 of the Government Code is amended to read:

7000 It is the intent of the Legislature in enacting this chapter to provide a means whereby the Departments of Water Resources, Parks and Recreation, Fish and Game, and General Services, of the State of California, may acquire by purchase, gift, grant, bequest, devise, lease, condemnation or otherwise, the fee or any lesser interest or right in real property in order to protect, preserve, maintain, improve, restore, limit the future use of, or otherwise conserve for public use and enjoyment any of the lands and areas, identified below, alongside the Westside Freeway, Interstate Route 5, and the California Aqueduct, which have significant scenic values:

(a) Between the California Aqueduct and the Westside Freeway from Highway 41 north to Milham Avenue

(b) Between the California Aqueduct and the Westside Freeway from Ness Avenue north to Pioneer Road

(c) Between the California Aqueduct, the Westside Freeway and the Delta-Mendota Canal from Cottonwood Road north to the freeway-aqueduct crossing at Orestimba Creek, and between the aqueduct and freeway north of that point to the Alameda County line

The Department of Transportation may acquire scenic easements along said Westside Freeway, provided that funds for such easements are obtained pursuant to the provisions of Section 319 of Title 23 of the United States Code relating to the purchase of interests in lands adjacent to highway rights-of-way, provided further that the federal government reimburses the state for the costs of such scenic easements, and also provided that the use of money for this purpose will not reduce the amount of funds which would otherwise be available to the state for highway purposes.

CHAPTER 611

An act to amend Section 23330 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 23330 of the Vehicle Code is amended to read

23330. Except where a special permit has been obtained from the Department of Transportation under the provisions of Article 6 (commencing with Section 35780) of Chapter 5 of Division 15, none

of the following shall be permitted on any vehicular crossing:

(a) Animals while being led or driven, even though tethered or harnessed.

(b) Bicycles or motorized bicycles, unless the department by signs indicates that either bicycles or motorized bicycles, or both, are permitted upon all or any portion of the vehicular crossing.

(c) Vehicles having a total width of vehicle or load exceeding 102 inches

(d) Vehicles carrying items prohibited by regulations promulgated by the Department of Transportation

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CHAPTER 612

An act to repeal and add Section 222 of the Fish and Game Code, relating to fish and game

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 222 of the Fish and Game Code is repealed.

SEC 2 Section 222 is added to the Fish and Game Code, to read

222 A copy of the booklet published pursuant to Section 217 may be given by the issuer of the license to every license purchaser at the time he purchases his license. It shall be the booklet containing the latest regulations so printed applicable to the activity authorized by the license being purchased

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CHAPTER 613

An act to amend Sections 32512, 33704, 33704.5, 36991, 36992, 36993, 36994, 38671, and 38701 of the Food and Agricultural Code, relating to milk products.

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

The people of the State of California do enact as follows

SECTION 1 Section 32512 of the Food and Agricultural Code is amended to read:

32512 "Milk product" or "dairy product" means any product which is prepared or manufactured from milk, for which product a standard of composition is established by this division, and any new milk product or combination milk and food product for which a temporary standard of composition is established pursuant to

Chapter 1 (commencing with Section 36601) of Part 3 "Milk product" or "dairy product" does not include "products resembling milk products" as defined in Section 38912

SEC 2 Section 33704 of the Food and Agricultural Code is amended to read·

33704 The provisions of Sections 33701, 33731, 33732, 33733, 33734, 33767, 33768, 33770, 33771, 33776, and 34593 do not apply to the manufacture of a milk drink if such product is manufactured from milk drink mix or sterilized milk drink mix, or to ice cream which is manufactured from ice cream mix, or to ice milk which is manufactured from ice milk mix, or to frozen yogurt, which is manufactured from frozen yogurt mix, or to lowfat frozen yogurt, which is manufactured from lowfat frozen yogurt mix, or to frozen dairy dessert, which is manufactured from frozen dairy dessert mix, if such products are manufactured in a freezing device from which such products are served directly in a semifrozen state, without packaging of any type, for consumption on the premises in or from rooms where food is served to the public

All such mixes so used shall be secured from a licensed manufacturer of milk products. Frozen yogurt mix, lowfat frozen yogurt mix, and frozen dairy dessert mix shall be manufactured into a semifrozen state without adulteration and freezing device salvage shall not be reused as a mix.

The director may by agreement with any approved milk inspection service, authorize such service to inspect and enforce requirements of this code applicable to the establishments covered by this section Any such agreement shall provide that the approved inspection service shall collect the applicable license fee for such establishments as provided in Section 35221 The fees so collected shall be retained by the approved service to cover its cost of enforcement, provided that 25 percent of the fees collected shall be remitted to the director to cover his cost of administration

SEC. 3 Section 33704 5 of the Food and Agricultural Code is amended to read.

33704.5 (a) Any person who manufactures and directly serves frozen yogurt, lowfat frozen yogurt, or frozen dairy dessert in the manner specified in Section 33704, shall post on the premises where such manufacture and service take place a sign which (1) states that frozen yogurt or lowfat frozen yogurt, or both, or frozen dairy dessert, is served on such premises and (2) lists the ingredients in the frozen yogurt products or frozen dairy dessert served

(b) The sign required to be posted pursuant to subdivision (a) shall be placed in a conspicuous location, such as on a menu or other sales device, and shall be printed in a legible manner that is understandable under normal conditions by the person purchasing such frozen yogurt products.

SEC 4 Section 36991 of the Food and Agricultural Code is amended to read:

36991 Frozen yogurt, lowfat frozen yogurt, and nonfat frozen

yogurt are frozen dairy products. They shall be made from milk, with or without added milk solids, flavoring, or seasoning, which has been pasteurized and afterwards fermented by one or more strains of Lactobacillus bulgaricus, including yogurt strains, Streptococcus thermophilus and Lactobacillus acidophilus. They shall not be pasteurized following fermentation. Fruits may be added before or after the mix is pasteurized and cultured. Such product may contain harmless edible stabilizers or emulsifiers not to exceed 0.6 percent. It shall have a titratable acidity of not less than 0.5 percent expressed as lactic acid; it shall contain no more than 10 coliform bacteria per gram; it shall contain no more than 10 colonies per gram each of molds, yeasts, and other fungi; and it shall be free of any other objectionable bacteria which may impair the quality of the product. The freezing and air incorporation shall not exceed 60 percent by volume of the product.

SEC. 5. Section 36992 of the Food and Agricultural Code is amended to read:

36992. Frozen yogurt shall contain not less than 3.5 percent milk fat Lowfat frozen yogurt shall contain not more than 2 percent milk fat. Nonfat frozen yogurt shall contain a maximum of 0.25 percent milk fat. Frozen fruit yogurt shall contain not less than 8 percent by weight of clean, mature, sound fruit or its equivalent in other forms. The milk fat content of frozen fruit yogurt may be reduced to not less than 2.8 percent milk fat and the milk fat content of lowfat frozen fruit yogurt may be reduced to not less than 1.3 percent milk fat.

SEC 6 Section 36993 of the Food and Agricultural Code is amended to read·

36993. When offered for sale frozen yogurt, lowfat frozen yogurt, and nonfat frozen yogurt shall be labeled with the name and address of the manufacturer or distributor, and shall be labeled, on a panel of the carton or container, with the name of the product and the name and address of the manufacturer or distributor. When the name and address of the distributor are used, the factory license number of the manufacturer shall appear on the carton or container. If fruit is added to any of the products defined in this section, the name of the fruit shall, on the label, precede the name of the product.

SEC. 7. Section 36994 of the Food and Agricultural Code is amended to read:

36994. Frozen yogurt mix and lowfat frozen yogurt mix are unfrozen products which are used in the manufacture of frozen yogurt and lowfat frozen yogurt. They shall comply with all the requirements for frozen yogurt and lowfat frozen yogurt, respectively. The use of fruits and flavoring in frozen yogurt mix and lowfat frozen yogurt mix, as used pursuant to Section 33704, shall be subject to the approval of the director

SEC. 8. Section 38671 of the Food and Agricultural Code is amended to read·

38671. Sour cream is pasteurized market cream which has been fermented by the addition of pure cultures of one or more strains of

lactic acid bacteria so that the product contains not less that 0.20 percent acidity expressed as lactic acid It may contain added milk solids which are derived from market milk, harmless edible stabilizers, emulsifiers, and coagulating enzymes, not to exceed six-tenths of 1 percent by weight Sour cream shall otherwise conform to all requirements for market cream, except those which pertain to bacteria count. Sour cream shall contain no more than 10 coliform bacteria per milliliter

SEC. 9 Section 38701 of the Food and Agricultural Code is amended to read

38701 Sour cream dressing is a product which is made from pasteurized market cream, with added milk solids derived from market milk, to which any strain, or two or more strains, of lactic acid producing organisms has been added to give it a distinct lactic acid flavor It shall contain not less than 16 percent of milk fat and not less than 24 percent of total milk solids It may contain salt and harmless edible stabilizers, emulsifiers, and coagulating enzymes, not to exceed six-tenths of 1 percent.

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

CHAPTER 614

An act to amend Section 6004 of the Water Code, relating to water

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 6004 of the Water Code is amended to read·

6004 No obstruction in a canal used to raise or lower water therein or divert water therefrom, no levee, including but not limited to a levee on the bed of a natural lake the primary purpose of which levee is to control floodwaters, no railroad fill or structure, and no road or highway fill or structure, no circular tank constructed of steel or concrete or of a combination thereof, no tank elevated above the ground, and no barrier which is not across a stream channel, watercourse, or natural drainage area and which has the principal purpose of impounding water for agricultural use or use as a sewage sludge drying facility shall be considered a dam In addition, no obstruction in the channel of a stream or watercourse which is 15

feet or less in height from the lowest elevation of the obstruction and which has the single purpose of spreading water within the bed of the stream or watercourse upstream from the obstruction for percolation underground shall be considered a dam

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CHAPTER 615

An act to amend Sections 5001 6, 5001 7, 5001.9, 5001 95, 5002 1, 5002 2, 5002.3, 5002.4, 5006 4, 5006 41, 5006 45, and 5006 47 of, to add Article 1.7 (commencing with Section 5019.50) to Chapter 1 of Division 5 of, and to repeal Section 5001 5 of, the Public Resources Code, relating to the state park system

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 5001 5 of the Public Resources Code is repealed

SEC 2 Section 5001.6 of the Public Resources Code is amended to read

5001 6 (a) Notwithstanding the provisions of Section 5001 95, units of the state park system may be located within, and be a part of, a state seashore, provided, however, that any such unit shall be managed in accordance with its classification as provided in Section 5019 62

(b) The following state seashores are hereby established consisting of appropriate coastal lands described herein together with such other lands as may, from time to time, be acquired by the state as an addition to such state seashores·

(1) Del Norte State Seashore, consisting of lands lying between Pyramid Point and Point Saint George, particularly lands to assure public access to, and scenic protection of, Pyramid Point, beach and dune lands, water-bottom and shoreline lands at Lake Earl, including Lake Talawa, all within Del Norte County.

(2) Clem Miller State Seashore, consisting of lands extending from the mouth of the Eel River to Pudding Creek at Fort Bragg, and including lands at Bear Harbor, Usal Creek, Cottoneva Creek, shore and upland additions to Westport-Union Landing State Beach, DeHaven Creek uplands, Ten Mile River estuary, and MacKerricher State Park, all within Humboldt and Mendocino Counties

(3) Mendocino Coast State Seashore, consisting of lands extending from Jughandle Creek to the Gualala River, and including the Pygmy Forest Ecological Staircase, Russian Gulch State Park, Mendocino Headlands State Park, Van Damme State Park, Greenwood Creek Beach, Bowling Ball Beach and the Gualala River shoreline and estuary, all within Mendocino County.

(4) Sonoma Coast State Seashore, consisting of lands extending from the Gualala River to Bodega Head, and including the Kruse Rhododendron State Reserve, Salt Point State Park, Fort Ross State Historic Park, and Sonoma Coast State Beach, all within Sonoma County.

(5) Año Nuevo State Seashore, consisting of lands extending from Pillar Point to the City of Santa Cruz, and including the San Mateo Coast State Beaches, Año Nuevo State Reserve, Big Basin Redwoods State Park, and Natural Bridges State Beach, all within San Mateo and Santa Cruz Counties

(6) San Luis Obispo State Seashore, consisting of lands extending from Cayucos to Lion's Head and including Cayucos State Beach, Morro Strand State Beach, Atascadero State Beach, Morro Bay State Park, Montana de Oro State Park, Avila State Beach, Pismo State Beach, Pismo Dunes State Vehicular Recreation Area and Point Sal State Beach, all within San Luis Obispo and Santa Barbara Counties.

(7) Santa Barbara Coast State Seashore, consisting of lands extending from Gaviota to Las Llagas Canyon, and including Gaviota State Park, Refugio State Beach, and El Capitan State Beach, all within Santa Barbara County.

(8) Point Mugu State Seashore, consisting of lands extending from Ormond Beach to San Nicholas Canyon, and including Mugu Lagoon, Point Mugu State Park, and Leo Carrillo State Beach, all within Ventura and Los Angeles Counties.

(9) Capistrano Coast State Seashore, consisting of lands extending from Newport Beach to San Mateo Point, and including Corona Del Mar State Beach, Irvine Coast, Doheny State Beach, and San Clemente State Beach, all within Orange County.

(10) San Diego Coast State Seashore, consisting of lands extending from San Onofre State Beach to La Jolla, and including San Onofre State Beach, Carlsbad State Beach, South Carlsbad State Beach, Leucadia State Beach, Moonlight State Beach, San Elijo State Beach, Cardiff State Beach. Torrey Pines State Beach, and Torrey Pines State Reserve, all within San Diego County.

(c) The department shall determine the precise boundaries of each state seashore, may revise such boundaries from time to time, shall identify additional lands appropriate for inclusion in state seashores, and shall recommend land acquisitions for the establishment of additional state seashores or as additions to existing state seashores to the Governor and to the legislature for inclusion in the annual Budget Bill

(d) The provisions of Section 5019.62 shall not apply to lands lying within the boundaries of state seashores established pursuant to this section until such lands have been acquired by the state and designated as state park system lands which are a part of a state seashore.

SEC. 3. Section 5001.7 of the Public Resources Code is amended to read.

5001 7 The landing of aircraft in units of the state park system is

subject to the following limitations

(a) Airport facilities and services may be allowed in a unit of the state park system, other than a state wilderness, state reserve, natural preserve, or cultural preserve, if the department determines that it is desirable to expand visitor use of the unit and that the location of such facilities and services is compatible with the management of the unit in relation to its primary usage

(b) Airport facilities and services shall be excluded from state wilderness, state reserves, natural preserves, and cultural preserves, and shall be excluded from any other unit of the state park system where the department determines that the primary resource value of the unit would be impaired by such facilities and services or that a landing strip or flight patterns would not be compatible with the recreation experience of other visitors

SEC 4 Section 5001 9 of the Public Resources Code is amended to read:

5001 9 Any improvement existing within the state park system as of the effective date of the enactment of Section 5001.5 at the 1971 Regular Session of the Legislature which fails to comply with the provisions of former Section 5001 5 or Article 1 7 (commencing with Section 5019.50) of this chapter shall not be expanded

SEC. 5. Section 5001 95 of the Public Resources Code is amended to read

5001 95 No state park system unit, other than a state wilderness, a natural preserve, or a cultural preserve, shall be located within the boundaries of another state park system unit

SEC 6 Section 5002 1 of the Public Resources Code is amended to read

5002.1 Prior to the classification or reclassification of a unit of the state park system into any of the categories specified in Article 1 7 (commencing with Section 5019 50) of this chapter, the department shall prepare an inventory of the unit's scenic, natural, and cultural features, including, but not limited to, ecological, archaeological, historical, and geological features. The inventory shall be submitted by the department to the State Park and Recreation Commission for its consideration when classifying or reclassifying a unit

SEC 7. Section 5002 2 of the Public Resources Code is amended to read·

5002 2. (a) Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan, as the case may be, for the unit

The general plan shall consist of elements that will evaluate and define the proposed land use, facilities, operation, environmental impact, management of resources, and any other matter deemed appropriate for inclusion in the plan

The general plan shall constitute a report on a project for the purposes of Section 21100 The general plan for a unit shall be

submitted by the department to the State Park and Recreation Commission for approval

(b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1 7 (commencing with Section 5019 50) of this chapter, and a declaration of resource management policy, setting forth the precise actions and limitations required for the achievement of the objectives established in the declaration of purpose

SEC 8 Section 5002 3 of the Public Resources Code is amended to read

5002 3 A public hearing shall be scheduled by the State Park and Recreation Commission to consider each matter of classification or reclassification of a unit and of approval of the department's general plan for a unit Notice of hearing shall be posted in plain sight at one or more places within the affected unit, published in one or more newspapers of general circulation in each county within which the affected unit is located, and mailed to every person who has filed a request for notice of hearing with the State Park and Recreation Commission If the notice of hearing is published in a weekly newspaper, it shall appear therein on at least two different days of publication, and if in a newspaper published oftener, there shall be at least five days from the first to the last day of publication, both days included. The content of the notice of hearing shall substantially comply with the requirements of Section 11424 of the Government Code.

Copies of the department's inventory of features, in the case of a hearing on classification or reclassification, or copies of the department's general plan, in the case of a hearing on approval of the plans, shall be made available to the public at each of the department's district offices on the last date of publication of the notice

The hearing shall be held by the State Park and Recreation Commission in, or within a radius of 100 miles of, the City of San Diego, Los Angeles, San Francisco, San Bernardino, Eureka, Redding, Fresno, or Sacramento, whichever is closest to the unit affected, not less than 30 days, nor more than 60 days, after the last date of publication of the notice However, the Cities of Eureka and Redding, and the area within a radius of 100 miles of each of these cities, shall be considered as a single location for hearings of the commission, and not more than one hearing in any year may be held at that location. The hearing shall be conducted in the manner specified in Section 11425 of the Government Code. The vote of each individual member of the State Park and Recreation Commission on each matter of classification or reclassification and of approval of the

department's general plan shall be recorded when the final decision of the State Park and Recreation Commission is announced.

SEC. 9. Section 5002 4 of the Public Resources Code is amended to read

5002 4 Following approval by the State Park and Recreation Commission of the general plan prepared by the department pursuant to Section 5002 2, the department shall, without delay, submit to the Legislature for review the department's inventory of features and general plan and the State Park and Recreation Commission's classification or reclassification decision

SEC 10 Section 5006 4 of the Public Resources Code is amended to read

5006.4 (a) The department may acquire, on behalf of the state, a fee or lesser interest in such real and personal property located near Hollister in San Benito County for the state park system If such property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the director and the lessor, and with the rental to be paid by the department Any interest 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) With respect to such lands subject to the grantor's reservation of oil and gas and mineral rights, the proviso contained in Section 5019 shall not apply

(b) The department shall carry out a program in such unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related state park system purposes Areas for the recreational use of off-highway vehicles shall be administered pursuant to subdivision (c) of Section 5019 56

Any fees, rentals, or other returns collected by the department in its administration of such unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund

SEC 11 Section 5006 41 of the Public Resources Code is amended to read

5006 41 The department may enter into agreements with the Department of Water Resources and the Department of Fish and Game to plan, develop, and administer real and personal property located in the vicinity of Oroville The department shall carry out a program in such unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles Areas for the recreational use of off-highway vehicles shall be administered pursuant to subdivision (c) of Section 5019 56

Any fees, rentals, or other returns collected by the department in its administration of such unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund

SEC 12 Section 5006 45 of the Public Resources Code is amended to read

5006 45 (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser interest in such real and personal property located in the vicinity of Ocotillo Wells in San Diego County as is designated in writing to the Director of General Services by the Director of Parks and Recreation If such property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor, and with the rental to be paid by the Department of Parks and Recreation

(b) Prior to making any acquisition

(1) The Director of Parks and Recreation shall recommend to the State Park and Recreation Commission his designation of lands presently owned by the department to be included in the vehicular recreation area provided in subdivision (d), and no acquisition may be made unless and until the commission has concurred in such designation

(2) The director shall conduct at least one public hearing in San Diego County regarding the designation of lands presently owned by the department to be included in the vehicular recreation area. The director shall consider and be guided by testimony presented at the hearing

(c) Any interest 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) The proviso in Section 5019 shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of such property or adjoining property for recreation and if the grantor or lessor of the surface of such property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction

(d) Upon acquisition of the interest, the Director of General Services shall forthwith transfer the interest to the jurisdiction of the department, which shall administer the property as a unit of the state park system The department shall carry out a program in such unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related state park system purposes Areas for the recreational use of off-highway vehicles shall be administered pursuant to subdivision (c) of Section 5019 56

(e) Any fees, rentals, or other returns collected by the department in its administration of such unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund

(f) The Director of Parks and Recreation shall review, and report annually to the State Park and Recreation Commission regarding, the development, maintenance, administration, and public usage of the vehicular recreation area and its success, effects on the

environment, and appropriateness as a unit of the state park system.

SEC. 13. Section 5006.47 of the Public Resources Code is amended to read·

5006 47. (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 Los Angeles and Ventura located in the vicinity of Gorman and commonly known as Hungry Valley as is designated in writing by the Director of Parks and Recreation to the Director of General Services. If such property is leased, the lease shall be for such term and for such consideration as is mutually 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). The proviso in Section 5019 shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of such property or adjoining property for recreation and if the grantor or lessor of the surface of such property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction.

(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 51st District Agricultural Association may propose a name for the unit. The department 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 subdivision (c) of Section 5019 56. The 51st District Agricultural Association may use the land and facilities within the unit for a fair oriented to off-highway vehicles for not more than 10 days each year if the Director of Parks and Recreation approves such use The director may impose such terms and conditions upon such use as the director deems necessary and proper The dates of such use shall be selected each year prior to January 1 and shall be subject to the approval of the Director of Parks and Recreation

(d) If the Director of General Services determines that it is necessary, in order to purchase the property, to offer to the person from whom it is being purchased an option to lease back all or part of such property, the director may make such an offer if the Director

of Parks and Recreation determines at the time of the purchase that the property is not then needed for the purposes of the state park system and will not be needed for the term of the lease thus offered At any time after the option expires, 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 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. 14 Article 1 7 (commencing with Section 5019.50) is added to Chapter 1 of Division 5 of the Public Resources Code, to read

Article 1 7 Classification of Units of the State Park System

5019 50 All units which are or shall become a part of the state park system, except those units or parts of units designated by the Legislature as wilderness areas pursuant to Chapter 1 3 (commencing with Section 5093 30) of this division, shall be classified by the State Park and Recreation Commission into one of the categories specified in this article

5019 53 State parks consist of relatively spacious areas of outstanding scenic or natural character, oftentimes also containing significant historical, archaeological, ecological, geological, or other such values The purpose of state parks shall be to preserve outstanding natural, scenic, and cultural values, indigenous acquatic and terrestrial fauna and flora, and the most significant examples of such ecological regions of California as the Sierra Nevada, northeast volcanic, great valley, coastal strip, Klamath-Siskiyou Mountains, southwest mountains and valleys, redwoods, foothills and low coastal mountains, and desert and desert mountains

Each state park shall be managed as a composite whole in order to restore, protect, and maintain its native environmental complexes to the extent compatible with the primary purpose for which the park was established

Improvements undertaken within state parks shall be for the purpose of making the areas available for public enjoyment and

education in a manner consistent with the preservation of natural, scenic, cultural, and ecological values for present and future generations Improvements may be undertaken to provide for recreational activities including, but not limited to, camping, picknicking, sightseeing, nature study, hiking, and horseback riding, so long as such improvements involve no major modification of lands, forests, or waters Improvements which do not directly enhance the public's enjoyment of the natural, scenic, cultural, or ecological values of the resource, which are attractions in themselves, or which are otherwise available to the public within a reasonable distance outside the park, shall not be undertaken within state parks

State parks may be established in either the terrestrial or underwater environments of the state

5019 56 State recreation units consist of areas selected, developed, and operated to provide outdoor recreational opportunities Such units shall be designated by the commission by naming, in accordance with the provisions of Article 1 (commencing with Section 5001) and this article relating to classification .

In the planning of improvements to be undertaken within state recreation units, consideration shall be given to compatibility of design with the surrounding scenic and environmental characteristics

State recreation units may be established in the terrestrial or underwater environments of the state and shall be further classified as one of the following types·

(a) State recreation areas, consisting of areas selected and developed to provide multiple recreational opportunities to meet other than purely local needs. Such areas shall be selected for their having terrain capable of withstanding extensive human impact and for their proximity to large population centers, major routes of travel, or proven recreational resources such as manmade or natural bodies of water Areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks, or natural or cultural preserves

Improvements may be undertaken to provide for recreational activities including, but not limited to, camping, picknicking, swimming, hiking, bicycling, horseback riding, boating, waterskiing, diving, winter sports, fishing, and hunting.

Improvements to provide for urban or indoor formalized recreational activities shall not be undertaken within state recreation areas

(b) Underwater recreation areas, consisting of areas in the underwater environment selected and developed to provide surface and subsurface water-oriented recreational opportunities, while preserving basic resource values for present and future generations

(c) State vehicular recreation areas, consisting of areas where topographic features and associated recreational vehicle opportunities are the primary values Such areas shall be chosen to

insure that no substantial natural values are lost and that no adjoining properties incur adverse effects from the operation and maintenance of vehicular recreation areas. When important natural, scenic, or cultural values are found to be present within the boundaries of a state vehicular recreation area they shall be defined within a natural preserve or a cultural preserve. The development of facilities shall be aimed at making full public use of the recreational opportunities present, and the natural and cultural elements of the environment may be managed or modified to enhance the recreation experiences. Under all circumstances, conditions of accelerated and unnatural erosion shall be anticipated and prevented to the extent possible Where the occurrence of such erosion is unanticipated, every measure shall be taken to restore the area

(d) State beaches, consisting of areas with frontage on the ocean, or bays designed to provide swimming, boating, fishing, and other beach-oriented recreational activities. Coastal areas containing ecological, geological, scenic, or cultural resources of significant value shall be preserved within state wildernesses, state reserves, state parks, or natural or cultural preserves.

(e) Wayside campgrounds, consisting of relatively small areas suitable for overnight camping and offering convenient access to major highways.

5019 59. Historical units, to be named appropriately and individually, consist of areas established primarily to preserve objects of historical, archaeological, and scientific interest, and archaeological sites and places commemorating important persons or historic events. Such areas should be of sufficient size, where possible, to encompass a significant proportion of the landscape associated with the historical objects. The only facilities that may be provided are those required for the safety, comfort, and enjoyment of the visitors, such as access, parking, water, sanitation, interpretation, and picknicking Upon approval by the commission, lands outside the primary historic zone may be selected or acquired, developed, or operated to provide camping facilities within appropriate historical units. Upon approval by the State Park and Recreation Commission, an area outside the primary historic zone may be designated as a recreation zone to provide limited recreational opportunities that will supplement the public's enjoyment of the unit Certain agricultural, mercantile, or other commercial activities may be permitted if those activities are a part of the history of the individual unit and any developments retain or restore historical authenticity. Historical units shall be named to perpetuate the primary historical theme of the individual units.

5019 62 State seashores consist of relatively spacious coastline areas with frontage on the ocean, or on bays open to the ocean, including water areas seasonally connected to the ocean, possessing outstanding scenic or natural character and significant recreational, historical, archaeological, or geological values State seashores may include underwater areas within them, but may not be established

solely in the underwater environment.

The purpose of state seashores shall be to preserve outstanding natural, scenic, cultural, ecological, and recreational values of the California coastline as an ecological region and to make possible the enjoyment of coastline and related recreational activities which are consistent with the preservation of the principal values and which contribute to the public enjoyment, appreciation, and understanding of those values

Improvements undertaken within state seashores shall be for the purpose of making the areas available for public enjoyment, recreation, and education in a manner consistent with the perpetuation of their natural, scenic, cultural, ecological, and recreational value Improvements which do not directly enhance the public enjoyment of the natural, scenic, cultural, ecological, or recreational values of the seashore, or which are attractions in themselves, shall not be undertaken

5019 65 State reserves consist of areas embracing outstanding natural or scenic characteristics of statewide significance The purpose of a state reserve is to preserve its native ecological associations, unique faunal or floral characteristics, geological features, and scenic qualities in a condition of undisturbed integrity Resource manipulation shall be restricted to the minimum required to negate the deleterious influence of man

Improvements undertaken shall be for the purpose of making the areas available, on a day use basis, for public enjoyment and education in a manner consistent with the preservation of their natural features Living and nonliving resources contained within state reserves shall not be disturbed or removed for other than scientific or management purposes

State reserves may be established in the terrestrial or underwater environments of the state

5019 68 State wildernesses, in contrast with those areas where man and his own works dominate the landscape, are hereby recognized as areas where the earth and its community of life are untrammeled by man and where man himself is a visitor who does not remain A state wilderness is further defined to mean an area of relatively undeveloped state-owned or leased land which has retained its primeval character and influence or has been substantially restored to a near-natural appearance, without permanent improvements or human habitation, other than semi-improved campgrounds and primitive latrines, and which is protected and managed so as to preserve its natural conditions and which

(a) Appears generally to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable

(b) Has outstanding opportunities for solitude or a primitive and unconfined type of recreation

(c) Consists of at least 5,000 acres of land, either by itself or in

combination with contiguous areas possessing wilderness characteristics, or is of sufficient size as to make practicable its preservation and use in an unimpaired condition.

(d) May also contain ecological, geological, or other features of scientific, educational, scenic, or historical value

State wildernesses may be established within the boundaries of other state park system units

5019.71 Natural preserves consist of distinct areas of outstanding natural or scientific significance established within the boundaries of other state park system units The purpose of natural preserves shall be to preserve such features as rare or endangered plant and animal species and their supporting ecosystems, representative examples of plant or animal communities existing in California prior to the impact of civilization, geological features illustrative of geological processes, significant fossil occurrences or geological features of cultural or economic interest, or topographic features illustrative of representative or unique biogeographical patterns Areas set aside as natural preserves shall be of sufficient size to allow, where possible, the natural dynamics of ecological interaction to continue without interference, and to provide, in all cases, a practicable management unit Habitat manipulation shall be permitted only in those areas found by scientific analysis to require manipulation to preserve the species or associations which constitute the basis for the establishment of the natural preserve

5019 74 Cultural preserves consist of distinct areas of outstanding cultural interest established within the boundaries of other state park system units for the purpose of protecting such features as sites, buildings, or zones which represent significant places or events in the flow of human experience in California Areas set aside as cultural preserves shall be large enough to provide for the effective protection of the prime cultural resources from potentially damaging influences, and to permit the effective management and interpretation of the resources Within cultural preserves, complete integrity of the cultural resources shall be sought, and no structures or improvements which conflict with such integrity shall be permitted

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CHAPTER 616

An act to amend Sections 70 and 6490 of, and to add Sections 6490 5 and 6496 5 to, the Elections Code, relating to elections

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 70 of the Elections Code is amended to read:

70. Notwithstanding any provision of law to the contrary, there shall be set forth in full in the declaration of candidacy required for any primary or final election the oath or affirmation set forth in Section 3 of Article XX of the Constitution and, such requirement shall satisfy the provisions of Section 3 of Article XX of the Constitution with respect to any office or public trust.

SEC 2 Section 6490 of the Elections Code is amended to read

6490. No candidate's name shall be printed on the ballot to be used at the direct primary unless the following nomination documents are delivered for filing to the county clerk not less than 88 and not more than 113 days prior to the direct primary.

(a) Declaration of candidacy pursuant to Section 6491.

(b) Nomination papers signed by signers pursuant to Section 6494

The county clerk shall not accept the nomination documents after 5 p m on the 88th day prior to the direct primary

Upon the receipt of an executed nomination document, the county clerk shall give the person delivering such document a receipt, properly dated, indicating that the document was delivered to the county clerk.

SEC 3 Section 6490 5 is added to the Elections Code, to read·

6490.5. (a) Except as provided in subdivision (b), a candidate shall not remove a declaration of candidacy form from the office of the county clerk, and the county clerk shall require all candidates filing a declaration of candidacy to execute the declaration in the office of the county clerk.

(b) A candidate may, in a written statement signed and dated by the candidate, designate a person to receive a declaration of candidacy form from the county clerk and deliver it to the candidate. Such statement shall include language indicating that the candidate is aware that the declaration of candidacy must be properly executed and delivered to the county clerk of the county of the candidate's residence by the 88th day prior to the direct primary election Such statement shall be retained by the county clerk.

SEC 4 Section 6496 5 is added to the Elections Code, to read·

6496 5 The declaration of candidacy shall be obtained from, and delivered to, the county clerk of the county in which the candidate resides and is a voter in accordance with the provisions of Section 6490 5

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 the duties, obligations, or responsibilities, imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures

CHAPTER 617

An act to amend Section 5001 of, and to add Section 165.4 to, the Vehicle Code, relating to vehicles

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 165 4 is added to the Vehicle Code, to read·

165 4 An authorized emergency vehicle also is any vehicle of the Harbor Department of the City of Los Angeles while operated by peace officer personnel of the department either within the harbor district as defined in the charter of the City of Los Angeles or on a highway or while in pursuit of any person suspected of committing any crime within such district, or when responding to a harbor emergency and necessarily operating the vehicle on a highway in order to reach property within such district or while otherwise performing duties

SEC. 2 Section 5001 of the Vehicle Code is amended to read:

5001 The department may issue license plates for vehicles exempt from registration fees in the same series as plates issued for nonexempt vehicles The plates may be issued for a one-year period and only upon the certification of the Attorney General that the issuance of the plates has been requested by the head of a criminal justice or a law enforcement agency of a city, county, or state or federal department, that the vehicle is assigned to persons responsible for investigating actual or suspected violations of the law or the supervision of persons liberated from a state prison or other institution under the jurisdiction of the Department of Corrections by parole or the supervision of persons liberated from an institution under the jurisdiction of the Department of the Youth Authority by parole, and is intended for use in the line of duty.

CHAPTER 618

An act to amend Section 13377 of, to add Section 13382 5 to, and to repeal Section 13379 of, the Water Code, relating to water quality

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1 Section 13377 of the Water Code is amended to read

13377 Notwithstanding any other provisions of this division, the

state board or the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge requirements which apply and ensure compliance with all applicable provisions of the Federal Water Pollution Control Act and acts amendatory thereof and supplementary thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.

SEC. 2. Section 13379 of the Water Code is repealed.

SEC. 3. Section 13382.5 is added to the Water Code, to read:

13382 5 Waste discharge requirements shall be adopted to permit the discharge of a specific pollutant or pollutants in a controlled manner from a point source to a defined managed aquaculture project if such discharge meets all applicable requirements of the Federal Water Pollution Control Act and acts amendatory thereof and supplementary thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans.

CHAPTER 619

An act to amend Sections 28 and 29 of the Crestline-Lake Arrowhead Water Agency Act (Chapter 40 of the Statutes of 1962, First Extraordinary Session), relating to the Crestline-Lake Arrowhead Water Agency

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

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

SECTION 1. Section 28 of the Crestline-Lake Arrowhead Water Agency Act (Chapter 40 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec 28 (a) If the revenues of the agency, or of any improvement district therein, are or in the judgment of the board of directors will probably be inadequate for any cause to pay the principal of or interest on any bonded debt of the agency, or any improvement district thereof, as it becomes due and also the amounts set forth in Section 27 of this act, the board of directors shall cause a tax to be levied, as herein provided, sufficient to provide for such deficit and to pay the amount of such principal and interest as will become due before the proceeds of a tax levied at the next general tax levy will be available

(b) If delinquent and unpaid charges for water and other services, or either, requested in writing by the owner of the property remain delinquent and unpaid for 60 days or more on July 1, the board of directors shall cause the amount of such delinquent and unpaid

charges to be levied as a tax, as herein provided.

SEC 2. Section 29 of the Crestline-Lake Arrowhead Water Agency Act (Chapter 40 of the Statutes of 1962, First Extraordinary Session) is amended to read.

Sec 29. The board of directors shall determine the amounts necessary to be raised by taxation during the fiscal year and shall fix the rate or rates of tax to be levied which will raise the amounts of money required by the agency, and within a reasonable time previous to the time when the board of supervisors is required by law to fix its tax rate, the board of directors shall certify to the board of supervisors the rate or rates so fixed and shall furnish to the board of supervisors a statement in writing containing the following: (a) an estimate of the minimum amount of money required to be raised by taxation during the fiscal year for the payment of the principal of and interest on any bonded debt of the agency or of an improvement district thereof as will become due before the proceeds of a tax levied at the next general tax levy will be available; (b) an estimate of the minimum amount of money required to be raised by taxation during the fiscal year for all other purposes of the district, (c) any delinquent and unpaid charges for water and other services, or either, requested in writing by the owner of the property that remain delinquent and unpaid for 60 days or more on July 1 The board of directors shall direct that at the time and in the manner required by law for the levying of taxes for county purposes, such board of supervisors shall levy, in addition to such other tax as may be levied by such board of supervisors, at the rate or rates so fixed and determined by the board of directors, a tax upon the property within the agency, or improvement district thereof benefited by the bonded debt, as the case may be, and it is made the duty of the officer or body having authority to levy taxes within each county to levy the tax so required, provided, that the tax rate set by the board for purposes other than raising the moneys necessary for the payment of the principal of and interest on any bonded debt of the agency or of an improvement district thereof or taxes levied as delinquent and unpaid charges for water and other services, or either, requested in writing by the owner of the property that remain delinquent and unpaid for 60 days or more on July 1, shall in no event exceed one dollar ($1) per one hundred dollars ($100) of assessed valuation unless a higher rate has been approved by the voters of the agency at an election called by the board and held for that purpose The resolution of the board calling the special election, and the ballot, shall stipulate the amount of the tax rate increase, the period of time in which such increase shall remain effective, and the reasons for such increase A special election calling for a tax rate increase may be consolidated with any other election pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 12 of the Elections Code Taxes for the payment of the interest on or principal of any bonded debt shall be levied on the property within the agency, or improvement district thereof, benefited by the

bonded debt, as determined by the board of directors in the resolution declaring the necessity to incur the debt Taxes for other purposes of the agency shall be levied on all property in the district or portion thereof subject to the particular tax It shall be the duty of all county officers charged with the duty of collecting taxes to collect such tax in the time, form, and manner as county taxes are collected, and when collected to pay the same to the agency. Taxes for the payment of a bonded debt and the interest thereon shall be a lien on all the property benefited thereby as stated in the resolution of the board of directors declaring the necessity to incur the debt All taxes for other purposes of the agency shall be a lien on all the property in the agency subject to the respective tax Agency taxes, whether for payment of a bonded indebtedness and the interest thereon or for other purposes, shall be of the same force and effect as other liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for state and county taxes

SEC 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 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

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CHAPTER 620

An act to add Section 66484 5 to the Government Code, relating to subdivisions

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978]

The people of the State of California do enact as follows

SECTION 1 Section 66484 5 is added to the Government Code, to read

66484 5 As used in this section, "local agency" means local agency as defined in Section 66420 As used in this section, "water agency" means the public entity or other entity which will furnish water for the operation and use of a recharge facility under a ground water recharge facility plan adopted by a local agency as provided in this section

The legislative body of a local agency may adopt an ordinance requiring the payment of a fee as a condition of approval of a subdivision requiring a final or parcel map, or as a condition of issuing a building permit in an area of benefit under a ground water recharge facility plan adopted as hereinafter provided, for the purpose of constructing recharge facilities for the replenishment of

the underground water supply in such area of benefit.

Such local ordinance may require payment of fees pursuant to this section if, at the time of payment·

(a) A ground water recharge facility plan for the area to be benefited has been adopted by the legislative body of the local agency The legislative body of such local agency shall not adopt such plan until it has given notice to and consulted with the water agency then obligated to furnish water to the area to be benefited and such water agency has formally and in writing approved such plan.

(b) The ordinance has been in effect for a period of at least 30 days prior to the filing of the tentative map, parcel map if no tentative map is required, or the application for a building permit.

(c) The ordinance provides that before any ground water recharge facility plan is adopted there will be a public hearing held by the legislative body for the proposed area of benefit.

Notice of the hearing on a proposed area of benefit shall be given by mailed notice to each owner of land within the proposed area, with postage prepaid using addresses from the last equalized assessment roll, or alternatively, from such other records of the assessor or the tax collector as contain more recent addresses. Alternatively, notice may be given by both publication at least 10 calendar days before the hearing in a newspaper of general circulation, published and circulated within the proposed area of benefit, and by posting such notice in conspicuous places within the proposed area

Such notice shall contain preliminary information concerning such ground water recharge facility plan, including the proposed boundaries of the area of benefit, the availability of surface water, the planned facilities for the area of benefit, estimated costs, and the proposed method of fee apportionment.

Written notice of such public hearing shall be given by personal service or mail to the water agency responsible for furnishing water to the area of benefit involved in such hearing prior to or at the time notice is given by mail or by publication and posting. The proposal contained in such mailed, published, or posted notice shall be jointly prepared and agreed upon by the local agency and such water agency before such notice is given Such water agency shall be entitled to participate in such hearings.

(d) The ordinance provides that the ground water recharge facility plan shall be established at such public hearing and, if approved, adopted by the legislative body Such plan shall include the boundaries of the area of benefit, the availability of surface water, the planned facilities for the area of benefit and the estimated cost thereof, a fair method of allocating the costs within the area of benefit, and the apportionment of fees within such area The plan as so adopted by the local agency and approved by the water agency shall be incorporated in a resolution of the legislative body and a certified copy thereof shall be recorded with the county recorder Such apportioned fees shall be applicable to all property within the

area of benefit and shall be payable as a condition of approval of a final map or a parcel map or as a condition of issuing a building permit for such property or portions thereof Where the area of benefit includes lands not otherwise subject to the payment of fees pursuant to this section, the legislative body shall make provision for payment of the share of improvement costs apportioned to such land by other means

(e) The ordinance provides that if, within the time when protests may be filed under the provisions of such ordinance, there is a written protest, filed with the clerk of the legislative body, by the owners of more than one-half of the area of the property to be benefited by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented to less than one-half of the property to be benefited, then the proposed proceedings shall be abandoned, and the legislative body shall not, for one year from the filing of that written protest, commence or carry on any proceedings for the same improvement or acquisition under the provisions of this section

Any protests may be withdrawn in writing by the owner who made the protest, at any time prior to the conclusion of a public hearing held pursuant to the ordinance.

If any majority protest is directed against only a portion of the improvement, then all further proceedings under the provisions of this section as to that same portion of the improvement so protested against shall be barred for a period of one year. The legislative body, however, may commence new proceedings which do not include the area, acquisitions or improvements which were the subject of the successful protest. Nothing in this section shall prohibit the legislative body, within such one-year period, from commencing and carrying on new proceedings for that portion of the improvement so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with such portion of the improvement or acquisition. Nothing in this section shall preclude the processing and recordation of maps in accordance with other provisions of this division if proceedings are abandoned.

Subsequent to the adoption of a plan, the local agency may itself construct, operate, and maintain such ground water recharge facilities, or it may designate the water agency furnishing the water or designate or create another agency to do all or any one of these things as authorized by law In the event any agency other than the local agency adopting such ordinances is so designated, the services so rendered shall be pursuant to a written agreement entered into between the local agency and such other agency.

Fees paid pursuant to an ordinance adopted pursuant to this section shall be deposited in a planned recharge facility fund A fund shall be established for each area of benefit Moneys in such fund shall be expended solely for the construction or reimbursement for construction of the improvement serving the area to be benefited

Such fees shall not be expended to reimburse the cost of recharge facilities in existence prior to the adoption of the ground water recharge facility plan for that area.

An ordinance adopted pursuant to this section may provide for the acceptance of considerations in lieu of the payment of fees.

A local agency imposing fees pursuant to this section may advance money from its general fund to pay the cost of constructing the improvements and may reimburse the general fund for such advances from planned recharge facility funds collected to finance the construction of such improvements.

A local agency imposing fees pursuant to this section may incur an interest-bearing indebtedness for the construction of recharge facilities provided that the sole security for repayment of such indebtedness shall be moneys in planned recharge facility funds.

Recharge facilities shall not be constructed unless the water agency approves the design of the facilities to be constructed and has reached an agreement with the local agency establishing the terms and conditions under which the water will be furnished If the water agency finds that the facilities have been constructed in accordance with the approved design, the agency shall furnish water for such ground water recharge facilities.

If such water agency is an irrigation district or other entity obligated by law to apportion water among the landowners within the area of benefit, such water agency shall receive credit upon such obligation for any water delivered for ground water recharge under such agreement and shall be relieved of any further obligation to deliver the amount of water for which it has received such credit to the landowners or lands within such area.

Nothing contained in this section shall entitle a local agency to collect a fee from a landowner who presently receives and continues to receive and use the landowner's pro rata share of surface water from the agency responsible for that area or from a landowner who has not applied for approval of a final or parcel map or a building permit

A credit for fees paid as authorized by this section shall be applied against any assessment levied by the local agency to construct such planned recharge facilities

The term "construction," as used in this section, includes design, acquisition of land or easements, administration of construction contracts, and actual construction

Nothing in this section shall be construed to preclude a county or city from providing funds for the construction of recharge facilities to defray costs not allocated to the area of benefit

CHAPTER 621

An act to amend Section 863 of the Financial Code, relating to financial institutions.

[Approved by Governor September 7, 1978. Filed with Secretary of State September 8, 1978]

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

SECTION 1. Section 863 of the Financial Code is amended to read:

863. (a) No bank shall impose any charge on a savings account or on a depositor for the failure of a depositor to deposit, or for the late deposit of, any agreed periodic installment deposit into such account. A bank shall pay interest on savings accounts as to which a depositor has agreed to make periodic installment deposits at the same rate of interest per annum as is paid on savings deposits.

(b) As used in this section "savings account" means a Christmas club account, a vacation club account, or other similar periodic installment deposit account maintained by a natural person, irrespective of its classification as a savings deposit or time deposit open account for purposes of state or federal law or regulations.

CHAPTER 622

An act to amend Sections 13201 and 13206 of the Water Code, relating to water quality.

[Approved by Governor September 7, 1978. Filed with Secretary of State September 8, 1978.]

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

SECTION 1. Section 13201 of the Water Code is amended to read:

13201. (a) There is a regional board for each of the regions described in Section 13200. Each board shall consist of the following nine members appointed by the Governor, each of whom shall represent and act on behalf of all the people and shall reside or have a principal place of business within the region:

(1) One person associated with water supply, conservation, and production.

(2) One person associated with irrigated agriculture.

(3) One person associated with industrial water use.

(4) One person associated with municipal government.

(5) One person associated with county government.

(6) One person from a responsible nongovernmental organization

associated with recreation, fish, or wildlife.

(7) Three persons not specifically associated with any of the foregoing categories, two of whom shall have special competence in areas related to water quality problems.

(b) Insofar as practicable, appointments shall be made in such manner as to result in representation on the board from all parts of the region.

(c) Notwithstanding subdivision (a), if appointments cannot be made of persons associated with county government because of the requirements of Section 13388, those appointments may be made of persons not specifically associated with any category.

SEC. 2. Section 13206 of the Water Code is amended to read:

13206. Public officers associated with any area of government, including planning or water, and whether elected or appointed, may be appointed to, and may serve contemporaneously as members of, a regional board.

CHAPTER 623

An act to amend Section 24014 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 7, 1978 Filed with Secretary of State September 8, 1978.]

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

SECTION 1. Section 24014 of the Vehicle Code is amended to read:

24014. (a) No dealer shall sell, offer for sale, or display, any new, assembled motorcycle on its premises, unless there is securely attached to its handlebar a label, approved by the Department of Motor Vehicles, furnished by the manufacturer, on which the manufacturer shall clearly indicate the following:

(1) The recommended retail price of the motorcycle.

(2) The recommended price for each accessory or item of optional equipment physically attached to the motorcycle at the time of its delivery to the dealer.

(b) The dealer shall clearly indicate on the label, furnished by the manufacturer, the following:

(1) The amount charged, if any, over and above the suggested retail price for transportation to the dealership.

(2) The amount charged, if any, for the assembly, preparation, or both, of the motorcycle.

(3) The amount charged, if any, for each dealer added accessory or item of optional equipment.

(4) The total recommended retail price of the vehicle which shall be the aggregate value of paragraphs (1) and (2) of subdivision (a) and paragraphs (1), (2) and (3) of subdivision (b).

CHAPTER 624

An act to amend Section 560 of the Insurance Code, relating to insurance.

[Approved by Governor September 7, 1978. Filed with Secretary of State September 8, 1978.]

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

SECTION 1. Section 560 of the Insurance Code is amended to read:

560. Every insurer issuing an automobile collision policy, as defined in subdivision (d) of Section 660, or a policy for comprehensive coverage for a motor vehicle, as defined in Section 11580.07, shall, in the event of damage to a covered automobile by collision or otherwise and the election by the insurer to have such automobile repaired by the repairer, make payment by check or draft, payable to the repairer or to the named insured and the repairer, jointly, not later than 10 days subsequent to receipt of an itemized bill or invoice covering repairs authorized by the insurer which have been satisfactorily completed. The provisions of this section shall include all cases where the insured has received actual notice that the repairer is doing work pursuant to a contract approved by the insurance company in which case the payment shall include the name of the repairer.

CHAPTER 625

An act to amend Section 415.45 of the Code of Civil Procedure, relating to service of process.

[Approved by Governor September 7, 1978. Filed with Secretary of State September 8, 1978.]

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

SECTION 1. Section 415.45 of the Code of Civil Procedure is amended to read:

415.45. (a) A summons in an action for unlawful detainer of real property may be served by posting if upon affidavit it appears to the satisfaction of the court in which the action is pending that the party to be served cannot with reasonable diligence be served in any manner specified in this article other than publication and that:

(1) A cause of action exists against the party upon whom service

is to be made or he is a necessary or proper party to the action; or

(2) The party to be served has or claims an interest in real property in this state that is subject to the jurisdiction of the court or the relief demanded in the action consists wholly or in part in excluding such party from any interest in such property.

(b) The court shall order the summons to be posted on the premises in a manner most likely to give actual notice to the party to be served and direct that a copy of the summons and of the complaint be forthwith mailed by certified mail to such party at his last known address.

(c) Service of summons in this manner is deemed complete on the 10th day after posting and mailing.

(d) Notwithstanding an order for posting of the summons, a summons may be served in any other manner authorized by this article, except publication, in which event such service shall supersede any posted summons.

CHAPTER 626

An act to amend Section 49307 of the Education Code and to amend Sections 2815 and 42001 of the Vehicle Code, relating to school safety patrols.

[Approved by Governor September 7, 1978. Filed with Secretary of State September 8, 1978]

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

SECTION 1. Section 49307 of the Education Code is amended to read:

49307. Any person who shall disregard any traffic signal or direction given by a member of a school safety patrol, shall be guilty of an infraction and subject to the penalties provided in subdivision (a) of Section 42001 of the Vehicle Code.

SEC. 2. Section 2815 of the Vehicle Code is amended to read:

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

SEC. 3. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Section 42001.5, 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 Section 2800.1, 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.

CHAPTER 627

An act to add Chapter 3.5 (commencing with Section 1050) to Division 2 of the Streets and Highways Code, relating to private byroads.

[Approved by Governor September 7, 1978. Filed with Secretary of State September 8, 1978]

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

SECTION 1. Chapter 3.5 (commencing with Section 1050) is added to Division 2 of the Streets and Highways Code, to read:

CHAPTER 3.5. PRIVATE BYROADS

1050. For the purposes of this chapter, "private byroads" are roads opened, laid out, or altered for the purpose of providing access to parcels of contiguous private land of more than 100 acres which have been cut off by a change in the course of a navigable stream.

Except as provided in this chapter, private byroads may be opened, laid out, or altered for the necessity of one or more residents or landowners of any road district in the same manner, and using the same procedure, as specified for the opening, laying out, or altering of public roads as provided in Article 3 (commencing with Section 1160) of Chapter 4; provided, however, that only one petitioner is necessary.

1051. The petitioner shall be a landowner in the road district.

1052. The petitioner shall accompany the petition with a good and sufficient bond, approved by the board of supervisors, in double the amount of the probable cost of the proceedings, including the market value for land taken and any severance damage resulting from such taking, and shall be conditioned that the bondsmen will pay all costs of the proceedings, including any compensation which may be awarded to any landowner.

The bond shall be further conditioned that the bondsmen will pay to the person over whose land the private byroad is sought to be opened or altered, his necessary costs and disbursements in contesting the opening or alteration of the private byroad, in case the petition is not granted or the private byroad is finally not opened or altered.

In lieu of a bond, the petitioner may deposit with the clerk of the board of supervisors a sum of money in an amount to be fixed by the board, but in no event less than double the estimated amount of the cost of the proceedings, including the market value for land taken and any severance damage resulting from such taking, together with an agreement that the money may be used by the board to pay the expenses of the proceedings, including all the costs and disbursements required by this section in the event a bond is given.

1053. The board of supervisors may, by resolution, order the private byroad to be opened, laid out, or altered. The clerk shall cause such order to be recorded in the office of the county recorder within five days, naming the owner of the dominant tenement as "grantee" and the owner of the servient tenement as "grantor."

1054. The person for whose benefit the private byroad is required shall pay the landowner the market value for land taken and any severance damage resulting from such taking and shall build and maintain the private byroad.

CHAPTER 628

An act to add Section 1934.5 to the Civil Code, relating to hiring of property.

[Approved by Governor September 7, 1978. Filed with Secretary of State September 8, 1978.]

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

SECTION 1. Section 1934.5 is added to the Civil Code, to read:

1934.5. Notwithstanding the provisions of Section 1934, the hiring of accommodations from month to month in a nursing or convalescent home shall be terminated by the death of the patient by or for whom the hiring was made. The hirer or his heir, legatee, or personal representative shall not be liable for any rent due for such accommodations under the hiring agreement beyond that rent due for the date on which such patient died. No advance payment of rent made by the hirer shall be subject to the claim of, or retention by, the nursing or convalescent home and shall be returned to the heir, legatee, or personal respresentative no later than two weeks after such patient has died. Any provision in the hiring agreement by which the hirer agrees to modify or waive any of his rights under this section shall be void as contrary to public policy.

The provisions of this section shall be applicable to all hiring agreements executed on or after January 1, 1979.

CHAPTER 629

An act relating to state highways.

[Approved by Governor September 7, 1978. Filed with Secretary of State September 8, 1978.]

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

SECTION 1. (a) The Legislature finds and declares that the Department of Transportation has arbitrarily denied the request of the California College of Arts and Crafts for the erection of state highway directional signs for the college.

(b) Notwithstanding that decision of the department, the department shall erect state highway directional signs for the college similar to those erected by the department for Mills College, Holy Names College, St. Mary's College, and JFK University.

CHAPTER 630

An act to add Sections 1043, 1044, and 1045 to the Evidence Code, to amend Section 832.5 of, and to add Sections 832.7 and 832.8 to, the Penal Code, relating to peace officers.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 8, 1978.]

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

SECTION 1. Section 1043 is added to the Evidence Code, to read:

1043. (a) In any case in which discovery or disclosure is sought of peace officer personnel records or records maintained pursuant to Section 832.5 of the Penal Code or information from such records, the party seeking such discovery or disclosure shall file a written motion with the appropriate court or administrative body upon 10 days' written notice to the governmental agency which has custody and control of such records. Upon receipt of such notice the governmental agency served shall immediately notify the individual whose records are sought.

(b) Such motion shall include:

(1) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the peace officer whose records are sought, the governmental agency which has custody and control of such records, and the time and place at which the motion for discovery or disclosure shall be heard;

(2) A description of the type of records or information sought; and

(3) Affidavits showing good cause for the discovery or disclosure sought, setting forth the materiality thereof to the subject matter involved in the pending litigation and stating upon reasonable belief that such governmental agency identified has such records or information from such records.

(c) No hearing upon a motion for discovery or disclosure shall be held without full compliance with the notice provisions of this section except upon a showing by the moving party of good cause for noncompliance, or upon a waiver of such hearing by the governmental agency identified as having such records.

SEC. 2. Section 1044 is added to the Evidence Code, to read:

1044. Nothing in this article shall be construed to affect the right of access to records of medical or psychological history where such access would otherwise be available under Section 996 or 1016.

SEC. 3. Section 1045 is added to the Evidence Code, to read:

1045. (a) Nothing in this article shall be construed to affect the right of access to records of complaints, or investigations of complaints, or discipline imposed as a result of such investigations, concerning an event or transaction in which the peace officer participated, or which he perceived, and pertaining to the manner in which he performed his duties, provided that such information is relevant to the subject matter involved in the pending litigation.

(b) In determining relevance the court shall examine the information in chambers in conformity with Section 915, and shall exclude from disclosure:

(1) Information consisting of complaints concerning conduct occurring more than five years before the event or transaction which is the subject of the litigation in aid of which discovery or disclosure is sought.

(2) In any criminal proceeding the conclusions of any officer

investigating a complaint filed pursuant to Section 832.5 of the Penal Code.

(3) Facts sought to be disclosed which are so remote as to make disclosure of little or no practical benefit.

(c) In determining relevance where the issue in litigation concerns the policies or pattern of conduct of the employing agency, the court shall consider whether the information sought may be obtained from other records maintained by the employing agency in the regular course of agency business which would not necessitate the disclosure of individual personnel records.

(d) Upon motion seasonably made by the governmental agency which has custody or control of the records to be examined or by the officer whose records are sought, and upon good cause showing the necessity thereof, the court may make any order which justice requires to protect the officer or agency from unnecessary annoyance, embarrassment or oppression.

SEC. 4. Section 832.5 of the Penal Code is amended to read:

832.5. (a) Each department or agency in this state which employs peace officers shall establish a procedure to investigate citizens' complaints against the personnel of such departments or agencies, and shall make a written description of the procedure available to the public.

(b) Complaints and any reports or findings relating thereto shall be retained for a period of at least five years.

SEC. 5. Section 832.7 is added to the Penal Code, to read:

832.7. Peace officer personnel records and records maintained pursuant to Section 832.5, or information obtained from such records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Section 1043 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury or a district attorney's office.

SEC. 6. Section 832.8 is added to the Penal Code, to read:

832.8. As used in Section 832.7, "personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to:

(a) Personal data, including marital status, family members, educational and employment history, or similar information;

(b) Medical history;

(c) Election of employee benefits;

(d) Employee advancement, appraisal, or discipline;

(e) Complaints, or investigations of complaints, concerning an event or transaction in which he participated, or which he perceived, and pertaining to the manner in which he performed his duties; or

(f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

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

the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 631

An act to repeal Section 1008 of, and to add Section 1008 to, the Code of Civil Procedure, relating to court orders.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 1008 of the Code of Civil Procedure is repealed.

SEC. 2. Section 1008 is added to the Code of Civil Procedure, to read:

1008. (a) When an application for an order has been made to a judge, or to the court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, within ten (10) days after knowledge of the order and based upon an alleged different state of facts may, make application to the same judge who made the order, to reconsider the matter and modify, amend or revoke the prior order.

(b) When the party who originally made an application for an order which was refused in whole or part, or granted conditionally or on terms, makes a subsequent application for the same order upon an alleged different state of facts, it shall be shown by affidavit what application was made before, when and to what judge, what order or decision was made thereon, and what new facts are claimed to be shown. For a failure to comply with this requirement, any order made on such subsequent application may be revoked or set aside on ex parte motion.

(c) A violation of this section may be punished as a contempt; and an order made contrary thereto may be revoked by the judge or commissioner who made it, or vacated by a judge of the court in which the action or proceeding is pending.

CHAPTER 632

An act to amend Section 2982 of the Civil Code and Section 11713.1 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 2982 of the Civil Code is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6 point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle described in the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount, if any, charged by the dealer for documentary preparation. If a dealer charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee.

7. The amount of the unpaid balance, which is the sum of items 3, 4, 5, and 6.

8. The amount of the finance charge, and the annual percentage

rate as defined in the Federal Truth-In-Lending Act (15 U.S.C. 1601 et seq.).

9. The total of payments, which is the sum of items 6 and 7, payable by the buyer to the seller, the number of installments required, the amount of each installment, and the date for payment of the installments.

10. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

11. A notice, in at least 8 point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

12. A notice to the buyer, in writing, and, if printed, in type no smaller than 8 point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) The amount of the finance charge in any conditional sale contract for the sale of a motor vehicle, with or without accessories, shall not exceed 1 percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment, or twenty-five dollars ($25), whichever is greater. The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(d) Any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, the buyer shall have the privilege of paying at any time in full the indebtedness evidenced by the contract. Whenever an indebtedness is liquidated prior to

maturity by prepayment or refinancing, or upon surrender or repossession and disposition of the motor vehicle, the holder shall thereupon refund to the buyer the unearned portion of the finance charge. The refund may be made in cash or credited to the amount due on the obligation of the buyer. The amount of the refund shall represent at least as great a proportion of the finance charge as the sum of the periodic time balances payable more than 15 days after the date of prepaying (or other event entitling the buyer to the refund) bears to the sum of all of the periodic time balances under the schedule of installments in the contract. The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (c) of this section. Where the amount of such refund is less than one dollar ($1), no refund need be made. Where the finance charge, after computing the refund, amounts to less than twenty-five dollars ($25), there may be retained an amount equal to twenty-five dollars ($25).

(e) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(f) Notwithstanding any other provision of this chapter to the contrary, in any instance in which vendor's single-interest insurance is to be written in connection with a conditional sale contract, a conditional sale contract complying with the applicable disclosure requirements of Regulation Z, as in effect on the date of such contract, shall be deemed to comply with the requirements of paragraphs 1 to 8, inclusive, of subdivision (a), irrespective of any difference between the provisions of that regulation and this chapter with respect to any information to be disclosed, the terminology, form or content of such disclosures, the amounts to be included in or manner of determining the unpaid balance, the finance charge or any other item of information to be disclosed, or otherwise. This subdivision shall have no application to the determination of the amount of the unpaid balance, the finance charge, or any other amount for the purpose of computing the maximum permissible finance charge or the refund of any unearned portion of the finance charge under subdivisions (c) and (d), respectively, or for the purpose of computing any penalty under Section 2983.1.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be set forth in terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional

information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

SEC. 2. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It shall be unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) To advertise any specific vehicle for sale without identifying such vehicle by either its vehicle identification number or license number.

(b) To advertise the total price of a vehicle without including all costs to the purchaser at time of delivery at the dealer's premises, except sales tax, vehicle registration fees, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(c) To exclude from the advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, and any dealer documentary preparation charge.

(d) To represent the dealer documentary preparation charge as a governmental fee.

(e) To refuse to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, finance charges, and dealer documentary preparation charge, which charge shall not exceed twenty dollars ($20) while such vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and such time has elapsed.

SEC. 2.5. Section 11713.1 of the Vehicle Code is amended to read:

11713.1. It shall be unlawful and a violation of this code for the holder of any dealer's license issued under this article to do any of the following:

(a) To advertise any specific vehicle for sale without identifying such vehicle by either its vehicle identification number or license number.

(b) To advertise the total price of a vehicle without including all costs to the purchaser at time of delivery at the dealer's premises, except sales tax, vehicle registration fees, the fee charged by the state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(c) To exclude from the advertisement of a vehicle for sale that there will be added to the advertised total price at the time of sale, charges for sales tax, vehicle registration fees, the fee charged by the

state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, and any dealer documentary preparation charge.

(d) To represent the dealer documentary preparation charge as a governmental fee.

(e) To refuse to sell a vehicle to any person at the advertised total price, exclusive of sales tax, vehicle registration fees, the fee charged by the state for the issuance of the certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code, finance charges, and dealer documentary preparation charge, which charges shall not exceed twenty dollars ($20) while such vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and such time has elapsed.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 156 are both chaptered and become effective January 1, 1979, both bills amend Section 11713.1 of the Vehicle Code, and this bill is chaptered after Senate Bill No. 156, that the amendments to Section 11713.1 proposed by both bills be given effect and incorporated in Section 11713.1 in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Senate Bill No. 156 are both chaptered and become effective January 1, 1979, both amend Section 11713.1, and this bill is chaptered after Senate Bill No. 156, in which case Section 2 of this act shall not become operative.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 633

An act to amend Sections 1176, 3012, 3252, 3266, 3269, and 3272 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 1176 of the Unemployment Insurance Code is amended to read:

1176. If, by reason of an employee receiving wages from more

than one employer during any calendar year, the wages received by him or her during such year exceed the remuneration upon which contributions are payable under Section 985, and the sum of the amount of tax imposed by Section 984 plus the amount of contributions under Section 3260 deducted from such wages exceeds the amount required under this division, the employee is entitled to a refund or credit of the amount of the excess. No interest shall be allowed or paid with respect to such refund or credit.

SEC. 2. Section 3012 of the Unemployment Insurance Code is amended to read:

3012. (a) All money in the Disability Fund is continuously appropriated without regard to fiscal years for the purpose of providing disability benefits pursuant to this part, including the payment of refunds, credits, or judgments, and interest thereon, the payment of disability benefits to all eligible persons not covered exclusively by an approved voluntary plan, and the payment of the expenses of administration of this part by the department and the Franchise Tax Board. "Eligible persons" as used in this section, means those individuals who are covered by the Disability Fund at the time their period of disability commences, or whose employment has terminated or who are in noncovered employment at the time their period of disability commences, and who are otherwise eligible for benefits under this part.

(b) For the purpose of keeping a record of the payments to and the disbursements from the Disability Fund with respect to the payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences, the director shall maintain the Unemployed Disabled Account in the Disability Fund. This account shall be credited with twelve one-hundredths of 1 percent (0.12%) of the taxable wages paid to employees covered by voluntary plans for disability benefits for each calendar year. This account shall also be credited with an amount equal to twelve one-hundredths of 1 percent (0.12%) of the taxable wages paid to employees covered by the Disability Fund for each calendar year. This account shall be charged each calendar year with disbursements from the Disability Fund for the payment of benefits and the additional administrative costs of the payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences.

SEC. 3. Section 3252 of the Unemployment Insurance Code is amended to read:

3252. (a) Except as provided by subdivision (b) of this section, neither an employee nor his or her employer shall be liable for the worker contributions required under this division with respect to wages paid by the employer while the employee is covered by an approved voluntary plan.

(b) Each voluntary plan shall pay to the department for the Disability Fund fourteen one-hundredths of 1 percent (0.14%) of the

taxable wages paid to employees covered by the voluntary plan for disability benefit coverage for each calendar year. Such payments shall not constitute a part of the voluntary plan premium for purposes of any tax under any provision of law. Payments under this section shall be deposited in the Disability Fund.

(c) The payments made under subdivision (b) of this section in excess of the credit to the unemployed disabled account made pursuant to Section 3012 shall reimburse the Disability Fund for the amounts paid for administrative costs arising out of voluntary plans as determined pursuant to Section 3269, and the aggregate amount paid as refunds and credits made to employees applicable to voluntary plans pursuant to Section 1176 as determined pursuant to Section 3266.

(d) Each voluntary plan shall file with the director within the time required for payments under subdivision (e) of this section, a return containing the employer's business name, address, and account number, and such other information as the director shall prescribe. The director shall prescribe the form for the return.

(e) Payments required under this section are due and payable on the first day of the calendar month following the close of each calendar quarter and shall become delinquent if not paid on or before the last day of such month.

(f) 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 payments required by this section.

(g) Whenever the director believes that a change in the percentage rate of payment specified in subdivision (b) may be necessary, he or she shall inform the Governor and the Legislature thereof and make recommendations accordingly.

SEC. 4. Section 3266 of the Unemployment Insurance Code is amended to read:

3266. The director shall in accordance with his or her authorized regulations determine the portion of the aggregate amount of refunds and credits to employees made under Section 1176 during any calendar year which is applicable to voluntary plans for which deductions were made under Section 3260, such determination to be based upon the relation during the preceding calendar year of the amount of wages subject to contributions to the Disability Fund to the amount of wages exempt from contributions to the Disability Fund under Section 3252.

SEC. 5. Section 3269 of the Unemployment Insurance Code is amended to read:

3269. The director shall in accordance with his or her authorized regulations, determine each fiscal year the total amount expended for added administrative work arising out of voluntary plans.

SEC. 6. Section 3272 of the Unemployment Insurance Code is amended to read:

3272. The provisions of Article 9 (commencing with Section 1176) of Chapter 4 of Part 1 of this division shall apply to amounts collected under Sections 3252, 3260, and 3265, to amounts remitted to the Disability Fund under Section 3260, and to amounts paid to an employee by an employer or insurer after a final decision on appeal under Section 3264 to a referee or the Appeals Board that the employee is entitled to disability benefits.

SEC. 7. This act shall become operative January 1, 1979, except that the provisions of Sections 1176, 3012, 3252, 3266, 3269, and 3272 of the Unemployment Insurance Code as in effect prior to the amendments made by this act shall apply to liability based on transactions during calendar year 1978.

CHAPTER 634

An act to add Sections 33207 and 34713 to the Water Code, relating to water districts.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 33207 is added to the Water Code, to read:

33207. The name of the Costa Mesa County Water District as created pursuant to this part is hereby changed to the Mesa Consolidated Water District. Any reference in this part to the Costa Mesa County Water District shall hereafter be deemed to refer to the Mesa Consolidated Water District.

SEC. 2. Section 34713 is added to the Water Code, to read:

34713. A person elected on the basis of one man-one vote to the board of directors of a California water district, which district has been authorized by the Legislature to convert on a phased basis from a landowner voting basis to a one man-one vote basis, may serve out the remainder of the elected term after being elected, for the first time, to the office of director of a municipal water district which encompasses, in whole or in part, the California water district.

CHAPTER 635

An act to add Section 10178 to the Insurance Code, relating to insurance.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 10178 is added to the Insurance Code, to read:

10178. No insurer shall deny, for the reason that the insured incurred no expense, a claim for hospital, medical or surgical services rendered by a nongovernmental charitable research hospital which makes no charge for its services in the absence of insurance. No expense-incurred, group hospital, medical or surgical policy issued, delivered, amended or renewed after the effective date of this section shall except, limit or reduce benefits for services rendered by a nongovernmental charitable research hospital because it does not charge for its services in the absence of insurance. No expense-incurred individual hospital, medical or surgical policy issued, delivered, or amended after the effective date of this section shall except, limit, or reduce benefits for services rendered by a nongovernmental charitable research hospital because it does not charge for its services in the absence of insurance.

As used in this section, charitable research hospital means a hospital that meets all of the following criteria:

(1) Is internationally recognized as devoting itself primarily to medical research.

(2) Expends not less than 10 percent of its operating budget in each fiscal year exclusively on medical research activities which are not directly related to the provision of services to patients.

(3) Derives not less than one-third of its gross revenues in each fiscal year from contributions, donations, grants, gifts, or other gratuitous forms from individuals, groups, persons, or entities unrelated to the hospital. Contributions, donations, grants, gifts or other gratuitous sources of revenue received as compensation for medicial services provided patients shall not be considered for purposes of this subdivision.

(4) Accepts patients without regard to the patient's ability to pay for medical services.

(5) Not less than two-thirds of the patients admitted have a primary diagnosis or suspected disease or condition directly related to the specific area or areas in which the hospital conducts research. Patients admitted because of an emergent life-threatening condition who could not be safely transported to another hospital shall not be considered as patients for purposes of this section.

CHAPTER 636

An act to amend Sections 1623 and 1626 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 1623 of the Revenue and Taxation Code is amended to read:

1623. (a) The term of office of members selected to serve on assessment appeals boards shall be three years beginning on the first Monday in September except that upon the original selection of members to serve on an assessment appeals board, the member first selected shall serve for a term of three years beginning on the first Monday in September following the date of the creation of the board, the second member selected shall serve for a term of two years beginning on such date, and the third member selected shall serve for a term of one year beginning on such date.

(b) In the event of a vacancy on a board, the person selected to fill the vacancy shall serve for the remainder of the unexpired term.

(c) Not less than 60 days prior to the expiration of the term of office of any member of an assessment appeals board and upon the occurrence of a vacancy on any such board, each member of the board of supervisors shall nominate one person for each office or vacancy to be filled. The presiding judge of the superior court shall select by lot one person from among those nominated to serve for the succeeding term on such board or to fill the vacancy as the case may be.

(d) Upon expiration of the term of office of any member of an assessment appeals board, the member whose term has expired shall continue to serve until such time as a new member takes office.

(e) A member whose term has expired may continue to serve for up to 60 days after the expiration of such term with respect to matters on which the assessment appeals board had commenced hearing prior to the expiration of the member's term.

SEC. 2. Section 1626 of the Revenue and Taxation Code is amended to read:

1626. The board of supervisors of any county which has created one or more assessment appeals boards may discontinue all of said boards effective on the first Monday in September, subject to any such board continuing to function until matters pending before it have been disposed of. If all of such boards have been discontinued, no new board or boards may be created to function prior to the next succeeding first Monday in September. Notwithstanding the foregoing, the board of supervisors of any such county may increase, or may decrease to not less than one, the number of such boards, effective from and after the next succeeding first Monday in September, provided that any board so discontinued shall continue to function until matters pending before it have been disposed of.

CHAPTER 637

An act to amend Sections 53859, 53859.02, 53859.04, 53859.06, 53859.07, and 53859.08 of the Government Code, relating to funds of local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. 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, including, without limitation, grants, loans, or a combination of both, for which funds have been appropriated and committed to a local agency.

(c) "Loan" includes, but is not limited to, a borrowing by a local agency represented or to be represented by bonds of a local agency.

SEC. 2. Section 53859.02 of the Government Code is amended to read:

53859.02. A local agency may borrow money pursuant to this article, such indebtedness to be represented by a grant anticipation note or notes issued to the lender pursuant to this article. The money borrowed may be used and expended by the local agency solely for the purpose for which the grant or loan is to be received.

SEC. 3. Section 53859.04 of the Government Code is amended to read:

53859.04. Any grant anticipation note issued under this article may be negotiable or may be payable to order or to bearer and may be in any denomination. Except as limited by the Constitution of the State of California, such note shall be payable not later than 36 months after the date of issue and shall be payable solely, except as provided in Section 53859.07, from committed and appropriated funds of grants or loans of the state or federal government to the local agency that the granting or loaning authority states shall be paid on specified dates or events within a 36-month period from the dating of the grant anticipation notes issued. Such note may be sold at public or private sale at a discount of not to exceed 2 percent of the par value thereof. Such note may bear interest not to exceed 8 percent per annum, payable as provided on its face. Such interest may be represented by coupons attached to such note or notes.

In those instances where the Constitution of the State of California limits a local agency from incurring an indebtedness or liability in

any year which is in excess of income and revenue for that year, a note or notes issued pursuant to this article may be made payable during the fiscal year next succeeding the fiscal year in which they have been issued, but in no event later than 15 months after the date of issue; provided that such note or notes shall be payable only from income and revenue received or accrued during the fiscal year in which the note or notes were issued.

SEC. 4. Section 53859.06 of the Government Code is amended to read:

53859.06. Grant or loan funds from the state or federal government for any legally authorized capital improvement for which the local agency is authorized to expend moneys, when stated by the granting or loaning authority to be committed, appropriated and payable to the local agency on a specified date or dates, or event or events, shall be pledged for the payment of the grant anticipation note or notes and the interest thereon. The note or notes and the interest thereon are a first lien upon and charge against the grant or loan funds.

SEC. 5. Section 53859.07 of the Government Code is amended to read:

53859.07. Notwithstanding the provisions of Sections 53854 and 53856, any note issued pursuant to this article to the extent not paid from grant or loan funds of the local agency pledged for the payment thereof, shall be paid with the interest thereon to the extent permitted by law from any taxes, income, revenue, cash receipts, or other moneys of local agency lawfully available therefor. Taxes, income, revenue, cash receipts or other moneys of the local agency lawfully available to pay a loan may be used to pay any note issued in anticipation of such loan, pending the granting of the loan.

SEC. 6. Section 53859.08 of the Government Code is amended to read:

53859.08. A grant or loan anticipation note or notes shall not be issued pursuant to this article in an amount at any time outstanding which shall exceed 95 percent of the grant or loan funds stated in writing by the granting or loaning authority as committed, appropriated and that shall be paid on a specified date or dates, or event or events, within a 36-month period from the dating of such notes.

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 local agencies which have already qualified for or accepted loans from federal agencies for various purposes may obtain the interim financing which is a condition to receiving such federal loans, it is necessary that this act take effect immediately.

CHAPTER 638

An act to amend Sections 3062, 5353, and 11709 of, and to add Section 11709.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 3062 of the Vehicle Code is amended to read:

3062. (a) Except as otherwise provided in subdivision (b), in the event that a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant market area where the same line-make is then represented, or relocating an existing motor vehicle dealership, the franchisor shall in writing first notify the board and each franchisee in such line-make in the relevant market area of his intention to establish an additional dealership or to relocate an existing dealership within or into that market area. Within 15 days of receiving such notice or within 15 days after the end of any appeal procedure provided by the franchisor, any such franchisee may file with the board a protest to the establishing or relocating of the dealership. When such a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor shall not establish or relocate the proposed dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting such dealership. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

For the purposes of this section, the reopening in a relevant market area of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

(b) With respect to the relocation of an existing dealership, subdivision (a) shall not apply to any relocation which is less than one mile from the existing location of the dealership and which is to a location within the same relevant market area within the same city where the existing dealership is located.

(c) With respect to the establishment of a branch office for selling vehicles at a fair, exposition, or similar exhibit that does not exceed 30 days, subdivision (a) shall not apply.

SEC. 2. Section 5353 of the Vehicle Code is amended to read:

5353. The registration provisions of this article shall not apply to any of the following:

(a) Any trailer coach which is driven or moved upon a highway in conformance with the provisions of this code relating to dealers,

manufacturers, transporters, or nonresidents or under a temporary permit issued by the department as authorized by Section 4156 hereof or under a one-trip permit issued by the department as authorized by Section 4003 when such permit is issued to a nonresident.

(b) Any unoccupied trailer coach which is part of an inventory of trailer coaches held for sale by a manufacturer or dealer in the course of his business.

(c) Any mobilehome being used as an office, as specified in subdivision (b) of Section 11709.5.

SEC. 3. Section 11709 of the Vehicle Code is amended to read:

11709. (a) A dealer's established place of business and such other sites or locations as may be operated and maintained by such dealers in conjunction with their established place of business shall have posted in a place conspicuous to the public in each and every location the license issued by the department to the dealer and to each salesman employed by the dealer and shall have erected or posted thereon such signs or devices providing information relating to the dealer's name, the location and address of such dealer's established place of business to enable any person doing business with such dealer to identify him properly. Every such sign erected or posted on an established place of business, shall have an area of not less than two square feet per side displayed, and shall contain lettering of sufficient size to enable the sign to be read from a distance of at least 50 feet.

(b) Notwithstanding the provisions of Section 11704 and this section, a dealer may display vehicles at a fair, exposition or similar exhibit without securing a branch license providing no actual sales are made at such events, and that such display does not exceed 30 days.

(c) Mobilehomes may also be displayed as a model home within a mobilehome park, mobilehome subdivision, mobilehome planned unit development, or mobilehome cooperative, until the mobilehome park, mobilehome subdivision, mobilehome planned unit development, or mobilehome cooperative has reached 70 percent occupancy.

(d) All vehicles displayed pursuant to subdivision (b) or (c) shall be identified by a sign or device providing information relating to the dealer's name and the location and address of such dealer's established place of business.

(e) This section shall not be applicable to a dealer in snowmobiles.

SEC. 4. Section 11709.5 is added to the Vehicle Code, to read:

11709.5. (a) A mobilehome dealer may be licensed to sell mobilehomes at a branch location office without a display area as long as all other provisions of this section are met. The provisions of this subdivision are applicable to the sale of used mobilehomes only, and only as a branch location office which is not within a mobilehome park

(b) Any new, unregistered mobilehome which is displayed at a mobilehome fair or exposition, not exceeding 30 days, may be used as an office required pursuant to Section 320.

As used in this section, "mobilehome fair or exposition" means a display of mobilehomes by two or more dealers, except in a mobilehome park, for a period not to exceed 30 days.

CHAPTER 639

An act to amend Section 74001.5 of the Government Code, relating to courts.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 74001.5 of the Government Code is amended to read:

74001.5. The judges of the West Orange County Judicial District, the South Orange County Judicial District, and the Orange County Harbor Judicial District may appoint one court commissioner for each district. Such appointment by the judges of the South Orange County Judicial District and the judges of the Orange County Harbor Judicial District may only be made in lieu of appointing a traffic trial commissioner pursuant to Section 72450. The commissioner shall possess the same qualifications as the law requires of a judge of the municipal court. The commissioner shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid a commissioner of the Los Angeles Municipal Court District. The commissioner shall be ex officio deputy clerk of the court and shall be a member of any retirement system which includes the attachés of the court and shall receive the same fringe benefits as granted to such attachés. The commissioner shall not engage in the private practice of law.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act is in accordance with the request of local governmental entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 640

An act to add Sections 87210 and 87313 to the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 87210 is added to the Government Code, to read:

87210. No person shall make a gift totaling twenty-five dollars ($25) or more in a calendar year to a person described in Article 2 on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

SEC. 2. Section 87313 is added to the Government Code, to read:

87313. No person shall make a gift of twenty-five dollars ($25) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.

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.

CHAPTER 641

An act to amend Section 82028 and 82030 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 82028 of the Government Code is amended to read:

82028. "Gift" means, except as provided in subdivision (b), any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

(b) The term "gift" does not include:

(1) Informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material";

(2) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes;

(3) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph;

(4) Campaign contributions required to be reported under Chapter 4 of this title;

(5) Any devise or inheritance.

SEC. 2. Section 82030 of the Government Code is amended to read:

82030. (a) "Income" means, except as provided in subsection (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10-percent interest or greater. "Income," other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title.

(b) "Income" also does not include:

(1) Campaign contributions required to be reported under Chapter 4 of this title;

(2) Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from bona fide educational, academic or charitable organization;

(3) Any devise or inheritance;

(4) Interest, dividends or premiums on a time or demand deposit in a financialinstitution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency;

(5) Dividends, interest or any other return on a security which is registered with the Securities and Exchange Commission of the United States government.

(6) Redemption of a mutual fund.

(7) Alimony or child support payments.

(8) Any loan from a commercial lending institution which is used for the purchase of the principal residence of the filer if the loan is made in the regular course of business on terms available to members of the public without regard to official status;

(9) Any loan from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin or the spouse of any such person, provided that a loan from any such person shall be considered income if the lender is acting as an agent or intermediary for any person not covered by this paragraph.

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.

CHAPTER 642

An act to amend Section 830.5 of the Penal Code, relating to peace officers.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 830.5 of the Penal Code is amended to read:

830.5. (a) Any parole officer of the State Department of Corrections, placement or parole officer of the Youth Authority, probation officer, or deputy probation officer is a peace officer. Except as otherwise provided in this subdivision, the authority of any such peace officer shall extend only (1) to conditions of parole or of probation by any person in this state on parole or probation; (2) to

the escape of any inmate or ward from a state institution; (3) to the transportation of such persons; and (4) as provided in Section 8597 or 8598 of the Government Code, or when acting pursuant to Section 8617 of the Government Code. The authority of any parole officer of the State Department of Corrections shall further extend to violations of any penal provisions of law which are discovered in the course of and arise in connection with his employment.

(b) Any warden, superintendent, supervisor, or guard employed by the Department of Corrections, the Director of Corrections, any deputy director of the Department of Corrections, any superintendent, assistant superintendent, supervisor, or employee having custody of wards, of each institution of the Department of the Youth Authority, and any transportation officer of the Department of the Youth Authority, is a peace officer. The authority of any such peace officer shall extend only (1) as is necessary for the purpose of carrying out the duties of his employment, and (2) as provided in Section 8597 or 8598 of the Government Code, or when acting pursuant to Section 8617 of the Government Code. When he is carrying out his duties, any such supervisor, guard, officer, or employee who is engaged in transportation of prisoners or apprehension of prisoners or wards who have escaped is a peace officer whether acting within or without this state.

(c) When, pursuant to Nevada law, an officer or employee of the Nevada State Prison has in his custody in California a prisoner of the State of Nevada whom he is transporting from the Nevada State Prison or any honor or forest camp in Nevada to another point in Nevada for the purposes of firefighting or conservation work, such officer or employee of the Nevada State Prison shall have the power to maintain custody of the prisoner in California and to retake the prisoner if he should escape in California to the same extent as if such officer or employee were a peace officer appointed with California law and the prisoner had been committed to his custody in proceedings under California law.

(d) Any peace officer under this section shall have the same status of a peace officer provided for in subdivision (a) or (b) of Section 830.2 for the purpose of obtaining any group insurance benefits available to such peace officers.

(e) Any peace officer under this section shall have the full powers and duties of a peace officer as provided by Section 830.1 when acting pursuant to Section 8617 of the Government Code.

CHAPTER 643

An act to add Section 54975 to the Government Code, relating to local agency formation commissions.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 54975 is added to the Government Code, to read:

54975. The board of supervisors shall include in the appointments list prepared pursuant to Section 54972 all appointments of public members and alternate public members made to the local agency formation commission pursuant to Sections 54780, 54781, 54782, 54782.5, and 54782.7.

Whenever an unscheduled vacancy occurs in a local agency formation commission, the board of supervisors shall cause a special vacancy notice to be posted as provided in Section 54974. Final appointment to fill the vacancy shall not be made by the appointing body for at least 10 working days after the posting of the notice.

SEC. 2. There are no state-mandated local costs in this act which require reimbursement under Section 2231 of the Revenue and Taxation Code because this act makes only technical changes to existing law.

CHAPTER 644

An act to amend Section 65100 of the Government Code, relating to local planning.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 65100 of the Government Code is amended to read:

65100. (a) By ordinance the legislative body of each county and city shall establish a planning agency. Such planning agency may be a planning department, a planning commission, or the legislative body itself, or any combination thereof.

(b) In order to improve its capability to carry out the functions specified in Section 65101 effectively, the legislative body of a city, county, or city and county may, by ordinance, establish two planning commissions. One commission shall concern itself with long-range planning and development including, but not limited to, the preparation and maintenance of the general, specific, and area plans, and the review of environmental impact reports and capital improvement programs. The second commission shall concern itself with short-range planning and programming including, but not limited to, the administration of zoning. In the event a particular project includes both long-range and short-range planning, the

legislative body shall designate which commission shall hear the entire matter. In establishing two planning commissions as provided in this subdivision, the legislative body shall adopt procedures to ensure effective cooperation between the two commissions and any other locally designated planning organization established within its jurisdiction.

(c) The legislative body of a county may provide for one or more area planning commissions, which may be the planning agencies for prescribed portions of the county.

CHAPTER 645

An act to add Section 4080.1 to the Business and Professions Code, relating to pharmacy.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 4080.1 is added to the Business and Professions Code, to read:

4080.1. The board may issue a temporary permit, when the ownership of a pharmacy is transferred from one person to another, upon such conditions and for such periods of time as the board determines to be in the public interest. A temporary permit fee shall be fixed by the board at an amount not to exceed the annual fee for renewal of a permit to conduct a pharmacy.

CHAPTER 646

An act to amend Section 21025.2 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 21025.2 of the Government Code is amended to read:

21025.2. Notwithstanding any other provision of this article, the retirement of a member who has been granted or is entitled to sick leave or who is entitled to compensating time off for overtime, shall not become effective until the expiration of such sick leave with compensation and the expiration of such compensating time off with compensation, unless the member applies for or consents to his

retirement as of an earlier date, or unless, with respect to sick leave, the provisions of a local ordinance or resolution or the rules or regulations of the employer provide to the contrary.

CHAPTER 647

An act to add Section 11780.5 to the Insurance Code, relating to State Compensation Insurance Fund.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 11780.5 is added to the Insurance Code, to read:

11780.5. The fund may also insure a California employer against his liability for workers' compensation benefits, under the law of any other state, for California employees temporarily working outside of California on a specific assignment if the fund insures the employer's other employees who work within California.

CHAPTER 648

An act to amend Section 1373 of the Health and Safety Code, to amend Sections 10123 and 11512 of, and to add Section 10127.2 to, the Insurance Code, relating to health care.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where such other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for such Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to such Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization

operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon such employee and provides for an extension of such coverage for any period following a termination of employment of the employee shall also provide that such extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective-bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions

under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) A health care service plan may provide for coverage of, or for payment for, professional mental health services, or for the exclusion of such services. No plan shall prohibit the member from selecting any psychologist who is the holder of a certificate issued under Section 2948 of the Business and Professions Code or, upon referral by a physician and surgeon licensed under Section 2135 of the Business and Professions Code, a licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code to perform the particular services covered under the terms of the plan, such certificate holder being expressly authorized by law to perform such services. Nothing in this section shall be construed to allow a member to select and obtain mental health services from a certificate or license holder who is not directly affiliated with or under contract to the health care service plan to which the member belongs.

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

(j) A plan contract which provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 2. Section 10123 of the Insurance Code is amended to read:

10123. (a) No self-insured employee welfare benefit plan, issued or renewed on or after the effective date of this section, which provides coverage for an employee and one or more covered persons dependent upon such employee and provides for an extension of coverage for any period following a termination of employment of the employee, shall fail to provide that such extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any limitations or conditions set forth in any applicable collective-bargaining agreement. All such plans entered into or renewed on or after the effective date of this section shall be construed to be in compliance with this section, and any provision in any such plan which is in conflict with this section shall be of no force or effect.

(b) A plan contract which provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

(c) As used in subdivisions (a) and (b), "self-insured employee

welfare benefit plan" has the same meaning as that specified in subdivision (d) of Section 10121.

SEC. 3. Section 10127.2 is added to the Insurance Code, to read:

10127.2. Each policy of disability insurance issued or renewed on or after the effective date of this section, which policy provides benefits that accrue after a certain time of confinement in a health care facility, shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

With respect to renewal of individual policies of disability insurance, insurers shall not be required to issue notification to the insured of the provisions of this section unless notice of policy renewal is delivered to the insured.

SEC. 4. Section 11512 of the Insurance Code is amended to read:

11512. No hospital service contract shall be entered into between a corporation proposing to furnish or provide any one or more of the services authorized under this chapter and a subscriber:

(a) Unless the entire consideration therefor is expressed in the contract;

(b) Unless the times at which the benefits or services to the subscriber take effect and terminate are stated in a portion of the contract above the evidence of its execution;

(c) If the contract purports to entitle more than one person to benefits or services except family hospital service contracts issued under Section 11512.1, group hospital service contracts issued under Section 11512.2 and blanket contracts issued under Section 11512.4;

(d) Unless every printed portion and any endorsement or attached papers is plainly printed in type of which the face is not smaller than 10 points;

(e) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless the exceptions of the contract are printed with greater prominence than the benefits to which they apply;

(f) Except for group hospital service contracts and blanket contracts issued under Section 11512.2, unless, if any portion of such contract purports, by reason of the circumstances under which an illness, injury or disablement is incurred to reduce any service to less than that provided for the same illness, injury or disablement incurred under ordinary circumstances, such portion is printed in boldface type and with greater prominence than any other text of the contract;

(g) If the contract contains any provisions purporting to make any portion of the charter, constitution or bylaws of such nonprofit corporation a part of the contract unless such portion is set forth in full in the contract;

(h) Except for a comprehensive health care contract issued under subdivision (e) of Section 11493, unless the contract for hospital service contains in blackface type not less than 10-point the following provisions:

Nothing in this contract contained shall in any way or manner restrict or interfere with the right of any individual entitled to hospital service and care hereunder to select the contracting hospital or to make a free choice of his attending physician, who shall be the holder of a valid and unrevoked physician and surgeon's certificate and who is a member of, or acceptable to, the attending staff and board of directors of the hospital in which said hospital services are to be provided and rendered;

(i) If such contract contains coverage for sterilization operations or procedures and it imposes any disclaimer, restriction on, or limitation of coverage relative to the insured's reason for sterilization. All such contracts entered into or renewed on or after March 7, 1973, shall be construed to be in compliance with this section, and any provision in any such contract which is in conflict with this section shall be of no force or effect;

(j) Unless, in the case of a contract which provides benefits that accrue after a certain time of confinement in a health care facility, the contract specifies what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

CHAPTER 649

An act to to amend Section 1 of Chapter 197 of the Statutes of 1978, relating to state highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 1 of Chapter 197 of the Statutes of 1978 is amended to read:

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, 1979.

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 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 be authorized additional time to conduct the feasibility study required by Chapter 197, Statutes of 1978, before the date it is presently required to submit a report on the study to the Legislature, it is necessary that this act take effect immediately.

CHAPTER 650

An act to amend Sections 84210, 84211, 84300, and 84304 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 84210 of the Government Code is amended to read:

84210. Each campaign statement required by this article shall contain the following information:

(a) Under the heading "receipts," the total amount of contributions received, and under the heading "expenditures," the total amount of expenditures made during the period covered by the campaign statement and the cumulative amount of such totals (provided that if any loans have been repaid during the period covered by the campaign statement, the amount of such repayment shall be subtracted from the total amount of contributions received and expenditures made, and provided further that forgiveness of a loan or payment of a loan by a third party shall not be included in such totals).

(b) The total amount of contributions received during the period covered by the campaign statement from persons who have given one hundred dollars ($100) or more.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given less than one hundred dollars ($100).

(d) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

(e) The total amount of expenditures disbursed during the period covered by the campaign statement to persons who have received less than one hundred dollars ($100).

(f) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(g) The full name of each person from whom a contribution or contributions totaling one hundred dollars ($100) or more has been received, together with his street address, occupation, and the name

of his employer, if any, or the principal place of business if he is self-employed, the amount he contributed, the date on which each contribution was received during the period covered by the campaign statement, and the cumulative amount he contributed. In the case of committees which are listed as contributors, the campaign statement shall also contain the number assigned to the committee by the Secretary of State or if no such number has been assigned, the full name and street address of the treasurer of the committee. Loans received shall be set forth in a separate schedule and the foregoing information shall be stated in regard to the lender and any person who is liable directly, indirectly or contingently on the loan, together with the date and amount of the loan and, if the loan has been repaid, the date of repayment and by whom paid.

(h) The full name and street address of each person to whom an expenditure or expenditures totaling one hundred dollars ($100) or more has been made, together with the amount of each separate expenditure to each person during the period covered by the campaign statement; a brief description of the consideration for which the expenditure was made; the full name and street address of the person providing the consideration for which any expenditure was made if different from the payee; and in the case of committees which are listed, the number assigned to each such committee by the Secretary of State or if no such number has been assigned, the full name and street address of the treasurer of the committee.

(i) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures for or against each such candidate or measure.

(j) The full name, residential and business addresses and telephone numbers of the filer or, in the case of a campaign statement filed by a committee, the name, street address and telephone number of the committee and the treasurer's name, street address and telephone number.

(k) In a campaign statement filed by a candidate, the full name and street address of any committee, of which he has knowledge, which has received contributions or made expenditures on behalf of his candidacy, along with the full name, street address and telephone number of the treasurer of such committee.

SEC. 2. Section 84211 of the Government Code is amended to read:

84211. In order to determine for purposes of subdivisions (b), (c), (d), (e), (g) and (h) of Section 84210 whether one hundred dollars ($100) has been contributed by or expended to any person, only those contributions and expenditures which are includable within the cumulative amount shall be considered.

SEC. 3. Section 84300 of the Government Code is amended to read:

84300. No contribution or expenditure of one hundred dollars ($100) or more shall be made in cash. Any contribution of one hundred dollars ($100) or more other than an in-kind contribution shall be made by a written instrument containing the name of the donor and the name of the payee. The value of all in-kind contributions of one hundred dollars ($100) or more must be reported in writing by the contributor to the recipient.

SEC. 4. Section 84304 of the Government Code is amended to read:

84304. No person shall make an anonymous contribution or contributions to a candidate, committee or any other person totaling one hundred dollars ($100) or more in a calendar year. An anonymous contribution of one hundred dollars ($100) or more shall not be kept by the intended recipient but instead shall be promptly paid to the Secretary of State for deposit in the General Fund of the state.

SEC. 5. The amendments effected 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 of this act not been effected.

SEC. 6. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 651

An act to amend Sections 10100 and 10103 of the Business and Professions Code, relating to the Department of Real Estate.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 10100 of the Business and Professions Code is amended to read:

10100. Before denying, suspending or revoking any license issuable or issued under the provisions of this part, the department shall proceed as prescribed by Chapter 5 (commencing with Section 11080) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted therein.

SEC. 2. Section 10103 of the Business and Professions Code is amended to read:

10103. The lapsing or suspension of a license by operation of law or by order or decision of the department or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the department of jurisdiction to proceed with any investigation of or

action or disciplinary proceeding against such licensee, or to render a decision suspending or revoking such license.

CHAPTER 652

An act to amend Sections 2901 and 2902 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 2901 of the Vehicle Code is amended to read:

2901. The Governor may appoint a highway safety representative who shall serve in the Business and Transportation Agency and who shall, in consultation with the Governor and Secretary of the Business and Transportation Agency, prepare the California Traffic Safety Program. The Governor shall be responsible for the administration of the program, and shall have final approval of all phases of the program, and may take all action necessary to secure the full benefits available to the program under the Federal Highway Safety Act of 1966, and any amendments thereto. The highway safety representative shall serve at the pleasure of the secretary.

SEC. 2. Section 2902 of the Vehicle Code is amended to read:

2902. To the maximum extent permitted by federal law and regulations and the laws of this state, the Governor may delegate to the Secretary of the Business and Transportation Agency and the highway safety representative any power or authority necessary to administer the program, and the secretary and the representative may exercise such power or authority once delegated.

CHAPTER 653

An act to amend Section 10245 of the Business and Professions Code, relating to real estate loans.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 10245 of the Business and Professions Code is amended to read:

10245. The provisions of this article, exclusive of the provisions of

Section 10242.6, do not apply to any bona fide loan secured directly or collaterally by a first trust deed, the principal of which is twenty thousand dollars ($20,000) or more, or to any bona fide loan secured directly or collaterally by any lien junior thereto, the principal of which is ten thousand dollars ($10,000) or more.

CHAPTER 654

An act relating to the validation of certain acts with regard to property taxation of taxing agencies and revenue districts and of their officers.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. As used in this act, "taxing agency" includes the state, county, and city. "Taxing agency" also includes every district that assesses property for taxation purposes and levies taxes or assessments on the property so assessed.

SEC. 2. As used in this act, "revenue district" includes every city and district for which county officers assess property and collect taxes or assessments.

SEC. 3. Every act and proceeding heretofore taken by any taxing agency or revenue district or the officers thereof relative to preparing, transmitting, computing, determining, or fixing the budget or the tax rate or rates of any taxing agency or revenue district, or to the assessment or equalization of property, or to the levy of taxes thereon, or to tax sales or certificates of tax sales, tax deeds, or other conveyances, are hereby confirmed, validated, and declared legally effective.

SEC. 4. (a) This act is limited to the correction of defects, irregularities, and ministerial errors which the Legislature originally could have omitted from the statutory requirements of law under which the acts hereby confirmed, validated, and declared legally effective were taken.

(b) This act is limited to the validating of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) 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) Nothing in this act shall operate to make valid any property tax rate which is in excess of that permitted by law.

SEC. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act and the application of its provisions to other persons or circumstances is not affected.

CHAPTER 655

An act to amend Sections 71.4 and 80.2 of, and to add Section 62.9 to, the Harbors and Navigation Code, relating to navigation and ocean development.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 62.9 is added to the Harbors and Navigation Code, to read:

62.9. Upon request, the department shall make available to persons owning or operating small craft harbors, such information as is available to the commission concerning the following:

(a) The maintenance and improvement of existing small craft harbor facilities.

(b) The application of new technical materials and concepts.

(c) The preparation of feasibility reports, environmental impact reports, permits, and other steps required to develop new small craft harbor facilities.

SEC. 2. Section 71.4 of the Harbors and Navigation Code is amended to read:

71.4. The department, subject to the approval of the Legislature in accordance with Section 85.2 of this code, may make loans to cities, counties, or districts having power to acquire, construct, and operate small craft harbors, for the planning, acquisition, construction, improvement, maintenance, or operation of small craft harbors and facilities in connection therewith, and connecting waterways, if the department finds that the project is feasible. The department shall establish, by rules and regulations, policies and standards to be followed in making loans pursuant to this section so as to further the proper development and maintenance of a statewide system of small craft harbors and connecting waterways. Any such loan shall be repaid as provided in Section 70.

Rates to be charged for the use of the boating facilities shall be established by the city, county, or district, subject to the approval of the department, in every loan contract. The city, county, or district establishing the rate shall review berthing charges of other public and privately owned boating facilities in the general area, serving the

same boating public, and shall then set rates at comparable levels for comparable facilities and services. The rates set shall be based on a monthly berthing charge. Such rates shall be adjusted as necessary to keep them at comparable levels with other public and privately owned boating facilities in the general area.

The department shall submit any project for which it recommends any loan be made to the Governor for inclusion in the Budget Bill.

SEC. 3. Section 80.2 of the Harbors and Navigation Code is amended to read:

80.2. The commission shall be composed of seven members appointed by the Governor, with the advice and consent of the Senate. The members shall have experience and background consistent with the functions of the commission. In making appointments to the commission, the Governor shall give primary consideration to geographical location of the residence of members as related to boating activities and harbors. One member of the commission shall be a private small craft harbor owner and operator.

The Governor shall appoint the first seven members of the commission for the following terms to expire on January 15th: one member for one year, two members for two years, two members for three years, and two members for four years. Thereafter appointments shall be for a four-year term. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.

SEC. 4. The Department of Navigation and Ocean Development shall report on various programs in which loans may be made to private individuals for small craft harbors and facilities. The report and recommendations for further legislative action shall be submitted to the Legislature no later than February 1, 1979.

CHAPTER 656

An act to amend Sections 23399, 23788.5 and 23959 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 23399 of the Business and Professions Code is amended to read:

23399. An on-sale general license authorizes the sale of beer, wine, and distilled spirits for consumption on the premises where sold. Any licensee under an on-sale general license, a club license, or a veterans' club license may apply to the department for a caterer's permit. Such a permit under an on-sale general license shall authorize the sale of beer, wine, and distilled spirits for consumption

at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events held any place in the state approved by the department. Such a permit under a club license or a veterans' club license shall authorize such sales at such events only upon the licensed club premises. This section shall in no way limit the power of the department to issue special licenses under the provisions of Section 24045 or to issue daily on-sale general licenses under the provisions of Section 24045.1 of this code. Consent to such sale at each such event shall be first obtained from the department in the form of a catering authorization issued pursuant to rules prescribed by it. Each catering authorization shall be issued at a fee not to exceed ten dollars ($10) and such fee shall be deposited directly in the General Fund in the State Treasury. At such events, the licensee may exercise only those privileges authorized by his license and shall comply with all provisions of the act pertaining to the conduct of on-sale premises and violation of any such provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though such violation occurred on the licensed premises. The fee for a caterer's permit for a licensee under an on-sale general license shall be one hundred dollars ($100) per year, and the fee for a caterer's permit for a license under a club license or a veterans' club license shall be a sum equal to the annual fee for an on-sale general license prescribed by Section 23320, and such permit may be renewable annually at the same time as the licensee's license. The caterer's permit shall be transferable as a part of the license.

SEC. 2. Section 23788.5 of the Business and Professions Code is amended to read:

23788.5. No on-sale licensee shall knowingly employ any person to manage, direct, or conduct the business who does not have the qualifications required of a holder of the license. Any on-sale licensee requesting the department to make a determination of qualifications of a proposed manager shall submit with an application for such services a fee of one hundred dollars ($100) which shall be deposited in the General Fund in the State Treasury.

SEC. 3. Section 23959 of the Business and Professions Code is amended to read:

23959. If an application is denied or withdrawn, one-fourth of the license fee paid, or not more than fifty dollars ($50), shall be deposited in the General Fund. The balance of this amount shall be credited on any taxes then due from the applicant under Part 14 of Division 2 of the Revenue and Taxation Code or the Sales and Use Tax Law, and the remaining portion shall be returned to the applicant.

CHAPTER 657

An act to amend Sections 39250 and 81530 of the Education Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 39250 of the Education Code is amended to read:

39250. The governing board of a school district may:

(a) Lease buildings and other facilities such as administrative offices, warehouses, athletic facilities, outdoor assembly facilities, auditoriums, quarters for adult education, transportation facilities, and communication facilities, for a period of not to exceed 12 years.

(b) Lease property from the federal government, the state, or any county, city and county, city, or district for the purpose of constructing school buildings and facilities thereon.

Except as otherwise provided, any building leased for a total time in excess of three years, or under a lease-purchase agreement, shall be deemed the construction or alteration of a school building, as those terms are used in Article 3 (commencing with Section 39140) of this chapter. A building or facility used by a school district under a lease or a lease-purchase agreement into which neither pupils nor teachers are required to enter and which would be excluded from the meaning of "school building" in Section 39214 shall not be considered to be a "school building" within the meaning of Section 39141.

SEC. 2. Section 81530 of the Education Code is amended to read:

81530. The governing board of a community college district may:

(a) Lease buildings and other facilities such as administrative offices, warehouses, athletic facilities, outdoor assembly facilities, auditoriums, quarters for adult education, transportation facilities, and communication facilities, for a period of not to exceed 12 years.

(b) Lease property from the federal government, the state, or any county, city and county, city, or district for the purpose of constructing school buildings and facilities thereon.

(c) Except as otherwise provided, any building leased for a total time in excess of three years, or under a lease-purchase agreement, shall be deemed the construction or alteration of a school building, as those terms are used in Article 7 (commencing with Section 811130) of Chapter 1 of this part. A building or facility used by a community college district under a lease or a lease-purchase agreement into which neither students nor teachers are required to enter and which would be excluded from the meaning of "school building" in Section 81165 shall not be considered to be a "school

building" within the meaning of Section 81131.

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 least one school district in the state presently maintains administrative offices in a building which has been condemned. Suitable leased quarters are available to the district in a county-owned office building, if the leased quarters are made exempt from the so-called Field Act.

In order to enable this district, and others which may be forced with the imminent loss of administrative offices, to enter into early commitments for the lease of suitable facilities, it is necessary that this act go into immediate effect.

CHAPTER 658

An act to add and repeal Section 12814.5 of the Vehicle Code, relating to drivers' licenses.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 12814.5 is added to the Vehicle Code, to read:

12814.5. (a) The department may establish a demonstration program to evaluate the effect of extending drivers' licenses. At the discretion of the director, during the demonstration program, licenses expiring on or after July 1, 1979, may be extended for licensees whose records, for the four years immediately preceding the expiration date of their licenses, or expiration date of their extended licenses, show no convictions of violating traffic laws, no involvement in a traffic accident, and no notification of a violation of subdivision (a) of Section 40509. The periods of the extension shall be for one or two years and in no event shall there be more than two consecutive extensions nor shall two consecutive extensions exceed two years.

(b) During the demonstration program, the number of licenses extended shall not exceed 10 percent of the total number of licensees eligible for an extension.

(c) The department may charge a fee for each license extension issued pursuant to subdivision (a).

(d) The department may continue the demonstration period of extending licenses through December 31, 1981. However, if, at any time, the department determines that such program has a negative effect on traffic safety, the process of extending licenses may be

terminated by the department.

(e) The department shall prepare and submit to the Legislature an interim report on the effects of the demonstration program by July 1, 1981, and shall submit a final report by December 31, 1983.

(f) The authority granted the department by this section is in addition to the authority granted the director under subdivision (b) of Section 12814.

(g) This section shall remain in effect until January 1, 1982, and as of such date is repealed.

CHAPTER 659

An act to amend Section 6537.1 of the Business and Professions Code, relating to barbers.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 6537.1 of the Business and Professions Code is amended to read:

6537.1. A college may admit a registered apprentice or registered barber in this state to a postgraduate course. A person admitted to this course shall not perform any act of barbering in the college for hire or reward. A registered apprentice or registered barber admitted to the postgraduate course may attend up to 40 hours per week, 52 weeks a year.

One copy of the application shall be retained by the college admitting or enrolling the student and the other shall be filed by the college with the board.

CHAPTER 660

An act to amend Section 56703 of the Food and Agricultural Code, relating to agricultural products.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 56703 of the Food and Agricultural Code is amended to read:

56703. In addition to the fees required under Article 16 (commencing with Section 55861) of Chapter 6 and Article 17 (commencing with Section 56571) of Chapter 7 of this division, each

principal applicant for a license, or for the renewal of a license, under Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101) shall pay to the director an annual fee of one hundred twenty-five dollars ($125) which shall be required to be paid before the director issues or renews any such license. All the fees collected pursuant to this chapter shall be deposited in the products fund. The director may establish a lower annual fee if he finds it to be sufficient to defray the costs in carrying out the provisions of this chapter.

This chapter does not apply to any licensee who pays to the seller, at the time of obtaining title, possession, or control, or at the time of contracting for the title, possession, or control, of any farm product, the full agreed purchase price of such farm product in coin or currency, lawful money of the United States, nor to any licensee who purchases livestock for slaughter and is bonded under the federal Packers and Stockyards Act, 1921 (7 U.S.C. 181, et seq.).

SEC. 2. Section 56703 of the Food and Agricultural Code is amended to read:

56703. In addition to the fees required under Article 16 (commencing with Section 55861) of Chapter 6 and Article 17 (commencing with Section 56571) of Chapter 7 of this division, each principal applicant for a license, or for the renewal of a license, under Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101) shall pay to the director an annual fee of one hundred twenty-five dollars ($125) which shall be required to be paid before the director issues or renews any such license. If any person is found to be operating a business without the license required by Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101), such person shall pay to the director double the amount of the annual fee. All the fees collected pursuant to this chapter shall be deposited in the products fund. The director may establish a lower annual fee if he finds it to be sufficient to defray the costs in carrying out the provisions of this chapter.

This chapter does not apply to any licensee who pays to the seller, at the time of obtaining title, possession, or control, or at the time of contracting for the title, possession, or control, of any farm product, the full agreed purchase price of such farm product in coin or currency, lawful money of the United States, nor to any licensee who purchases livestock for slaughter and is bonded under the federal Packers and Stockyards Act, 1921 (7 U.S.C. 181, et seq.).

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 2379 are both chaptered and become effective January 1, 1979, both bills amend Section 56703 of the Food and Agricultural Code, and this bill is chaptered after Assembly Bill No. 2379, that the amendments to Section 56703 proposed by both bills be given effect and incorporated in Section 56703 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. 2379 are both chaptered and

become effective January 1, 1979, both amend Section 56703, and this bill is chaptered after Assembly Bill No. 2379, in which case Section 1 of this act shall not become operative.

CHAPTER 661

An act to amend Section 5950 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 5950 of the Labor Code is amended to read:

5950. Any person affected by an order, decision, or award of the appeals board may, within the time limit specified in this section, apply to the Supreme Court or to the court of appeal for the appellate district in which he resides, for a writ of review, for the purpose of inquiring into and determining the lawfulness of the original order, decision, or award or of the order, decision, or award following reconsideration. The application for writ of review must be made within 45 days after a petition for reconsideration is denied, or, if a petition is granted or reconsideration is had on the appeal board's own motion, within 45 days after the filing of the order, decision, or award following reconsideration.

CHAPTER 662

An act to amend Section 2361 of the Fish and Game Code, relating to fish.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 2361 of the Fish and Game Code is amended to read:

2361. It is unlawful to import into this state for commercial purposes any salmon of smaller size than can be legally taken under regulations of either the Pacific Fishery Management Council or the state of landing. Such prohibition does not apply to domestically reared salmon as defined by commission regulations to include salmon which have returned to a hatchery or licensed artificial collection facility. Such domestically reared salmon may be imported under regulations established by the commission.

CHAPTER 663

An act to amend Sections 25100, 25200, 25202, 25212, 25237, 25504.2, and 25507 of the Corporations Code, and to amend Section 800 of the Penal Code, relating to securities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any

such interest, or to any person engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any shares, investment certificates or borrower's membership certificates (as defined in the Savings and Loan Association Law) issued by a savings and loan association holding a license then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised under the laws of this state.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for

current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when he finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the Federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit sharing, stock bonus or similar benefit plan meets such requirements shall be conclusive evidence that such plan is an employees' pension, profit sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date such determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not such revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of any exchange shall be made by the commissioner upon the written request of the exchange if he finds that the exchange, in acting on applications for listing of common stock substantially applies each of the minimum standards set forth in subparagraph (1) below, and in considering suspension or removal from listing, substantially applies each of the criteria set forth in subparagraph (2) below.

(1) Listing standards:

(i) Net tangible assets of at least two million dollars ($2,000,000).

(ii) Net income of at least two hundred fifty thousand dollars ($250,000) after all charges including federal income taxes in the fiscal year immediately preceding the filing of a listing application and net income before such taxes of at least five hundred thousand dollars ($500,000).

(iii) Minimum public distribution of 250,000 shares excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings among not less than 900 holders including not less than 600 holders of lots of 100 shares or more, with a corresponding requirement that such securities not be largely held

in blocks by institutional investors.

(iv) Minimum price of four dollars ($4) per share for a reasonable period of time prior to the filing of a listing application.

(v) An aggregate market value for publicly held shares of at least one million five hundred thousand dollars ($1,500,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has net tangible assets of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders of record is less than 450 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than four dollars ($4) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may by rule or order, decertify any exchange previously certified which ceases substantially to apply the standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification and any warrant or right to purchase or subscribe to any such security is exempt under this subdivision until the adoption of any rule or order decertifying such exchange.

(p) A promissory note secured by a lien on real property, which is not one of a series of notes secured by interests in the same real property.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each

member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, he may in his discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner to post a bond.

(2) The commissioner may, in his discretion, (A) make such public or private investigations within or outside of this state as he deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of such Section 1280.7, and (B) publish information concerning the violation of such Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after validly claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

SEC. 2. Section 25200 of the Corporations Code is amended to

read:

25200. A broker-dealer registered under the Securities Exchange Act of 1934, who has not previously had any certificate denied or revoked under this law or any predecessor statute, shall be exempted from the provisions of Section 25210 if he has no place of business in this state and he does not direct offers to sell or buy into this state in any manner to persons other than broker-dealers, banks, savings and loan associations, trust companies, insurance companies, investment companies registered under the Investment Company Act of 1940, pension or profit-sharing trusts (other than self-employed individual retirement plans) , or other institutional investors or governmental agencies or instrumentalities designated by rule of the commissioner, or to more than 15 other customers (whether or not self-employed individual retirement plans) having an existing account with such broker-dealer prior to any offer made to them in this state, during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this state.

SEC. 3. Section 25202 of the Corporations Code is amended to read:

25202. A person registered under the Investment Advisers Act of 1940, who has not previously had any certificate denied or revoked under this law or any predecessor statute, shall be exempted from the provisions of Section 25230 if he has no place of business in this state and (a) his only clients in this state are other investment advisers, broker-dealers, banks, savings and loan associations, trust companies, insurance companies, investment companies registered under the Investment Company Act of 1940, pension or profit-sharing trusts (other than self-employed individual retirement plans), or other institutional investors or governmental agencies or instrumentalities designated by rule of the commissioner, or (b) during any period of 12 consecutive months such person does not direct business communications into this state in any manner to more than five clients (which may be self-employed individual retirement plans) other than those specified in clause (a) above, whether or not such person or any of the persons to whom the communications are directed is then present in this state.

SEC. 4. Section 25212 of the Corporations Code is amended to read:

25212. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, suspend for a period not exceeding 12 months or revoke the certificate of, any broker-dealer if he finds that such censure, denial, suspension, or revocation is in the public interest and that such broker-dealer, whether prior or subsequent to becoming such, or any partner, officer, director, or branch manager of such broker-dealer, whether prior or subsequent to becoming associated with such broker-dealer, or any person directly or indirectly controlling such broker-dealer, whether prior or subsequent to becoming such, or any

agent employed by such broker-dealer while so employed:

(a) Has willfully made or caused to be made in any application for a certificate or in any report required to be filed with the commissioner under this law, or in any proceeding before the commissioner, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has willfully omitted to state in any such application or report any material fact which is required to be stated therein; or

(b) Has been either (1) convicted of or has pled nolo contendere to a felony or misdemeanor, or (2) held liable in a civil action by final judgment of a court based upon conduct showing moral turpitude, and the commissioner finds that any such felony, misdemeanor or civil action (i) involved the purchase or sale of any security, (ii) arose out of the conduct of the business of a broker-dealer or investment adviser, (iii) involved embezzlement, fraudulent conversion or misappropriation of property, funds or securities, or (iv) involved the violation of Section 1341, 1342 or 1343 of Title 18 of the United States Code; or

(c) Is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, or broker-dealer, or as an affiliated person or employee of any investment company, bank or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or

(d) Is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any other state denying registration to or revoking or suspending the registration of such person as a broker, dealer, agent or investment adviser or is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities Exchange Act of 1934) suspending or expelling such person from membership in such association or exchange or from association with any member thereof; or

(e) Has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, or Title 4 (commencing with Section 25000) of this code, including the Franchise Investment Law, Division 5 (commencing with Section 31000), or of any rule or regulation under any of such statutes; or

(f) Has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any of the statutes or rules or regulations referred to in subdivision (e) above, or has failed reasonably to supervise, with a view to preventing violations of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision; for the purposes of this subdivision, no person shall be deemed to have failed reasonably to supervise any person if (1) there have been

established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and (2) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with; or

(g) Is subject to any currently effective order of the commissioner entered pursuant to Section 25213 revoking or suspending the certificate of such person as an agent.

SEC. 5. Section 25237 of the Corporations Code is amended to read:

25237. The commissioner shall prescribe such rules with respect to investment advisers who have custody of their clients' securities or funds or who have any power of attorney from their clients to execute transactions as he finds to be necessary or appropriate in the public interest or for the protection of investors. Such rules may require a minimum capital for such investment advisers or prescribe a minimum ratio between net capital and aggregate indebtedness or both, and may require a surety bond in an amount not exceeding ten thousand dollars ($10,000) and a fidelity bond. All of the provisions of subdivision (e) of Section 25216 shall be applicable to such surety bond.

SEC. 6. Section 25504.2 of the Corporations Code is amended to read:

25504.2. (a) Any accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by such person, who pursuant to rule of the commissioner has given written consent to be and has been named in any prospectus or offering circular distributed in connection with the offer or sale of securities as having prepared or certified in such capacity either any part of such document or any written report or valuation which is distributed with or referred to in any such document is jointly and severally liable with any other person liable under Section 25501 if:

(1) The part of such document so prepared or certified or the report or valuation so distributed or referred to includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

(2) The person asserting such liability acquired a security described in such document in reliance on such untrue statement or in reliance on such part of the document or on such report or valuation without notice of such omission.

(b) Notwithstanding the provisions of subdivision (a), no such accountant, engineer, appraiser, or other person shall be liable as provided therein if such person sustains the burden of proof that:

(1) Such person had, after reasonable investigation, reasonable ground to believe and did believe, at the time such person consented to such use of such person's name, that the statements so included

in such part of such document or in such report or valuation were true and that there was no omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(2) Such part of such document did not fairly represent such person's statement as an expert or was not a fair copy of or extract from such person's report or valuation as an expert; or

(3) Prior to the acquisition of the security by the person asserting the liability, such accountant, engineer, appraiser, or other person advised the issuer and the commissioner in writing that such person would not be responsible for such part of the document or the report or valuation.

(c) A person who participates in the preparation of a document described in subdivision (a) of this section shall be deemed to have prepared or certified only those portions thereof which are expressly stated with such person's written consent to have been made on such person's authority.

SEC. 7. Section 25507 of the Corporations Code is amended to read:

25507. (a) No action shall be maintained to enforce any liability created under Section 25503 (or Section 25504 or Section 25504.1 insofar as they relate to that section) unless brought before the expiration of two years after the violation upon which it is based or the expiration of one year after the discovery by the plaintiff of the facts constituting such violation, whichever shall first expire.

(b) No buyer may commence an action under Section 25503 (or Section 25504 or Section 25504.1 insofar as they relate to that section) if, before suit is commenced, such buyer shall have received a written offer approved as to form by the commissioner (1) stating the respect in which liability under such section may have arisen, (2) offering to repurchase the security for a cash price payable upon delivery of the security or offering to pay the buyer an amount in cash equal in either case to the amount recoverable by the buyer in accordance with Section 25503, or, offering to rescind the transaction by putting the parties back in the same position as before the transaction, (3) providing that such offer may be accepted by the buyer at any time within a specified period of not less than 30 days after the date of receipt thereof unless rejected earlier during such period by the buyer, (4) setting forth the provisions of this subdivision (b), and (5) containing such other information as the commissioner may require by rule or order, and such buyer shall have failed to accept such offer in writing within the specified period after receipt thereof.

(c) The commissioner may by rule or order impose as a condition to approval of an offer under subdivision (b) of this section, if the commissioner finds such action is necessary and appropriate for the protection of investors, conditions requiring:

(1) That equivalent and concurrent offers be made to all investors as to whom liability may have arisen and still exists under Section

25503 (or Section 25504 or Section 25504.1 insofar as they relate to that section) in connection with the distribution or transaction;

(2) That the offer be made subject to a condition voiding such offer if the issuer, by reason of acceptances, is disabled from commencing or continuing business;

(3) That the offer be made within a specified period after approval thereof by the commissioner;

(4) If the consideration paid by the offeree was other than monetary or if the offer is of rescission, and if the offer is rejected by the offeree on the ground that it does not accord him the damages payable under Section 25503 or that the rescission offered does not place the parties back in the same position as before the transaction, that an offer so rejected shall not bar the commencement of an action by the offeree under Section 25503 (or Section 25504 or Section 25504.1 insofar as they relate to that section); or

(5) That the offeror file a report or reports with the commissioner containing such information as he may require concerning the making of the offer, its acceptance or rejection, and compliance with its terms and conditions or with conditions imposed under this subdivision.

(d) Each person who files a repurchase offer with the commissioner pursuant to subdivision (b) shall file with the commissioner, in such form as the commissioner by rule prescribes, an irrevocable consent appointing the commissioner or the commissioner's successor in office to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or such person's successor, executor or administrator, which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a qualification under this law (or application for a permit under any prior law if the application under this law states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at such person's last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

SEC. 8. Section 800 of the Penal Code is amended to read:

800. An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, or 209 of the Penal Code, Section 25540 or 25541 of the Corporations Code, or

Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its commission. An indictment for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information filed, or case certified to the superior court within six years after its commission. An indictment for grand theft, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery.

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. Sections 1, 2, 3, 4, 5, 7 and 8 shall become operative on January 1, 1979. The facts constituting such necessity are:

Section 25504.2 of the Corporations Code, as enacted by Chapter 762 of the Statutes of 1977, in providing for civil liability on the part of experts named in a prospectus or offering circular, failed to incorporate the administrative rulemaking authority necessary for its implementation, thereby creating the danger that civil liability may be asserted thereunder based on an implied rather than an express consent, contrary to the intent and purpose of such section, and it is therefore necessary that this act go into immediate effect.

CHAPTER 664

An act to amend Section 25166 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 25166 of the Health and Safety Code is amended to read:

25166. (a) A registration fee of fifty dollars ($50) shall be paid to the department by each person who carries on, or engages in, the business of hauling hazardous waste or who handles hazardous waste as a part of, or incidental to, any business, for a calendar year or any portion thereof.

(b) A person who transports hazardous waste as a substantial part of any business or who transports hazardous wastes in vehicles designed for such transport shall also pay to the department fifteen dollars ($15) for the first vehicle used for the transportation of hazardous waste, ten dollars ($10) per vehicle for the second through

sixth vehicle, and five dollars ($5) per vehicle for the seventh and any other vehicle, for a calendar year, or a prorated amount thereof for the unexpired portion of a calendar year.

(c) For the purposes of this section, "substantial part of any business" shall mean the generation of more than thirty-five thousand dollars ($35,000) in annual gross revenue from the hauling of hazardous waste within California during a calendar year. The fees imposed by this section are for the privilege of engaging in a business.

CHAPTER 665

An act to amend Sections 8282 and 9001 of the Fish and Game Code, relating to commercial fishing.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 8282 of the Fish and Game Code is amended to read:

8282. North of Point Conception each crab trap may have any number of openings of any size but shall have at least two rigid circular openings of not less than four and one-quarter inches (4¼) inside diameter constructed on the top or side of the trap. If side openings are used, one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.

SEC. 2. Section 9001 of the Fish and Game Code is amended to read:

9001. Notwithstanding Section 8282, traps for crabs may be used in Districts 118.5 and 19 to take sheepshead and crabs other than market crabs (Cancer magister) provided the person using the traps shall procure a trap permit as specified in Section 9000.5. Other species of fish taken in such traps shall be released. No person shall possess any lobster aboard a vessel while such vessel is being used to take crab or sheepshead as provided by this section.

SEC. 3. Section 2 of this act shall become operative October 1, 1979.

CHAPTER 666

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 September 8, 1978 Filed with Secretary of State September 11, 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 and water conservation districts.
Zones of flood control 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 grounds 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 Second 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 667

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.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 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 district improvement districts.
Municipal improvement assessment 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 and water conservation districts.
Zones of flood control 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 Third Validating Act of 1978.

CHAPTER 668

An act to amend Sections 48900, 48903, 48903.5, 48904.5, 48905, 48914, 48915, and 48922 of, and to add Sections 48213, 48214, 48432.5, 48903.3, and 48923 to, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 48213 is added to the Education Code, to read:

48213. Prior to excluding a child from attendance pursuant to Section 48211 or Section 48212, the governing board shall send a notice to the parent or guardian of the child. The notice shall contain each of the following:

(1) A statement of the facts leading to a decision to propose exclusion of the child.

(2) A statement that the parent or guardian of the child has a right to meet with the governing board to discuss the proposed exclusion.

(3) A statement that at any meeting with the governing board held to discuss such proposed exclusion, the parent or guardian shall have an opportunity to inspect all documents which the governing board relied on in its decision to propose exclusion of the child; to challenge any evidence and to confront and question any witness presented by the governing board; and to present oral and documentary evidence on the child's behalf, including witnesses. The statement shall also include notice that the parent or guardian may designate one or more representatives to be present with the parent or guardian at the meeting.

(4) A statement that the decision to exclude the child is subject to periodic review and a statement of the procedures set by the governing board for such periodic review.

If a child is excluded from attendance pursuant to Section 3118 of the Health and Safety Code or Section 49451 of this code, or when a principal or his or her designee determines that the continued presence of the child would constitute a clear and present danger to the life, safety, or health of pupils or school personnel, the governing board shall not be required to send prior notice of the exclusion to the parent or guardian of the child as required in this section. The governing board shall send a notice as required by this section as soon as is reasonably possible after the exclusion.

SEC. 1.5. Section 48214 is added to the Education Code, to read:

48214. The governing board of a school district shall adopt rules and regulations governing periodic reviews of its decisions to exclude children from attendance pursuant to Sections 48211 and 48212.

SEC. 2. Section 48432.5 is added to the Education Code, to read:

48432.5. The governing board of each high school or unified school district which assigns pupils to continuation schools shall adopt rules and regulations governing procedures for the involuntary transfer of pupils to continuation schools.

Such rules and regulations shall provide that written notice be given to the pupil and the pupil's parent or guardian informing them of the opportunity to request a meeting with a designee of the district superintendent prior to the transfer.

At the meeting, the pupil or the pupil's parent or guardian shall be informed of the specific facts and reasons for the proposed

transfer and shall have the opportunity to inspect all documents relied upon, question any evidence and witnesses presented and present evidence on the pupil's behalf. The pupil may designate one or more representatives and witnesses to be present with him or her at the meeting.

A decision to transfer the pupil involuntarily shall be based on a finding that the pupil (a) committed an act enumerated in Section 48900, or (b) has been habitually truant or irregular in attendance from instruction upon which he or she is lawfully required to attend.

The decision to transfer shall be in writing, stating the facts and reasons for the decision, and sent to the pupil and the pupil's parent or guardian. It shall indicate whether the decision is subject to periodic review and the procedure therefor.

None of the persons involved in the final decision to make an involuntary transfer of a pupil to a continuation school shall be a member of the staff of the school in which the pupil is enrolled at the time that the decision is made.

A pupil, with the concurrence of a designee of the district superintendent, may transfer voluntarily to a continuation school in order to receive special attention such as individualized instruction.

Involuntary transfer to a continuation school shall be imposed only when other means fail to bring about pupil improvement; provided that a pupil may be involuntarily transferred the first time he or she commits an act enumerated in Section 48900 if the principal determines that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process.

No involuntary transfer to a continuation school shall extend beyond the end of the semester following the semester during which the acts leading directly to the involuntary transfer occurred unless the local governing board adopts a procedure for yearly review of the involuntary transfer conducted pursuant to this section at the request of the pupil or the pupil's parent or guardian.

A pupil who has voluntarily transferred to a continuation school shall have the right to return to the regular high school at the beginning of the following school year and with the consent of a designee of the district superintendent, may return at any time.

SEC. 2.5. Section 48900 of the Education Code is amended to read:

48900. A pupil shall not be suspended from school nor recommended for expulsion unless the principal determines that the pupil has:

(a) Caused or attempted to cause damage to school property or stolen or attempted to steal school property; or

(b) Caused or attempted to cause damage to private property or stolen or attempted to steal private property; or

(c) Caused, attempted to cause, or threatened to cause physical injury to another person; or

(d) Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession

of any such object, the pupil had obtained written permission from a certificated school employee, which is concurred in by the principal or the designee of the principal; or

(e) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance, as defined in Section 11007 of the Health and Safety Code, alcoholic beverage, or intoxicant of any kind; or

(f) Possessed or used tobacco, except as provided in Section 48903.6; or

(g) Committed an obscene act or engaged in habitual profanity or vulgarity; or

(h) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, or administrators.

No pupil shall be suspended or expelled for any of the acts enumerated unless such act is related to school activity or school attendance. A pupil may be suspended or expelled for acts which are enumerated in this section and related to school activity or attendance which occur at any time, including but not limited to: (1) while on school grounds; (2) while going to or coming from school; (3) during the lunch period, whether on or off the campus; or (4) during, or while going to or coming from, a school sponsored activity.

It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from assigned school activities.

SEC. 3. Section 48903 of the Education Code is amended to read:

48903. (a) The principal of the school or the principal's designee may suspend a pupil from the school for any of the reasons enumerated in Section 48900 for no more than five consecutive schooldays.

(b) Suspension by the principal or his or her designee shall be preceded by an informal conference between the pupil, a certificated school employee, and, whenever practicable, the teacher or supervisor who referred the pupil to the principal or his or her designee. At the conference the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense. When the principal is absent from school, the principal's designee conducting the suspension shall conduct the informal conference required by this section.

(c) A principal or his or her designee may suspend a pupil without affording the pupil an opportunity for a conference only if the principal or his or her designee determines that an emergency situation exists. The term "emergency situation" as used in this article, means a situation determined by the principal or his or her designee to constitute a clear and present danger to the lives, safety or health of pupils or school personnel. If a pupil is suspended without a conference prior to suspension, a conference pursuant to subdivision (b) shall be held as soon as practicable, but not later than two schooldays from the day the suspension is ordered.

(d) Within one schoolday of the beginning of a suspension, a school employee shall mail a notice to the parent or guardian of the suspended pupil. The notice shall be, insofar as is practicable, in the primary language of the pupil's parent or guardian. The notice shall contain each of the following:

(1) A statement of the facts leading to the decision to suspend.

(2) The date and time when the pupil will be allowed to return to school.

(3) A statement of the right of the pupil or parent to request a meeting with the superintendent or the superintendent's designee pursuant to Section 48904.

(4) A statement of the parent's or the pupil's right to have access to the pupil's records as provided by Section 49069.

(5) A request that the parent or guardian attend a conference with school officials regarding the pupil's behavior, including notice that state law requires parents or guardians to respond to such request without delay.

(e) Within 24 hours of the beginning of a suspension, a school employee shall make a reasonable effort to contact the parent or guardian of the pupil in person or by telephone to communicate directly the information contained in the written notice. A school employee shall report the suspension of such pupil, including the cause therefor, to the governing board of the school district or to the district superintendent in accordance with the regulations of the governing board.

(f) The parent or guardian of any pupil shall respond without delay to any request from school officials to attend a conference regarding their child's behavior.

No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at such conference.

(g) Except as provided in Section 48903.3, days of suspension from school for any pupil shall be limited to 20 schooldays in one school year, provided that, if a pupil for adjustment purposes is transferred to, or enrolled in, another regular school, an opportunity class in his school of residence, an opportunity school or class, or a continuation education school or class, additional days of suspension from school following such reassignment are limited to 10 in one school year, for a total of no more than 30 days of suspension in one school year.

(h) In a case where expulsion is being processed by the governing board, the school district superintendent or other person designated by him or her in writing may extend the suspension until such time as the governing board has rendered a decision in the action pursuant to Section 48914; provided, that the superintendent or the superintendent's designee has determined that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process.

(i) For the purposes of this section, a "principal's designee" is an acting principal specifically designated by the principal to assist with disciplinary procedures when the principal is absent from school.

SEC. 4. Section 48903.3 is added to the Education Code, to read:

48903.3. The governing board of a school district may suspend a pupil attending a continuation school for not longer than the remainder of the semester during which the acts leading directly to the suspension occurred, if the procedures prescribed by subdivision (b) of Sections 48904.5, 48914, and 48915 are followed.

SEC. 4.5. Section 48903.5 of the Education Code is amended to read:

48903.5. A suspended pupil shall be allowed to complete all assignments and tests missed during the suspension which can be reasonably provided and, upon satisfactory completion, shall be given full credit therefor. The teacher of any class from which a pupil is suspended shall determine, pursuant to the provisions of this article and the regulations of the governing board of the school district, what assignments the pupil must make up and in what period of time the pupil must complete such assignments. The tests and assignments shall be reasonably equivalent to, but not necessarily identical to, the tests and assignments which the pupil missed during the suspension.

SEC. 5. Section 48904.5 of the Education Code is amended to read:

48904.5. (a) The principal may recommend a pupil's expulsion for any of the acts enumerated in Section 48900.

(b) Upon recommendation by the principal or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48914, the governing board may order a pupil expelled upon finding that the pupil violated Section 48900 and that other means of correction have repeatedly failed to bring about proper conduct, or due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others, and that other means of correction are not feasible.

SEC. 6. Section 48905 of the Education Code is amended to read:

48905. No expulsion shall extend beyond the end of the semester following the semester during which the acts leading directly to the expulsion occurred unless the local governing board adopts a procedure for yearly appeal of the expulsion, conducted pursuant to Section 48914 at the request of the pupil or the pupil's parent or guardian. A description of such procedure shall be made available to the pupil and parent or guardian at the time the expulsion is ordered.

SEC. 7. Section 48914 of the Education Code is amended to read:

48914. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. Such procedures shall include, but are not necessarily limited to the following:

(a) The pupil and the pupil's parent or guardian shall be entitled to a hearing to determine whether the pupil should be expelled. An

expulsion hearing shall be held within 20 schooldays of the date expulsion is recommended pursuant to subdivision (a) of Section 48904.5, or within 25 schooldays of the date suspension is ordered for the offense, whichever is sooner, unless the pupil or the pupil's parent or guardian requests in writing that the hearing be postponed. Such request shall be made at least five days prior to the date of the hearing. In the event that compliance with the above time requirements is impracticable, the expulsion hearing may be delayed, for good cause, up to five additional schooldays.

(b) Written notice of the hearing shall be forwarded to the pupil and the pupil's parent or guardian at least 10 days prior to the date of the hearing. Such notice shall include: the date and place of the hearing, a statement of the specific facts and charges upon which the proposed expulsion is based, a copy of all the rules of the district which pertain to discipline adopted pursuant to Section 35291, and the opportunity of the pupil or the pupil's parent or guardian to: appear in person or to employ and be represented by counsel, inspect and obtain copies of all documents to be used at the hearing, confront and question all witnesses who testify at the hearing, question all other evidence presented, and present oral and documentary evidence on the pupil's behalf, including witnesses.

(c) Notwithstanding the provisions of Section 54950 of the Government Code and Section 35145 of this code, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public unless the pupil or the pupil's parents or guardian requests, in writing at least five days prior to the date of the hearing, that the hearing be a public meeting. If such request is made of the governing board, the meeting shall be public. Whether an expulsion hearing is conducted in closed or public session, the governing board may meet in executive session to determine if the pupil should be expelled, provided, that the parent or guardian of the pupil, the pupil, the counsel of the pupil, and the counsel of the parent or guardian of the pupil shall be allowed to attend the executive session.

(d) In lieu of conducting an expulsion hearing itself, the governing board of any school district may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California pursuant to Chapter 14 (commencing with Section 27720), Part 3, Division 2, Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct such hearing, or the governing board may appoint an impartial administrative panel of three or more certificated employees of the district, none of whom shall be on the staff of the school in which the pupil is enrolled. In lieu of the appointment of district employees exclusively, the district may request the services of one or more certificated persons not employed by the district. Such hearing shall not be conducted in conflict with any procedures established in this section. Such hearing shall be completed within five schooldays of the date on which the hearing was commenced. Within three

schooldays following such hearing, the hearing officer or administrative panel shall determine whether to recommend expulsion to the board. If the decision is for a rejection of expulsion, the expulsion proceedings shall be terminated and the pupil shall be immediately reinstated and allowed to return to classroom instruction upon which such pupil had been in attendance prior to the suspension or to any other instructional program by mutual agreement among the principal and parent or guardian and pupil. The hearing officer or administrative panel shall notify the board of the decision and the governing board shall accept the recommendation for a rejection of expulsion. The governing board may, however, require the hearing officer or administrative panel to prepare and submit findings of fact to support rejection of expulsion. If the hearing officer or administrative panel recommends expulsion, findings of fact in support of such recommendation shall be prepared and submitted to the board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board accepts the recommendation calling for expulsion, such acceptance shall be based upon either a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon results of such supplementary hearing conducted pursuant to this section as the governing board may order.

(e) A record of the hearing shall be made. Such record, may be maintained by any means, including electronic recording, so long as a reasonably accurate written transcription of the proceedings can be made.

(f) Technical rules of evidence shall not apply to such hearing, but evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the governing board to expel must be supported by a preponderance of the evidence.

(g) Whether a pupil expulsion hearing is conducted in closed or public session, by the governing board or before a hearing officer or administrative panel, a final action to expel shall be taken by the governing board at a public meeting. Written notice of any decision to expel shall be sent to the pupil or parent or guardian and shall be accompanied by notice of the right to appeal such expulsion to the county board of education.

A decision of the governing board whether to expel a pupil shall be made within 35 schooldays of the date expulsion is recommended by a principal pursuant to subdivision (a) of Section 48904.5 or within 40 schooldays of the date suspension is ordered for the offense, whichever is sooner, unless the pupil or the pupil's parent or guardian requests in writing that such decision be postponed. If the pupil or the pupil's parent or guardian had requested that the expulsion hearing held pursuant to subdivision (a) of Section 48914 be postponed, the time requirements of this subdivision may be

likewise extended. In the event that compliance with the above time requirements is impracticable, the expulsion hearing may be delayed, for good cause, up to five additional schooldays.

The governing board shall maintain a record of each expulsion, including the cause therefor.

SEC. 8. Section 48915 of the Education Code is amended to read:

48915. If a pupil is expelled from school, the pupil or the parent or guardian of the pupil may appeal, within 30 days following the decision to expel by the governing board, to the county board of education which shall hold a hearing thereon and render its decision. The county board shall hold the hearing within 20 schooldays of the request and shall render a decision within three schooldays of the hearing, unless the pupil or the pupil's parent or guardian agrees to a postponement.

The county board of education shall establish rules and regulations governing procedures for expulsion appeals pursuant to this section and not in conflict with Sections 48917 through 48920, including, but not limited to, notice of filing such appeal, setting the hearing date, certification to the county board of the record of the proceedings at the district level, hearing procedures, and preservation of a record of the hearing.

SEC. 9. Section 48922 of the Education Code is amended to read:

48922. When a petition is requested in juvenile court or a complaint filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, the district attorney shall, within 48 hours, provide written notice to the superintendent of the school district of attendance and to the pupil's parent or guardian.

SEC. 10. Section 48923 is added to the Education Code, to read:

48923. As used in this article:

(a) "Day" means a calendar day unless otherwise specifically provided.

(b) "Expulsion" means removal of a pupil from (1) the immediate supervision and control, or (2) the general supervision, of school personnel, as those terms are used in Section 46300.

(c) "Schoolday" means a day upon which the schools of the district are in session or weekdays during the summer recess.

(d) "Suspension" means removal of a pupil from ongoing instruction for adjustment purposes. However, "suspension" does not mean:

(1) Reassignment to another education program or class at the same school where the pupil will receive continuing instruction for the length of day prescribed by the governing board for pupils of the same grade level.

(2) Referral to a certificated employee designated by the

principal to advise pupils.

(3) Removal from the class, but without reassignment to another class or program, for the remainder of the class period, provided that such removal from a particular class occurs no more than once every five schooldays.

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 duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

SEC. 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:

Uncertainty has been expressed concerning the proper application of the recently revised laws relating to pupil discipline. In order to eliminate such uncertainty as soon as possible, and so provide for a fair and effective system of pupil discipline which is uniformly administered throughout the state, it is necessary that this act take effect immediately.

CHAPTER 669

An act to amend Sections 14522 and 14537 of, to amend and renumber Section 65080.1 of, and to add Section 14515, to the Government Code, to amend Section 130303 of the Public Utilities Code, to amend Sections 167, 2233, and 2544 of, and to repeal Section 190.6 of the Streets and Highways Code, and to amend Sections 42233, 42270, 42271, 42272, 42273, and 42275 of the Vehicle Code, relating to transportation.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 14515 is added to the Government Code, to read:

14515. Except where a statute expressly provides that the commission itself shall hold a public hearing, the commission may delegate functions such as listening to argument, taking of evidence, and finding of facts to committees or staff members of the commission. The committee or staff shall have the authority to recommend a decision to the commission.

SEC. 2. Section 14522 of the Government Code is amended to read:

14522. In cooperation with the regional transportation planning

agencies, the commission may prescribe study areas for analysis and evaluation by such agencies and guidelines for the preparation of the regional transportation plans.

SEC. 3. Section 14537 of the Government Code is amended to read:

14537. The commission, in the first California Transportation Plan, shall submit its recommendations as to necessary revisions to the allocation formulas in Sections 188, 188.8, and 188.9 of the Streets and Highways Code so that the allocation of funds pursuant to those sections, with the allocation of other available funds, meet the relative state highway and transit construction needs of all areas of the state.

SEC. 4. Section 65080.1 of the Government Code, as added by Chapter 1106 of the Statutes of 1977, is amended and renumbered to read:

65080.2. A transportation planning agency which has within its area of jurisdiction a transit development board established pursuant to Division 11 (commencing with Section 120000) of the Public Utilities Code shall include, in the regional transportation improvement program prepared pursuant to Section 65080, those elements of the transportation improvement program prepared by the transit development board pursuant to Section 120353 of the Public Utilities Code relating to funds made available to the transit development board for transportation purposes.

SEC. 5. Section 130303 of the Public Utilities Code is amended to read:

130303. With respect to the area under its jurisdiction, the commission shall be responsible for short-range capital and service planning directed to:

(a) Determination, on an annual basis, of the total amount of funds that could be available to the commission for transportation planning and development.

(b) Development and approval of a short-range three- to five-year transportation improvement program with an annual updated element reflecting all transportation capital and service priorities within the jurisdiction of the commission to be developed with all appropriate coordination and cooperation between the commission and state and local transportation agencies and operators. All projects utilizing federal and state highway and transit funds, and all exclusive public mass transit guideway projects no matter how funded, shall be included in a transportation improvement program adopted by the commission. The program shall also be developed in coordination with the multicounty designated transportation planning agency and the Department of Transportation, shall be consistent with the adopted regional transportation plan, and shall be reviewed and commented on pursuant to subdivision (k) of Section 130301.

(c) Coordination and approval of all public mass transit service within the jurisdiction of the commission and between the

jurisdiction of other commissions or transit operators.

(d) Determination or approval of the location and capacity of all capital development projects, including, but not limited to, exclusive public mass transit guideway systems, state highway projects, and federal-aid highway projects.

(e) Selection and specific approval of appropriate mass transit hardware and technology to be funded by the transportation improvement program.

(f) Determination and approval of the staging and scheduling of construction and other development relative to all transportation improvement projects to be funded by the transportation improvement program.

SEC. 6. Section 167 of the Streets and Highways Code is amended to read:

167. With respect to the funds in the State Highway Account in the State Transportation Fund, the proposed budget shall be organized on a program basis. The proposed budget shall list the proposed expenditures for the highway program under the following programs:

(a) Administration.
(b) Program development.
(c) Maintenance.
(d) Operation.
(e) Rehabilitation.
(f) Operational improvements.
(g) New facilities.
(h) Local assistance.

The basis for defining major and minor capital outlay projects shall be established by the commission.

SEC. 7. Section 190.6 of the Streets and Highways Code is repealed.

SEC. 8. Section 2233 of the Streets and Highways Code is amended to read:

2233. Amounts apportioned to the state pursuant to subsection (f) of Section 104 of Title 23 of the United States Code shall be identified in the budget of the Transportation Planning and Research Account in the State Transportation Fund. Amounts reimbursed to the state pursuant to subsection (f) of Section 104 of Title 23 of the United States Code shall be deposited in the State Highway Account in the State Transportation Fund and credited to the Transportation Planning and Research Account as an expense and reimbursement. All such funds apportioned to the state are continuously appropriated for allocation by the commission from the Transportation Planning and Research Account to metropolitan transportation planning organizations, as defined by federal law and regulations, to perform the metropolitan transportation planning authorized by subsection (f) of Section 104 of Title 23.

SEC. 9. Section 2544 of the Streets and Highways Code is amended to read:

2544. The department shall prepare and submit to the Legislature not later than July 1, 1976, a priority list of abandoned railroad lines having rights-of-way that may be developed for public transportation uses. The department shall prepare and submit to the Legislature a revised priority list by July 1, 1978, and by July 1st of each year thereafter.

In preparing the list, the department shall consider the State Rail Plan prepared pursuant to Section 7701 of the Public Utilities Code and shall also consult with any city, county, transit district, or regional transportation planning entity within whose boundaries such abandoned railroad lines are located.

The department may consider contributions by local agencies toward the purchase of such rights-of-way as a factor in ranking the rights-of-way on the priority list.

SEC. 10. Section 42233 of the Vehicle Code is amended to read:

42233. (a) Whenever any fee or penalty subject to refund under Section 42231 after application therefor has not been paid into the State Treasury, the department shall refund the fee or penalty.

(b) Whenever any fee or penalty subject to refund under Section 42231 after application therefor or Section 10901 of the Revenue and Taxation Code has been paid into the State Treasury to the credit, in whole or in part, of the Motor Vehicle License Fee Account in the Transportation Tax Fund (hereafter referred to in this section as the Motor Vehicle License Fee Account), or to the credit, in whole or in part, of the Motor Vehicle Account in the State Transportation Fund (hereafter referred to in this section as the Motor Vehicle Account), the department shall prepare a claim setting forth the facts pertaining to the fee or penalty sought to be refunded, and the State Controller shall draw his warrant upon the account or accounts to which the fee or penalty was credited. In lieu of filing claims for refund against both the Motor Vehicle Account and the Motor Vehicle License Fee Account when an amount has been determined to be due from both accounts, the director may file a single claim with the State Controller, drawn against the Motor Vehicle Account covering the amount of both refunds, and the State Controller shall thereupon draw his warrant on the Motor Vehicle Account. At least quarterly, the director shall certify to the State Controller the amounts paid from the Motor Vehicle Account which are properly chargeable to the Motor Vehicle License Fee Account supported by such detail as the State Controller may require. Upon order of the State Controller, the amounts so required shall be transferred from the Motor Vehicle License Fee Account to the credit of the Motor Vehicle Account.

(c) This section is an appropriation of any and all amounts necessary to refund and repay any excessive or erroneous fees and penalties collected under this code, and the procedure prescribed in this article for refunds shall be deemed a compliance with the requirements of the Government Code relating to the refund of excessive or erroneous fees or penalties.

SEC. 11. Section 42270 of the Vehicle Code is amended to read:

42270. (a) The Department of Motor Vehicles and the Department of the California Highway Patrol each shall file, at least monthly with the State Controller, a report of money received by the department covering all fees for applications accepted by the department and all other moneys received by the department under the provisions of this code and, at the same time, shall remit all money so reported to the State Treasurer. On order of the State Controller, the State Treasurer shall deposit in the Motor Vehicle Account in the State Transportation Fund, into which is merged the Motor Vehicle Account in the Transportation Tax Fund, all such moneys so reported and remitted.

Any reference in any law or regulation to the Motor Vehicle Fund, or to the Motor Vehicle Account in the Transportation Tax Fund, shall be deemed to refer to the Motor Vehicle Account in the State Transportation Fund, which is created by subdivision (a) of Section 42271.

(b) The amount of any penalties collected by the department as provided in Sections 9553 and 9554 of this code and Sections 10770 and 10854 of the Revenue and Taxation Code shall, for the purposes of subdivision (a) of this section, be deemed to be a percentage of the total fees allocated under this section and under Section 11001 of the Revenue and Taxation Code, equal to that percentage of the ratio based on the fees previously allocated under this section and under Section 1101 of the Revenue and Taxation Code in the fiscal year preceding the calendar year for which the penalties are to be allocated. Such ratio shall be reevaluated periodically and shall be adjusted to reflect any change in the fee structure that may be provided in this code or in Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code.

SEC. 12. Section 42271 of the Vehicle Code is amended to read:

42271. (a) The Motor Vehicle Account in the State Transportation Fund is hereby created.

(b) The moneys deposited to the credit of the Motor Vehicle Account in the State Transportation Fund which are appropriated in the Budget Act or any other appropriation act for the support of or expenditure by the Department of Motor Vehicles shall be expended by the department in carrying out the provisions of this code and in enforcing any other laws relating to vehicles or the use of highways.

Regularly employed peace officers of the department may, when authorized by the director, expend such sums as authorized for the purchase of counterfeit, false, forged, or fictitious certificates of ownership, registration card, certificate, license or special plate or permit, or driver's license provided for by this code as evidence, or for expenditures related to the procurement of such evidence, or for expenditures made to investigate other violations of laws administered by the department. When approved by the director, the identity of a peace officer who submits a claim need not be disclosed if the disclosure might materially prejudice the

investigation.

The sums so expended shall be repaid to the peace officer making the expenditure upon claims approved by the director. The claims, when approved, shall be paid out of funds appropriated or made available by law for the support of the department.

(c) The moneys deposited to the credit of the Motor Vehicle Account in the State Transportation Fund which are appropriated in the Budget Act or any other appropriation act for the support of or expenditure by the Department of the California Highway Patrol shall be expended by the department in carrying out the provisions of this code and in enforcing any other laws relating to vehicles or the use of highways. The Department of the California Highway Patrol may draw, without at the time furnishing vouchers and itemized statements, sums not to exceed in the aggregate one hundred thousand dollars ($100,000), the sums so drawn to be used as a revolving fund where cash advances are necessary. At the close of each fiscal year, the moneys so drawn shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the State Controller.

SEC. 13. Section 42272 of the Vehicle Code is amended to read:

42272. Section 11006 of the Government Code shall not apply to the Motor Vehicle Account in the State Transportation Fund.

SEC. 14. Section 42273 of the Vehicle Code is amended to read:

42273. By the 10th day of each calendar month, the balance remaining to the credit of the Motor Vehicle Account in the State Transportation Fund at the close of business on the last day of the preceding calendar month, after payments of refunds and administration and enforcement, that is not needed for immediate use from the Motor Vehicle Account shall, on order of the State Controller, be transferred to the credit of the State Highway Account in the State Transportation Fund.

SEC. 15. Section 42275 of the Vehicle Code is amended to read:

42275. Notwithstanding Section 42273, the State Controller may, after at least 15 days' prior notice, transfer back to the Motor Vehicle Account in the State Transportation Fund amounts transferred to the State Highway Account in the State Transportation Fund pursuant to that section to pay costs incurred against other appropriations from the Motor Vehicle Account.

CHAPTER 670

An act to add Section 20017.12 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 20017.12 is added to the Government Code, to read:

20017.12. "State safety member" shall also include persons employed under the title of "campus firefighter" who performed active firefighting duties for the state on April 1, 1973, and who, on January 1, 1979, performed such duties for a local agency providing fire protection under contract to the state.

Any such campus firefighter may elect by a writing filed with the board prior to December 31, 1979, to be restored to his previous status as a state miscellaneous member with respect to such service. Upon the filing of such election, such service shall cease to be state safety member service and his rights and obligations shall be adjusted accordingly and his status shall be the same as if this section had not been enacted.

CHAPTER 671

An act to add Section 4036.4 to the Business and Professions Code, relating to prescription drugs.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 4036.4 is added to the Business and Professions Code, to read:

4036.4. Notwithstanding any other provision of law, a registered pharmacist, registered nurse, licensed vocational nurse, licensed psychiatric technician, or other healing arts licentiate, if so authorized by administrative regulation, who is employed by or serves as a consultant for a licensed skilled nursing, intermediate care or other health care facility, may orally transmit to the furnisher a prescription lawfully ordered by a person authorized to prescribe drugs or devices pursuant to Section 4036. The furnisher shall record the name of the person who transmits the order. This section shall not apply to orders for Schedule II controlled substances as defined in Division 10 (commencing with Section 11053) of the Health and Safety Code.

In enacting this section, the Legislature recognizes and affirms the role of the Department of Health Services in regulating drug order processing requirements for licensed health care facilities as set forth in Title 22 of the California Administrative Code as they may be amended from time to time.

CHAPTER 672

An act to add Section 4157 to the Labor Code, relating to workers' compensation.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 4157 is added to the Labor Code, to read:

4157. Where any employer has made an election pursuant to this chapter to include under the compensation provisions of this division an independent contractor engaged in vending, selling, offering for sale, or delivering directly to the public any newspaper, magazine, or periodical, the status of such person as an independent contractor for all other purposes shall not be affected by such election.

CHAPTER 673

An act to amend Section 40 of the Harbors and Navigation Code, and to amend Section 30233 of the Public Resources Code, relating to coastal resources.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 40 of the Harbors and Navigation Code is amended to read:

40. Facilities in harbors and connecting waterways established under the provisions of this division shall be open to all on equal and reasonable terms; provided that the department may authorize construction of separate facilities and reasonable allocations within the same harbor for separate use by commercial and recreational vessels, and project funding may not be denied solely on the basis that such separate facilities and allocations for such separate use within the same harbor is required by a regulatory agency so long as such requirement is determined by the director, after consultation with the affected regulatory agencies, to be reasonable.

SEC. 2. Section 30233 of the Public Resources Code is amended to read:

30233. (a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse

environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland; provided, however, that in no event shall the size of the wetland area used for such boating facility, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, be greater than 25 percent of the total wetland area to be restored.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities.

(5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource-dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

For the purposes of this section, "commercial fishing facilities in Bodega Bay" means that no less than 80 percent of all boating facilities proposed to be developed or improved, where such improvement would create additional berths in Bodega Bay, shall be designed and used for commercial fishing activities.

CHAPTER 674

An act relating to county offices of education.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. To the extent permitted by federal law, a county office of education is hereby authorized to exempt from the classified service positions which have been or which are hereafter established by the county office of education as a subgrantee pursuant to the Comprehensive Employment and Training Act of 1973 (CETA), as amended by the Emergency Jobs and Unemployment Assistance Act of 1974. Any CETA position which has been or which is hereafter established by the county office of education shall not be exempted from the classified service if any employee of the county office of education is employed to perform the same work or work substantially similar to that assigned to such CETA position, or if the jobsite for the CETA position is located at a facility operated by the county office of education or by any school district or community college district within the county.

This section shall apply only to Lake County and Nevada County.

SEC. 2. Chapter 261 of the Statutes of 1977 exempts certain persons employed under Title VI of the Comprehensive Employment and Training Act of 1973 (CETA), as amended by the Emergency Jobs and Unemployment Assistance Act of 1974, from the school classified service.

The CETA programs operated by the Lake County Office of Education and the Nevada County Office of Education are more extensive than those encompassed by Chapter 261 and are unique in that Lake County and Nevada County are the only counties in the California balance of state prime sponsorship in which the county office of education is the general administrator of the county's CETA programs. Therefore, the Legislature finds and declares that this act cannot be made a general statute within the meaning of Section 16 of Article IV of the Constitution.

CHAPTER 675

An act to amend Section 13213 of the Health and Safety Code, relating to high rise structures.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 13213 of the Health and Safety Code is amended to read:

13213. Regulations applicable to existing high rise structures shall be adopted on or before January 1, 1975. Such regulations shall provide to the greatest feasible extent for the safety of occupants of the high rise structure and persons involved in fire suppression activities. All existing high rise structures shall be conformed to the requirements contained in such regulations within three years after the adoption of the regulations.

The period for compliance with such requirements may be extended upon showing of good cause for such extension if a systematic and progressive plan of correction is submitted to, and approved by, the enforcing agency. Such extension shall not exceed two years from the date of approval of such plan. Any plan of correction submitted pursuant to this section shall be submitted and approved on or before April 26, 1979.

CHAPTER 676

An act to add Article 6.5 (commencing with Section 1857.5) to Chapter 9 of Part 2 of Division 1 of the Insurance Code, relating to insurance.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Article 6.5 (commencing with Section 1857.5) is added to Chapter 9 of Part 2 of Division 1 of the Insurance Code, to read:

Article 6.5. Recording and Reporting of Loss and Expense Experience

1857.5. (a) The commissioner may promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems in use within the state, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in this chapter. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of

determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the commissioner may give due consideration to the rating systems in use and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system in use by it. The commissioner may designate one or more rating organizations or advisory organizations to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

(b) Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(c) In order to further uniform administration or rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to ratemaking and the application of rating systems.

CHAPTER 677

An act to add Section 89520 to the Education Code, relating to state employees.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 89520 is added to the Education Code, to read:

89520. The provisions of Article 4.5 (commencing with Section 19400) of Chapter 7 of Part 2 of Division 5 of the Government Code, relating to upward mobility, shall be applicable to the California State University and Colleges System. The trustees shall administer the program for its employees and shall have the powers and duties with respect to employees of the California State University and Colleges System, as are given to the State Personnel Board in Article 4.5 (commencing with Section 19400) of Chapter 7 of Part 2 of Division 5 of the Government Code, with respect to state civil service employees. In the event of conflict between the provisions of Article 4.5 (commencing with Section 19400) of Chapter 7 of Part 2 of Division 5 of the Government Code and the antidiscrimination and affirmative action requirements of Title VI and Title VII of the

Civil Rights Act of 1964, as amended; Title IX of the Education Amendments of 1972, as amended; Executive Order Number 11246, as amended, and the rules and regulations adopted under each of these, the federal law shall prevail.

CHAPTER 678

An act to amend Sections 33380, 33383, and 52063 of the Education Code, relating to Native American Indian education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 33380 of the Education Code is amended to read:

33380. The Legislature hereby finds and declares that Indian children have not succeeded well in California public schools as evidenced by low academic achievement at all grade levels, high dropout rates and by the few students continuing their education beyond high school.

It is the intent and purpose of the Legislature to strengthen the instructional program within the public schools by establishing California Indian education centers.

SEC. 2. Section 33383 of the Education Code is amended to read:

33383. Application for the establishment of a California Indian education center may be made to the State Board of Education by any tribal group or incorporated Indian association, either separately or jointly, upon forms provided by the Department of Education.

SEC. 3. Section 52063 of the Education Code is amended to read:

52063. The governing board of any rural school district receiving equalization aid, having a school in which there is a concentration of 10 percent or more of Native American Indian students, and which maintains prekindergarten through grade 4 or kindergarten through grade 4, may apply to the superintendent for a project in Native American Indian education. Any rural school district receiving equalization aid at the initial time an application for a project is accepted shall continue to be eligible for funding under Section 52062 notwithstanding the fact that such school district may no longer be receiving equalization aid.

The governing boards of two or more of such school districts may jointly apply for a project in Native American Indian education.

The application shall be made on forms provided by the superintendent, and in accordance with the rules and regulations adopted by the board.

The dates for making application shall be established by the

superintendent.

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 Native American Indian education pilot projects established by Chapter 899 of the Statutes of 1976 to continue without interruption, thus avoiding harm to presently functioning successful programs and their student participants, it is necessary that this act take effect immediately.

CHAPTER 679

An act to amend Section 1463 of the Penal Code, relating to disposition of fines.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 1463 of the Penal Code is amended to read:

1463. Except as otherwise specifically provided by law:

(1) All fines and forfeitures including Vehicle Code fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any municipal court or justice court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which such court is situated. The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the proper funds of the county an amount equal to the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by the state or by the county in which such court is situated, exclusive of fines or forfeitures or forfeitures of bail collected from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code within the limits of a city within the county.

(b) Except as otherwise provided in this subdivision, once a month there shall be transferred into the traffic safety fund of each city in the county an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code within that city, and an amount equal to the remaining 50 percent shall be transferred to the special 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 of the amount to be transferred to the special road fund of the county, be transferred into the general fund of the county.

Once a month there shall be transferred into the general fund of the county an amount equal to that percentage of the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code on state highways constructed as freeways whereon city police officers enforced the provisions of the Vehicle Code on April 1, 1965, within the limits of a city within the county which is set forth in the schedule appearing in subparagraph (c) of this paragraph (1). If this paragraph is applicable within a city, it shall apply uniformly throughout the city to all freeways regardless of the date of freeway construction or completion.

(c) Once a month there shall be transferred into the general fund of the county an amount equal to that percentage of the fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by each city in the county which is set forth in the following schedule:

County and city	Percentage
Alameda	
Alameda	18
Albany	29
Berkeley	19
Emeryville	13
Hayward	10
Livermore	7
Oakland	22
Piedmont	44
Pleasanton	17
San Leandro	9
County percentage	21
Amador	
Amador	25
Ione	25
Jackson	25
Plymouth	25
Sutter Creek	25
County percentage	29
Butte	
Biggs	75
Chico	22
Gridley	49
Oroville	9
County percentage	20
Calaveras	

Angels	62
County percentage	62
Colusa	
Colusa	13
Williams	17
County percentage	16
Contra Costa	
Antioch	11
Brentwood	24
Concord	18
El Cerrito	19
Hercules	14
Martinez	22
Pinole	22
Pittsburg	5
Richmond	14
San Pablo	12
Walnut Creek	24
County percentage	14
Del Norte	
Crescent City	19
County percentage	19
El Dorado	
Placerville	14
County percentage	14
Fresno	
Clovis	23
Coalinga	21
Firebaugh	16
Fowler	34
Fresno	26
Huron	24
Kerman	14
Kingsburg	34
Mendota	11
Orange Cove	24
Parlier	21
Reedley	30
Sanger	29
San Joaquin	15
Selma	14
County percentage	24
Glenn	
Orland	27
Willows	36
County percentage	32
Humboldt	
Arcata	9
Blue Lake	26

Eureka	11
Ferndale	30
Fortuna	17
Trinidad	11
County percentage	11
Imperial	
Brawley	8
Calexico	10
Calipatria	30
El Centro	5
Holtville	16
Imperial	6
Westmorland	12
County percentage	8
Inyo	
Bishop	25
County percentage	25
Kern	
Bakersfield	10
Delano	13
Maricopa	36
Shafter	15
Taft	19
Tehachapi	12
Wasco	28
County percentage	12
Kings	
Corcoran	31
Hanford	21
Lemoore	25
County percentage	25
Lake	
Lakeport	33
County percentage	33
Lassen	
Susanville	21
County percentage	21
Los Angeles	
Alhambra	13
Arcadia	11
Avalon	54
Azusa	11
Bell	11
Beverly Hills	14
Burbank	14
Claremont	5
Compton	16
Covina	11
Culver City	10

El Monte	11
El Segundo	11
Gardena	22
Glendale	16
Glendora	12
Hawthorne	7
Hermosa Beach	14
Huntington Park	12
Inglewood	16
La Verne	14
Long Beach	14
Los Angeles	8
Lynwood	9
Manhattan Beach	13
Maywood	15
Monrovia	11
Montebello	11
Monterey Park	11
Palos Verdes Estates	10
Pasadena	9
Pomona	12
Redondo Beach	15
San Fernando	17
San Gabriel	16
San Marino	5
Santa Monica	11
Sierra Madre	11
Signal Hill	24
South Gate	13
South Pasadena	9
Torrance	16
Vernon	25
West Covina	11
Whittier	11
County percentage	11
Madera	
Chowchilla	17
Madera	16
County percentage	17
Marin	
Belvedere	16
Corte Madera	12
Fairfax	30
Larkspur	30
Mill Valley	13
Ross	18
San Anselmo	11
San Rafael	13
Sausalito	21

County percentage	16
Mendocino	
Fort Bragg	19
Point Arena	40
Ukiah	10
Willits	24
County percentage	17
Merced	
Atwater	23
Dos Palos	21
Gustine	23
Livingston	14
Los Banos	13
Merced	18
County percentage	18
Modoc	
Alturas	42
County percentage	42
Monterey	
Carmel	17
Gonzales	10
Greenfield	13
King City	36
Monterey	13
Pacific Grove	22
Salinas	36
Soledad	16
County percentage	23
Napa	
Calistoga	37
Napa	11
St. Helena	12
County percentage	14
Nevada	
Grass Valley	7
Nevada City	17
County percentage	9
Orange	
County percentage	15
Placer	
Auburn	18
Colfax	8
Lincoln	26
Rocklin	16
Roseville	10
County percentage	14
Plumas	
Portola	19
County percentage	19

Riverside	
Banning	35
Beaumont	15
Blythe	9
Coachella	12
Corona	12
Elsinore	10
Hemet	35
Indio	16
Palm Springs	35
Perris	14
Riverside	16
San Jacinto	41
County percentage	35
Sacramento	
Folsom	31
Galt	25
Isleton	13
North Sacramento	10
Sacramento	21
County percentage	26
San Benito	
Hollister	9
San Juan Bautista	28
County percentage	11
San Bernardino	
Barstow	23
Chino	14
Colton	21
Fontana	15
Needles	33
Ontario	20
Redlands	28
Rialto	15
San Bernardino	20
Upland	14
County percentage	20
San Diego	
Carlsbad	8
Chula Vista	23
Coronado	25
Del Mar	8
El Cajon	17
Escondido	16
Imperial Beach	8
La Mesa	23
Lemon Grove	8
National City	14
Oceanside	15

San Marcos	8
Vista	8
San Diego	6
County percentage	25
San Joaquin	
Lodi	18
Manteca	8
Ripon	11
Stockton	14
Tracy	15
County percentage	14
San Luis Obispo	
Arroyo Grande	9
Paso Robles	26
Pismo Beach	8
San Luis Obispo	21
County percentage	16
San Mateo	
Atherton	27
Belmont	7
Burlingame	38
Colma	40
Daly City	24
Hillsborough	75
Menlo Park	12
Millbrae	16
Redwood City	27
San Bruno	13
San Carlos	8
San Mateo	42
South San Francisco	12
County percentage	21
Santa Barbara	
Guadalupe	28
Lompoc	16
Santa Barbara	11
Santa Maria	12
County percentage	13
Santa Clara	
Alviso	75
Campbell	16
Gilroy	28
Los Altos	16
Los Gatos	30
Morgan Hill	11
Mountain View	13
Palo Alto	21
San Jose	13
Santa Clara	16

Sunnyvale	26
County percentage	16
Santa Cruz	
Capitola	21
Santa Cruz	23
Watsonville	21
County percentage	22
Shasta	
Redding	22
County percentage	22
Sierra	
Loyalton	75
County percentage	75
Siskiyou	
Dorris	18
Dunsmuir	29
Etna	18
Fort Jones	46
Montague	75
Mount Shasta	37
Tulelake	33
Yreka	30
County percentage	29
Solano	
Benicia	17
Dixon	18
Fairfield	18
Rio Vista	19
Suisun	7
Vacaville	15
Vallejo	18
County percentage	19
Sonoma	
Cloverdale	37
Healdsburg	33
Petaluma	24
Santa Rosa	14
Sebastopol	28
Sonoma	28
County percentage	19
Stanislaus	
Ceres	14
Modesto	15
Newman	10
Oakdale	15
Patterson	20
Riverbank	18
Turlock	19
County percentage	15

Sutter	
Live Oak	17
Yuba City	17
County percentage	17
Tehama	
Corning	26
Red Bluff	39
Tehama	10
County percentage	31
Tulare	
Dinuba	21
Exeter	23
Lindsay	24
Porterville	26
Tulare	20
Visalia	17
Woodlake	15
County percentage	21
Tuolumne	
Sonora	23
County percentage	23
Ventura	
Fillmore	16
Ojai	16
Oxnard	16
Port Hueneme	16
Santa Paula	16
Ventura	16
County percentage	16
Yolo	
Davis	22
Winters	19
Woodland	20
County percentage	20
Yuba	
Marysville	15
Wheatland	38
County percentage	15

In any county for which a county percentage is set forth in the above schedule and which contains a city which is not listed or which is hereafter created, there shall be transferred to the county general fund the county percentage. In any county for which no county percentage is set forth, and in which a city is hereafter created, there shall be transferred to the county general fund 15 percent.

A county and a city therein may, by mutual agreement, adjust the percentages herein.

(d) Once a month there shall be transferred to each city in the county an amount equal to the total sum remaining after the

transfers provided for in subparagraphs (b) and (c) above have been made of the fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by such city or arrests made by state officers for misdemeanor violations of the Vehicle Code.

(2) Any money deposited with such court or with the clerk thereof which, by order of the court or for any other reason, should be returned in whole or in part to any person, or which is by law payable to the state or to any other public agency, shall be paid to such person or to the state or to such other public agency by warrant of the county auditor, which shall be drawn upon the requisition of the clerk of such court.

All money deposited as bail which has not been claimed within one year after the final disposition of the case in which such money was deposited, or within one year after an order made by the court for the return or delivery of such money to any person, shall be apportioned between the city and the county and paid or transferred in the manner hereinabove provided for the apportionment and payment of fines and forfeitures. This paragraph shall control over any conflicting provisions of law.

SEC. 2. Notwithstanding Sections 2229, 2230, and 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to those sections nor shall there be any appropriation made by this act because there are no state-mandated local costs in this act and any revenue loss implied herein is not reimbursable under Section 2229 or 2230 of the Revenue and Taxation Code.

CHAPTER 680

An act to add Section 101.7 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 101.7 is added to the Streets and Highways Code, to read:

101.7. (a) The department shall adopt rules and regulations to allow the placement, until January 1, 1981, near exits on those portions of Route 5 located in rural areas, of information signs advertising specific roadside businesses offering gas, food, lodging, or camping services and on standards for such signs.

The information signs may be placed near the highway exits in addition to other highway signs.

(b) The department shall establish and charge a fee to place and

maintain information signs in an amount not less than 25 percent above its estimated cost in placing and maintaining the information signs. Funds derived from the imposition of the fee, after deduction of the cost to the department for the placement and maintenance of the information signs, shall be available, upon appropriation by the Legislature, for safety roadside rest purposes.

(c) Not later than July 1, 1980, the department shall submit to the Legislature a report on its findings with respect to the placement of information signs pursuant to subdivision (a) and a recommendation on whether or not the placement of such signs should be authorized on a statewide basis.

CHAPTER 681

An act to amend Sections 1938 and 3354 of the Financial Code, relating to banks and trust companies.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 1938 of the Financial Code is amended to read:

1938. Each report required under this article shall be filed with the superintendent at such time as the superintendent may by regulation or order require. If any bank or trust company fails to make any report required by this article at such time as specified by the superintendent or fails to include therein any matter required by this article or by the superintendent, it shall be liable to the people of this state in the sum of not more than one hundred dollars ($100) for each day that such report is delayed or withheld by the failure or neglect of such bank or trust company.

SEC. 2. Section 3354 of the Financial Code is amended to read:

3354. (a) In this section, "controlling person" has the meaning set forth in subdivision (c) of Section 700.

(b) No bank shall purchase any real or personal property or any interest in real or personal property, including but not limited to a leasehold, or any contract arising from the sale of real or personal property or any note or bond in which any director, officer, employee, or controlling stockholder of such bank is personally or financially interested, directly or indirectly, for such person's own account, for such person, or as the partner or agent of others, without first obtaining the written consent of the superintendent.

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CHAPTER 682

An act to add Section 13952 to the Water Code, relating to water quality.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 13952 is added to the Water Code, to read:

13952. Notwithstanding the provisions of Sections 13950 and 13951, water containing waste which has been placed in a sanitary sewer system for treatment and transportation outside of the Lake Tahoe Basin may be reclaimed in a pilot reclamation project to demonstrate the technological and environmental feasibility of using such water for beneficial purposes within the Lake Tahoe Basin in accordance with the provisions of the Water Reclamation Law (Chapter 7 (commencing with Section 13500) of this division) and the provisions of this section.

Prior to the initiation of any pilot reclamation project within the Lake Tahoe Basin, the reclaimer or reuser shall submit the project with technical data to the regional board for the Lahontan region for approval. Only those projects submitted before January 1, 1984, shall be considered. The technical data submitted shall demonstrate that such pilot reclamation project will not, individually or collectively, directly or indirectly, adversely affect the quality of the waters of Lake Tahoe. The intended operational life of the project shall be at least 10 years.

No pilot reclamation project shall be initiated unless and until such regional board approves the project, and finds that such pilot reclamation project or projects will not, individually or collectively, directly or indirectly, adversely affect the quality of the waters of Lake Tahoe. The regional board for the Lahontan region shall place conditions on any approved project to include specification of maximum project size. The regional board for the Lahontan region may suspend or terminate an approved project for cause at any time.

CHAPTER 683

An act to amend Section 7658 of the Public Utilities Code, relating to railroads.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 7658 of the Public Utilities Code is amended to read:

7658. No city or county or city and county ordinance which establishes a limit on the speed of trains shall be valid unless that ordinance has been approved by the commission.

CHAPTER 684

An act to amend Section 690.31 of the Code of Civil Procedure, relating to exemptions from execution.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 690.31 of the Code of Civil Procedure is amended to read:

690.31. (a) (1) A dwelling house in which the debtor or the family of the debtor actually resides shall be exempt from execution, to the same extent and in the same amount, except as otherwise provided in this section, as the debtor or the spouse of the debtor would be entitled to select as a homestead pursuant to Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code. For the purpose of this section, "dwelling house" means the dwelling house together with the outbuildings and the land on which the same are situated.

(2) A mobilehome as defined in Section 18008 of the Health and Safety Code in which the debtor or the family of the debtor actually resides, together with the outbuildings and the land on which the same are situated, shall be exempt from execution, to the same extent and in the same amount, as is provided for a dwelling house by this section. For the purposes of this section, "dwelling house" includes such a mobilehome.

(b) The exemption provided in subdivision (a) does not apply:

(1) Whenever the debtor or the spouse of the debtor has an existing declared homestead on any property in this state other than property which is the subject of a proceeding under subdivision (c) of this section. The existence of a homestead declared by the debtor or the debtor's spouse under Section 1300 of the Civil Code shall not affect the right of the other spouse to an exemption under this section.

(2) Whenever a judgment or abstract thereof or any other obligation which by statute is given the force and effect of a judgment lien has been recorded prior to either:

(i) The acquisition of the property by the debtor or the spouse of

the debtor; or

(ii) The commencement of residence by the debtor or the spouse of the debtor, whichever last occurs.

(3) Whenever the execution or forced sale is in satisfaction of judgments obtained:

(i) On debts secured by mechanics, contractors, subcontractors, artisans, architects, builders, laborers of every class, or materialmen's or vendors' liens upon the dwelling house or premises;

(ii) On debts secured by encumbrances on the dwelling house or premises executed and acknowledged by husband and wife, by a claimant of a married person's separate homestead, or by an unmarried claimant; or

(iii) On debts secured by encumbrances on the dwelling house or premises, executed and recorded prior to or in connection with the acquisition of the property by the debtor or the spouse of the debtor.

(c) Whenever a judgment creditor seeks to enforce a judgment against a dwelling house, whether or not the judgment was rendered in another county, the judgment creditor shall apply to the proper court in the county in which the dwelling house is located for the issuance of a writ of execution. The proper court shall be determined in the same manner as provided in Section 392. The application shall be verified and describe the dwelling house and state that either or both of the following facts exist:

(1) The dwelling house is not exempt, the reasons therefor, and (i) that a reasonable search of the records of the office of the county recorder has not resulted in the finding of a declared homestead of the debtor or the spouse of the debtor on the subject dwelling house, and further, that a reasonable search of the records of the county tax assessor indicates that there is no current homeowner's exemption claimed by either the debtor or the spouse of the debtor on the subject dwelling house, or (ii) that the records of the county tax assessor indicate that there is a current homeowner's exemption claimed by either the debtor or the spouse of the debtor on the subject dwelling house but the judgment creditor believes for reasons which shall be stated in the application that the debtor or the spouse of the debtor is not entitled to the exemption provided in this section.

(2) The current value of the dwelling house, over and above all liens and encumbrances thereon, exceeds the amount of the allowable exemption.

If an application alleges facts solely pursuant to paragraph (2) or the court determines that a writ may issue only under the circumstances described in paragraph (2), the court shall determine whether the current value of the dwelling house, over and above all liens and encumbrances thereon, exceeds the amount of the allowable exemption in the manner provided by Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code.

At the time the application is filed, if the judgment was rendered

in another county, there shall be paid to the clerk or judge, as a filing fee, the sum of four dollars ($4) when filed in a justice court, or the sum of six dollars ($6) when filed in a superior or municipal court.

Whenever a judgment creditor seeks to enforce a judgment pursuant to this section and the judgment was rendered in another county, the judgment creditor shall file with the clerk or judge of the proper court in the county in which the dwelling house is located an abstract of judgment in the form prescribed in Section 674.

(d) Upon receipt of a completed application of a judgment creditor, the court shall set a time and place for hearing and order the debtor to show cause why a writ of execution should not issue. Prior to the hearing, a copy of the order to show cause, a copy of the application filed by the judgment creditor and a copy of the following notice, in at least 10-point bold type, shall be served as prescribed in subdivision (*l*):

"IMPORTANT LEGAL NOTICE TO HOMEOWNER AND RESIDENT

1. Your house is in danger of being sold to satisfy a judgment obtained in court. You may be able to protect the house and real property described in the accompanying application from execution and forced sale if you or your family now actually reside on the property and presently do not have a declared homestead legally recorded with the county recorder on any other property in the State of California. YOU OR YOUR SPOUSE MUST COME TO THE HEARING TO SHOW THESE FACTS.

2. If you or your spouse want to contest the forced sale of this property, you or your spouse must appear at

_____ on _____

(location set forth in OSC) (date and time)

and be prepared to answer questions concerning the statements made in the attached application. THE ONLY PURPOSE OF THE HEARING WILL BE TO DETERMINE WHETHER THE PROPERTY CAN BE SOLD, NOT WHETHER YOU OWE THE MONEY.

3. FOR YOUR OWN PROTECTION, YOU SHOULD PROMPTLY SEEK THE ADVICE OF AN ATTORNEY IN THIS MATTER. IF YOU ARE A TENANT AND DO NOT CLAIM TO BE THE OWNER OR BUYER OF THIS PROPERTY, THIS NOTICE DOES NOT AFFECT YOU. PLEASE GIVE IT TO YOUR LANDLORD."

(e) The burden of proof at the hearing shall be determined in the following manner:

(1) Where the application of the judgment creditor states a claim of nonexempt status, the debtor or the spouse of the debtor shall have the burden of proving his or her entitlement to the exemption; and

(2) Where the application of the judgment creditor asserts that the current value of the dwelling, over and above all liens and encumbrances thereon, exceeds the amount of the allowable

exemption, the judgment creditor shall have the burden of proof on that issue.

(f) Upon a determination by the court that the dwelling house is not exempt or that, although exempt, the judgment creditor is entitled to levy against any excess, it shall make an order directing the issuance of a writ of execution. The order shall state whether or not the dwelling house is exempt and, if not exempt, state that the judgment creditor is entitled only to execution against the excess over the exempt amount. It shall also specify the amount of the exemption. A copy of the order shall be transmitted by the clerk of the court to the clerk of the court in which the judgment was rendered.

The writ of execution shall specify the amounts for distribution under the levy, including names and addresses of each person or entity having an encumbrance against the dwelling and the name and address of any exempt debtor and the exempt amount.

(g) Any such writ of execution issued upon a hearing at which the debtor, the spouse of the debtor, or his or her attorney did not appear shall be served in the manner prescribed in subdivision (*l*) and be accompanied by the following notice in at least 10-point bold type:

"IMPORTANT LEGAL NOTICE TO HOMEOWNER AND RESIDENT

1. You were recently served with a court order requiring your presence at a hearing to determine why the court should not issue a writ of execution for the forced sale of your home. YOU AND YOUR SPOUSE FAILED TO APPEAR AT THE HEARING AND THE COURT HAS ORDERED THAT YOUR HOME BE SOLD TO SATISFY A JUDGMENT AGAINST YOU.

2. Your absence at the hearing has contributed to the issuance of the accompanying writ of execution. If the absence of you or your attorney at the hearing was legally excusable and you believe in good faith that your home may be entitled to an exemption from execution, you should complete the form below and date, sign, and return the form below no later than _____. (Insert date no later than five days prior to date of sale.)

3. FOR YOUR OWN PROTECTION, YOU SHOULD IMMEDIATELY SEEK THE ADVICE OF AN ATTORNEY. IF YOU ARE A TENANT AND DO NOT CLAIM TO BE THE OWNER OR BUYER OF THIS PROPERTY, THIS NOTICE DOES NOT AFFECT YOU. PLEASE GIVE IT TO YOUR LANDLORD.

..... (Cut Out and Return This Form to) .....

_____

(Name and Title of Levying Officer)

_____

(Street Address and City)

_____

(Area Code and Telephone Number of Levying Officer)"

I declare that my absence from the previous hearing on whether or not this property should be sold was legally excusable. I, or my spouse, currently reside in this property and I wish a further hearing so that I may assert my exemption rights under Code of Civil Procedure Section 690.31 and contest the sale of my home. I understand that the clerk of the court will notify me of the date and place for this hearing if I return this form immediately and that I must attend this hearing.

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

Executed on _____ at _____ , California
(date) (city or county)

_____ "

(Signature of Debtor or Debtor's Spouse)

(h) If the debtor or spouse of the debtor declares that his or her absence or the absence of his or her attorney at the hearing was due to mistake, inadvertence, surprise or excusable neglect and declares that the subject dwelling house may be entitled to an exempt status, the levying officer shall, upon receipt of the declarations of the debtor five days prior to the scheduled sale date, postpone the sale pending further orders of the court and transmit the notice forthwith to the court. Upon receipt of the notice, the clerk shall set a hearing to determine whether the writ of execution should be recalled, and shall give at least 10 days' notice to the parties.

(i) Subsequent applications by a judgment creditor within 12 months of a denial of a writ of execution shall be supported by a statement under oath alleging that there is a material change of circumstances affecting the exemption, and setting forth facts supporting such claimed material change of circumstances.

(j) In the event of an execution sale, the proceeds of the sale shall be applied in the following order and priority: first, to the discharge of all liens and encumbrances, if any, on the property; second, to the debtor, or the debtor's spouse if such person is the exemption claimant, in the amount of the exemption if allowed pursuant to this section; third, to the satisfaction of the execution; and fourth, to the debtor, or the debtor's spouse if such person is the exemption claimant.

(k) That portion of the proceeds from the sale of real property pursuant to an order of the court directing the issuance of a writ of execution pursuant to subdivision (f) of this section, which portion represents the amount of the exemption, shall be exempt for a period of six months from the date of receipt of the proceeds. Where such exempt proceeds are used for the purchase of a dwelling house, in which the debtor or the family of the debtor actually reside, within a period of six months following receipt, the subsequently acquired

dwelling shall be exempt from execution. The exemption for the subsequently acquired real property shall have the same effect as if allowed on the date of the acquisition of or the commencement of residence by the debtor or the spouse of the debtor, whichever last occurred, in the property previously determined to be exempt, except with respect to a judgment or other obligation which by statute is given the force and effect of a judgment lien against the subsequently acquired property prior to its acquisition.

(*l*) Promptly upon receipt of the application filed by the judgment creditor, the order to show cause, and the notice specified in subdivision (d), or promptly upon receipt of the writ of execution and the notice specified in subdivision (g), and in no event less than 10 days prior to the date of the hearing specified in the notice under subdivision (d) or the date of sale, as the case may be, the levying officer shall mail copies of the documents to the defendant and to any third person in whose name the property stands upon the records of the office of the tax assessor of the county where the property is located on the last business day preceding the date of mailing. Such copies shall be mailed first-class mail, postage prepaid, to the address of the defendant and any such third person as shown by the records of the office of the tax assessor. The levying officer shall also serve an occupant of the property with copies or, if there is no occupant on the property at the time service is attempted, the levying officer shall post a copy in a conspicuous place on the property. Service upon the occupant may be made by leaving the copies with the occupant personally, or, in the occupant's absence, with any person of suitable age and discretion, found upon the property at the time service is attempted and who is either an employee or agent of such occupant or a member of his family or household.

(m) The provisions of subdivisions (j), and (*l*) of Section 690.50 shall apply to proceedings under this section.

(n) An appeal lies from any judgment under this section. Such appeal shall be taken in the manner provided for appeals in the court in which the proceeding is had.

(o) The notice specified in subdivision (d) shall also be provided in Spanish as follows:

"IMPORTANTE AVISO LEGAL AL PROPIETARIO DE CASA Y RESIDENTE

1. Su casa está en peligro de ser vendida para cumplir con una orden judicial obtenida en la corte. Usted podría proteger la casa y los bienes raíces descritos en la solicitud adjunta de la ejecución y venta forzosa si usted o su familia actualmente residen en la propiedad y no tienen una casa propia legalmente registrada con el registrador del condado en alguna otra propiedad en el Estado de California. USTED O SU ESPOSO(A) DEBEN VENIR A LA AUDIENCIA PARA DEMOSTRAR ESTOS PUNTOS.

2. Si usted o su esposo(a) quieren disputar la venta forzosa de esta propiedad, usted o su esposo(a) deberán presentarse a

_____ el _____
(location set forth in O.S.C.) (date and time)

y estar preparados para contestar las preguntas acerca de las declaraciones puestas en la solicitud adjunta. EL ÚNICO PROPÓSITO DE ESTA AUDIENCIA SERÁ EL DE DETERMINAR SI LA PROPIEDAD PUEDE SER VENDIDA, Y NO SI USTED DEBE DINERO.

3. PARA SU PROPIA PROTECCIÓN, USTED DEBERÍA PRONTAMENTE DE BUSCAR EL CONSEJO DE UN ABOGADO EN ESTE ASUNTO. Si usted es un inquilino y no reclama ser el dueño o el comprador de esta propiedad, este aviso no le afecta a usted. Por favor déselo a su arrendador."

(p) The notice specified in subdivision (g) shall be provided in Spanish as follows:

"IMPORTANTE AVISO LEGAL AL PROPIETARIO DE CASA Y RESIDENTE

1. Recientemente se le entregó una orden de la corte pidiendo su presencia para una audiencia para determinar el porque la corte no debería de extenderle una orden de ejecución para la venta forzosa de su casa. USTED Y SU ESPOSA NO VINIERON A LA AUDIENCIA Y LA CORTE HA ORDENADO QUE SU CASA SEA VENDIDA PARA SATISFACER EL JUICIO EN CONTRA DE USTEDES.

2. Su ausencia a la audiencia ha contribuido para la emisión de la orden de ejecución. Si la ausencia de ustedes o de su abogado en la audiencia es excusable legalmente y creen de buena fe que su casa puede tener derecho a estar exonerada de ejecución, debería de completar el formato que está debajo y fecharlo, firmarlo, y devolverlo no a más tardar del _____. (Insert date no later than five days prior to sale.)

3. PARA SU PROPIA PROTECCIÓN, USTED DEBERÍA INMEDIATAMENTE BUSCAR EL CONSEJO DE UN ABOGADO. Si usted es un inquilino y no reclama ser el dueño o el comprador de esta propiedad, este aviso no le afecta a usted. Por favor déselo a su arrendador.

..... (Corte y Devuelva Este Formato a) .....

_____
(Name and title of levying officer)

_____
(Street address and city)

_____
(Area code and telephone number of levying officer)

Declaro que mi ausencia en la pasada audiencia sobre si esta propiedad debería de ser vendida o no fue legalmente excusable. Yo,

o mi esposo (a), actualmente residimos en esta propiedad y deseo una audiencia adicional para hacer valer mis derechos de exención bajo el Código de Procedimiento Civil Sección 690.31 y disputar la venta de mi casa. Entiendo que el oficial de la corte me notificará de la fecha y del lugar de esta audiencia si devuelvo este formato inmediatamente y que debo asistir a esta audiencia.

Declaro bajo pena de perjurio que lo anterior es verdadero y está correcto.

Firmado el_____ en _____ , California
(fecha) (ciudad o condado)

_____ "

(Firma del Deudor(a) o de la Esposa(o) del Deudor(a))

Timely completion and return of the return portion of the Spanish translation of this form shall have the same force and effect as timely completion and return of the English language form.

CHAPTER 685

An act to add Section 5070 to the Penal Code, relating to prisoners.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 5070 is added to the Penal Code, to read:

5070. Notwithstanding any other provision of law, the sex of a prison inmate shall not prevent the Director of Corrections from assigning any prison inmate to academic or vocational training programs situated in correctional institutions established for the incarceration of offenders of the opposite sex.

CHAPTER 686

An act to amend Section 8206 of the Government Code, relating to notaries public.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 8206 of the Government Code is amended to read:

8206. A notary public shall keep a sequential journal of all official

acts performed as a notary public. Such journal shall be in addition to and apart from any copies of notarized documents which may be in the possession of the notary public and shall include:

(a) Date, time and type of each official act.

(b) Character of every instrument acknowledged or proved before the notary.

(c) The signature of each person whose signature is being notarized.

(d) The type of information used to verify the identity of the parties whose signatures are being acknowledged.

(e) The fee charged for the notarial service.

Upon written request of any member of the public, which request shall include the name of the parties, the type of document, and the month and year in which notarized, the notary shall supply a photostatic copy of the line item representing the requested transaction at a cost of not more than thirty cents ($0.30) per page.

CHAPTER 687

An act to amend Sections 4363.1, 4363.2, and 4363.3 of the Civil Code, relating to dissolution of marriage.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 4363.1 of the Civil Code is amended to read:

4363.1. (a) Upon written application by a party to a proceeding under this part, the clerk shall enter an order joining as a party to the proceeding any employee pension benefit plan in which either party to the proceeding claims an interest which is or may be subject to disposition by the court. Upon entry of the order, the party requesting joinder shall file an appropriate pleading setting forth the party's claim against the plan and the nature of the relief sought. A copy of such pleading, a copy of the joinder request, a copy of the summons and a blank copy of a notice of appearance in form and content approved by the Judicial Council shall be served upon the employee pension benefit plan in the same manner as service of papers generally. Service of the summons upon a trustee or administrator of the employee pension benefit plan in his capacity as such, or upon any agent designated by the plan for service of process in his capacity as such, shall constitute service upon the employee pension benefit plan. To facilitate service, the employee spouse shall furnish within 30 days after written request the name, title and address of the plan's trustee, administrator, or agent for service of process, to the nonemployee spouse. If necessary, the employee shall obtain the information from the plan.

(b) A notice of appearance shall be filed and served by the employee pension benefit plan upon the party requesting joinder within 30 days of the date of the service upon the employee pension benefit plan of a copy of the joinder request and summons. Notwithstanding any contrary provision of law, the employee pension benefit plan shall not be required to pay any fee to the clerk of the court as a condition to filing such notice of appearance or any subsequent paper in the proceeding.

(c) If the employee pension benefit plan has been served and no notice of appearance, notice of motion to quash service of summons pursuant to Section 418.10 of the Code of Civil Procedure, or notice of the filing of a petition for writ of mandate as provided in such section, has been filed with the clerk of the court within the time specified in the summons or such further time as may be allowed, the clerk, upon written application of the party requesting joinder, shall enter the default of the employee pension benefit plan in accordance with Chapter 2 (commencing with Section 585) of Title 8 of Part 2 of the Code of Civil Procedure.

SEC. 2. Section 4363.2 of the Civil Code is amended to read:

4363.2. (a) The provisions of this section shall govern any proceeding in which an employee pension benefit plan has been joined as a party. To the extent not in conflict with this section and except as otherwise provided by rules adopted by the Judicial Council pursuant to Section 4001, all provisions of law applicable to civil actions generally shall apply regardless of nomenclature to the portion of such proceeding as to which the plan has been joined as a party if they would otherwise apply to such proceeding without reference to this section.

(b) The employee pension benefit plan may, but need not, file an appropriate responsive pleading with its notice of appearance. If it does not, then all statements of fact and requests for relief contained in any pleading served on the plan shall be deemed controverted by the plan's notice of appearance.

(c) Either party or their representatives may notify the plan of any proposed property settlement as it concerns the plan prior to the interlocutory hearing. If so notified, the plan may stipulate to the proposed settlement or advise the representative that it will contest the proposed settlement.

(d) The employee pension benefit plan shall not be required to, but may, appear at any hearing in the proceeding. For purposes of the Code of Civil Procedure, the plan shall be considered a party appearing at the trial with respect to any hearing at which the interest of the parties in the plan is an issue before the court. Those provisions of any order entered at or as a result of a hearing not attended by the plan (whether or not the plan received notice of the hearing) which affect the plan or which affect any interest either the petitioner or respondent may have or claim under the plan, shall not become effective until 30 days after the order has been served upon the employee pension benefit plan, provided, however, that the plan

may waive all or any portion of the 30-day period. If within the 30-day period, the plan files in the proceeding a motion to set aside or modify those provisions of the order affecting it, such provisions shall not become effective until the court has resolved the motion.

If the provisions of the order affecting the plan are modified or set aside, the court, on motion by either party, may set aside or modify other provisions of the order related to or affected by the provisions affecting the employee pension benefit plan.

(e) At any hearing on a motion to set aside or modify an order pursuant to subdivision (d), any party may present further evidence on any issue relating to the rights of the parties under the employee pension benefit plan or the extent of the parties' community or quasi-community property interest in the plan. Any findings of fact or conclusions of law made by the court with respect to the order which is the subject of the motion shall take account of such evidence.

SEC. 3. Section 4363.3 of the Civil Code is amended to read:

4363.3. As used in this part, the term "employee pension benefit plan" includes public and private retirement, pension, profit sharing, stock bonus, thrift and similar plans of deferred compensation, whether of the defined contribution or defined benefit type.

SEC. 4. The Legislature intends that the amendment to subdivision (c) of Section 4363.2 of the Civil Code, as enacted by Chapter 860 of the Statutes of 1977, made by Section 2 of this act shall not be construed as a repeal or modification of the law existing prior to January 1, 1978.

SEC. 5. Section 3 of this act is declaratory of existing law.

SEC. 6. The provisions of Section 1 of this act shall apply to any order of joinder entered in a proceeding under Part 5 (commencing with Section 4000) of Division 4 of the Civil Code on or after the operative date of this act. The provisions of Section 2 of this act shall apply to hearings held and to orders entered on or after the operative date of this act in any proceeding under Part 5 (commencing with Section 4000) of Division 4 of the Civil Code whether or not such proceeding was commenced prior to such date, whether or not the employee pension benefit plan was joined as a party prior to such date, and whether or not the employee pension benefit plan has consented to be governed by the provisions of Section 4363.2 of the Civil Code in effect prior to such date.

CHAPTER 688

An act to amend, add, and repeal Sections 89721 and 89724 of the Education Code, relating to California State University and Colleges, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 89721 of the Education Code is amended to read:

89721. Notwithstanding any other provision of law to the contrary, the chief fiscal officer of each campus of the California State University and Colleges shall deposit into and maintain in local trust accounts or in trust accounts in accordance with the provisions of Sections 16305 to 16305.7, inclusive, of the Government Code, or in the California State University and Colleges Trust Fund, moneys received in connection with the following sources or purposes:

(a) Gifts, bequests, devises, and donations received under Section 89720.

(b) Any student loan or scholarship fund program, including but not limited to, student loan programs of the state, federal government (including programs referred to in Section 89723), local government, or private sources.

(c) Advance payment for anticipated expenditures or encumbrances in connection with federal grants or contracts.

(d) Room, board, and similar expenses of students enrolled in the international program of the California State University and Colleges.

(e) Cafeteria replacement funds.

(f) Miscellaneous receipts in the nature of deposits subject to return upon approval of a proper application.

(g) Fees and charges for services and materials authorized by Section 89700 where such fees or charges are required of those persons who, at their option, use the services or are provided the materials, for which the fees or charges are made. Fees and charges so received and deposited shall be used solely to meet the costs of providing such services and materials.

(h) Fees for instructionally related activities as defined by the trustees and as authorized by Section 89700 and revenues derived from the conduct of such instructionally related activities. The trustees shall have all authority necessary to administer and use the fees and revenues received and deposited to support such instructionally related activities.

This section shall be operative only until July 1, 1981, and as of such date is repealed.

SEC. 2. Section 89721 is added to the Education Code, to read:

89721. Notwithstanding any other provision of law to the contrary, the chief fiscal officer of each campus of the California State University and Colleges shall deposit into and maintain in local trust accounts or in trust accounts in accordance with the provisions of Sections 16305 to 16305.7, inclusive, of the Government Code, or in the California State University and Colleges Trust Fund, moneys

received in connection with the following sources or purposes:

(a) Gifts, bequests, devises, and donations received under Section 89720.

(b) Any student loan or scholarship fund program, including but not limited to, student loan programs of the state, federal government (including programs referred to in Section 89723), local government, or private sources.

(c) Advance payment for anticipated expenditures or encumbrances in connection with federal grants or contracts.

(d) Room, board, and similar expenses of students enrolled in the international program of the California State University and Colleges.

(e) Cafeteria replacement funds.

(f) Miscellaneous receipts in the nature of deposits subject to return upon approval of a proper application.

(g) Fees and charges for services and materials authorized by Section 89700 where such fees or charges are required of those persons who, at their option, use the services or are provided the materials, for which the fees or charges are made. Fees and charges so received and deposited shall be used solely to meet the costs of providing such services and materials.

SEC. 3. Section 89724 of the Education Code is amended to read:

89724. (a) All money received from the sale of publications pursuant to Section 90500, all money received under an agreement entered into pursuant to Section 89036, and except as to the fees and charges specified in subdivisions (g) and (h) of Section 89721, all money collected as fees from students in any state university or college and from other persons under Section 89030, Sections 89036 to 89040, inclusive, and Sections 89700, 89705, 89708, 89709, 89720, and 89721, and by reason of Section 2080.9 of the Civil Code, is hereby appropriated for the support of the California State University and Colleges in addition to such other amounts as may be appropriated therefor by the Legislature. Money received under Sections 89720 and 89721, or received by reason of Section 2080.9 of the Civil Code, is appropriated without regard to fiscal year; provided, that money received by reason of Section 2080.9 of the Civil Code shall be used for student scholarships and loans pursuant to such regulations as the trustees shall provide, and while held pending the grant of a scholarship or loan, may be invested by the State Treasurer upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investment shall also be used for such scholarships and loans; and provided further, that money received by reason of Sections 89720 and 89721 may be invested by the State Treasurer upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code, in which case all interest and other earnings received pursuant to such investment shall also be used for such purposes as may be established by the trustees consistent with the terms and conditions of the gift, bequest,

devise, donation, or agreement under Sections 89720 and 89721. Except as otherwise provided with respect to money received by reason of Section 2080.9 of the Civil Code and Sections 89720 and 89721 of the Education Code, all money received pursuant to this section shall augment the support appropriation to the California State University and Colleges for the fiscal year to which the collections apply.

(b) All money received from the sale or the disposition of real property acquired by or on behalf of a particular state university or college by gift, devise, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for the acquisition and improvement of real property for such particular state university or college, in addition to such other amounts as may be appropriated therefor by the Legislature. All money received from the sale or other disposition of personal property, other than money, acquired by or on behalf of a particular state university or college by gift, bequest, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for, or the acquisition and improvement of real or personal property for, such particular state university or college, in addition to such other amounts as may be appropriated therefor by the Legislature. No money shall be expended by the trustees under this subdivision without the approval of the Director of Finance. Such money shall augment such support or capital outlay appropriation of the California State University and Colleges current at the date of issuance of the State Controller's receipt therefor as may be designated by the trustees prior to their deposit in the State Treasury.

This section shall be operative only until July 1, 1981, and as of such date is repealed.

SEC. 4. Section 89724 is added to the Education Code, to read:

89724. (a) All money received from the sale of publications pursuant to Section 90500, all money received under an agreement entered into pursuant to Section 89036, and except as to the fees and charges specified in subdivision (g) of Section 89721, all money collected as fees from students in any state university or college and from other persons under Section 89030, Sections 89036 to 89040, inclusive, and Sections 89700, 89705, 89708, 89709, 89720, and 89721, and by reason of Section 2080.9 of the Civil Code, is hereby appropriated for the support of the California State University and Colleges in addition to such other amounts as may be appropriated therefor by the Legislature. Money received under Sections 89720 and 89721, or received by reason of Section 2080.9 of the Civil Code, is appropriated without regard to fiscal year; provided, that money received by reason of Section 2080.9 of the Civil Code shall be used for student scholarships and loans pursuant to such regulations as the trustees shall provide, and while held pending the grant of a scholarship or loan, may be invested by the State Treasurer upon

approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investment shall also be used for such scholarships and loans; and provided further, that money received by reason of Sections 89720 and 89721 may be invested by the State Treasurer upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code, in which case all interest and other earnings received pursuant to such investment shall also be used for such purposes as may be established by the trustees consistent with the terms and conditions of the gift, bequest, devise, donation, or agreement under Sections 89720 and 89721. Except as otherwise provided with respect to money received by reason of Section 2080.9 of the Civil Code and Sections 89720 and 89721 of the Education Code, all money received pursuant to this section shall augment the support appropriation to the California State University and Colleges for the fiscal year to which the collections apply.

(b) All money received from the sale or the disposition of real property acquired by or on behalf of a particular state university or college by gift, devise, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for the acquisition and improvement of real property for such particular state university or college, in addition to such other amounts as may be appropriated therefor by the Legislature. All money received from the sale or other disposition of personal property, other than money, acquired by or on behalf of a particular state university or college by gift, bequest, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for, or the acquisition and improvement of real or personal property for, such particular state university or college, in addition to such other amounts as may be appropriated therefor by the Legislature. No money shall be expended by the trustees under this subdivision without the approval of the Director of Finance. Such money shall augment such support or capital outlay appropriation of the California State University and Colleges current at the date of issuance of the State Controller's receipt therefor as may be designated by the trustees prior to their deposit in the State Treasury.

SEC. 5. Sections 2 and 4 of this act shall become operative on July 1, 1981.

SEC. 6. It is the intent of the Legislature that this act not constitute a validation of any fee established by the trustees.

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 establish the accounts prescribed by this act at the beginning of the 1978–79 academic year and so facilitate the orderly

administration of such accounts, it is necessary that this act become effective immediately.

CHAPTER 689

An act to add Section 1668 to the Vehicle Code, relating to fingerprinting, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 1668 is added to the Vehicle Code, to read:

1668. The department may provide fingerprint service to the general public. When such service is provided, the department shall charge a fee of not less than five dollars ($5) for each person fingerprinted.

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:

Persons applying for certain positions in occupations governed by state regulation and licensing procedures require fingerprinting prior to obtaining such employment. Although the state requires such fingerprinting, there is no generally known fingerprint service offered by the state that is available to these persons. In order that the Department of Motor Vehicles can provide this service to the general public and meet the needs of persons who request fingerprint service at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 690

An act to amend Sections 1 and 3 of Chapter 261 of the Statutes of 1976, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 1 of Chapter 261 of the Statutes of 1976 is amended to read:

Section 1. The Legislature finds and declares that a special

statute is required to prohibit the expansion of the Washington Water and Light Company, a private water corporation operating in an unincorporated area of Yolo County, wherein a community services district has been formed to, among other things, provide public water service. This act specifies the period when such expansion shall be prohibited.

SEC. 2. Section 3 of Chapter 261 of the Statutes of 1976 is amended to read:

Sec. 3. No construction work, except as specified in Section 2 of this act, shall be done from the effective date of this act until 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:

In order that the voters in the recently formed community services district in east Yolo County may vote on the question of acquiring the facilities of the existing water corporation in the service area of the district before any extensive capital construction projects are undertaken, it is necessary for this act to take effect immediately.

CHAPTER 691

An act to repeal Article 2 (commencing with Section 725) of Chapter 1 of Division 2 of, and to repeal Section 8046 of the Fish and Game Code, relating to the Department of Fish and Game, and making an appropriation therefor.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Article 2 (commencing with Section 725) of Chapter 1 of Division 2 of the Fish and Game Code is repealed.

SEC. 2. Section 8046 of the Fish and Game Code is repealed.

SEC. 3. Any funds collected pursuant to Section 8046 of the Fish and Game Code and remaining in the Fish and Game Preservation Fund after the Marine Research Committee has been abolished is hereby appropriated to the Department of Fish and Game to be used for financing research in the development of commercial fisheries of the Pacific Ocean and of marine products susceptible of being made available to the people of California.

CHAPTER 692

An act to amend Sections 34045, 34047, and 34048 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 34045 of the Vehicle Code is amended to read:

34045. The original and renewal fee for the registration of a cargo tank for any biennial period shall be thirty dollars ($30).

SEC. 2. Section 34047 of the Vehicle Code is amended to read:

34047. A penalty fee of three dollars ($3) per cargo tank shall be added where the fee for renewal of the registration is not paid on or before November 1 of the year in which current registration expires, but is paid before January 1 of the following year. If the registration fee is paid after January 1, a penalty of ten dollars ($10) per cargo tank shall be added to the registration fee. If the fee for renewal of the registration of a cargo tank is not paid on or before November 1 of the year in which current registration expires and the tank is not used as a cargo tank after current registration expires, then any application for renewal of registration which is accompanied by a certificate of nonuse shall be subject to the provisions of Section 34046.

SEC. 3. Section 34048 of the Vehicle Code is amended to read:

34048. Procedures shall be established by the State Fire Marshal for transfer of ownership, issuance of duplicate registration or certificate of compliance and change of address of registrant. A fee of five dollars ($5) shall be paid for each transfer of ownership, issuance of duplicate registration or certificate of compliance.

CHAPTER 693

An act to add Section 13113.5 to the Health and Safety Code, relating to smoke detectors.

[Approved by Governor September 8, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 13113.5 is added to the Health and Safety Code, to read:

13113.5. The State Fire Marshal shall adopt regulations requiring the installation of automatic fire devices activated by products of

combustion other than heat in all facilities within the scope of Sections 13143 and 13143.6, which provide 24-hour per day care, which house six or fewer persons, and which do not have automatic sprinkler systems.

CHAPTER 694

An act to add Sections 14035, 14035.5, and 14035.7 to the Government Code, relating to transportation.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 14035 is added to the Government Code, to read:

14035. The department may enter into contracts with railroad corporations to provide commuter and intercity passenger rail services.

Such contracts may include, but are not limited to, the extension of intercity passenger rail services provided by the National Rail Passenger Corporation under Section 403(b) of the Rail Passenger Service Act of 1970 (45 U.S.C. Sec. 563(b)) or the upgrading of other commuter rail services, or the acquisition and improvement by the department of rail terminals for passenger service as the department determines will best encourage usage thereof.

The department shall be the only public agency eligible to receive funds pursuant to Section 1614 of Title 49 of the United States Code.

SEC. 2. Section 14035.5 is added to the Government Code, to read:

14035.5. The department may enter into contracts with common carriers, as defined by Section 211 of the Public Utilities Code, or with any corporation, partnership, or person to provide intercity bus transportation or feeder services to and from rail passenger terminals.

SEC. 3. Section 14035.7 is added to the Government Code, to read:

14035.7. Funds allocated for commuter rail purposes shall be consistent with the regional transportation plan and the regional transportation improvement program for the region in which they will be expended, unless a finding specified in Section 14530 is made by the commission.

CHAPTER 695

An act to amend Section 6826 of the Public Resources Code, relating to state lands.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 6826 of the Public Resources Code is amended to read:

6826. (a) The commission may permit geological or geophysical surveys on state lands and may grant permits therefor upon such terms and conditions as the commission shall specify by regulation, but any such permit shall not give the permittee any preferential right to an oil and gas lease. Whenever the granting of any such permit is being considered by the commission, it shall, prior to granting the permit, hold a public hearing on the matter and give not less than sixty (60) days' written notice thereof to each city or county adjacent to the area where such surveys would be conducted, and shall publish such notice in the manner prescribed in Section 6834 of this chapter. The taking of cores and other samples may be conducted on and under state lands; provided, that the commission shall require that a permit first be obtained covering such types of drilling operations for the purpose of obtaining geological samples as the commission may determine by regulation, such permit to be issued upon such terms and conditions as the commission may specify by regulation, but any such permit shall not give the permittee any preferential right to an oil and gas lease.

(b) The commission shall require, as a condition to the issuance of any permit for the conduct of geological or geophysical surveys on tide and submerged lands under this section, that the permittee make available to the commission, upon request, all factual and physical exploration results, logs, and records resulting from the operations under the permit. Any such factual or physical exploration results, logs, or records which the permittee is required to make available to the commission shall be for the confidential use of the commission and shall not be open to inspection by any person or agency. The commission may, however, make such exploration results, logs and records available to those governmental agencies which need such information in order to evaluate or regulate such tide and submerged lands and adjacent lands; provided, however, that the commission shall enter into a contractual agreement with such governmental agencies specifying the purposes for which the exploration results, logs, and records may be used and requiring the exploration results, logs, and records to be maintained in confidence. Such contractual agreements shall specify the person who will examine and be responsible for the confidentiality of such

information. Such information shall not be open to inspection by any other person or agency without the written consent of the permittee.

(c) It is a misdemeanor for any member of the commission, any officer or employee of the commission, or any person performing any function or work assigned to him by the commission, or any governmental agency or employee utilizing such data pursuant to an agreement of confidentiality provided for in subdivision (b), to disclose to any person who is not a member, officer, employee of the commission, or authorized person pursuant to subdivision (b), or to any person who is not performing any function or work assigned to him by the commission, any information obtained from the inspection of such factual or physical exploration results, logs, or records, or to use such information for purposes other than those authorized by the commission or for the administration of the functions, responsibilities, and duties vested in the commission by law, except upon the written consent of the permittee making available such information to the commission.

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 696

An act to add Section 162 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 162 is added to the Streets and Highways Code, to read:

162. (a) Unless the commission finds that it would be impractical, any state highway exclusive and preferential lane for buses and other high occupancy vehicles constructed on new alignment or new structures under a contract advertised for bids after January 1, 1979, shall be designed and constructed on such horizontal and vertical alignments, including the grade, curvature, and horizontal and vertical clearances, so that the lane may readily be reconstructed as an exclusive public mass transit guideway, using the department's rail transit design criteria.

(b) Notwithstanding subdivision (a), prior to designing a state

highway in conformance with this section, the department shall consider:

(1) Cost effectiveness.

(2) Any added environmental impact.

(3) The likelihood of a guideway project ever being developed.

CHAPTER 697

An act to amend Sections 3, 6, 7, 12, and 14 of, and to add Section 6.5 to, Chapter 1044 of the Statutes of 1968, relating to tidelands and submerged lands.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 3 of Chapter 1044 of the Statutes of 1968 is amended to read:

Sec. 3. The State of California hereby confirms the title to the City of Carpinteria of such tide and submerged lands as were originally granted to the County of Santa Barbara by Chapter 846 of the Statutes of 1931 and as are located within the boundaries of the City of Carpinteria, as such boundaries were established upon its incorporation, to be forever held by such city and by its successors in trust for the uses and purposes, and upon the express conditions following, to wit:

(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 harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accomodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants and facilities, as may be specified by the city council, after public hearing.

(3) For the establishment, improvement and conduct of an airport and heliport or aviation facilities, including but not limited to approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cablelines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary or convenient for the promotion and accommodation of any of the uses set forth in this section.

(5) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including but not limited to public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(6) For the establishment, improvement and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, 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 of such uses, including but not limited to snackbars, cafes, restaurants, motels, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas.

(7) For the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open-space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the granted tidelands and submerged lands and the area, control of the dredging or filling, or both, of the granted lands, and prevention of pollution of the granted lands.

(b) The city, or its successors shall not at any time, grant, convey, give or alienate such lands, or any part thereof, to any individual, firm or corporation for any purposes whatever; provided, that the city, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease the lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with the trusts upon which the lands are held by the state, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from such leases, franchises and privileges. Such lease or leases, franchises and privileges may be for any and all purposes which shall not interfere with commerce and navigation. Nothing contained in this subdivision shall be deemed to affect the validity or term of any franchise granted by said city under the Franchise Act of 1937, and any such franchise shall be effective with

respect to the lands.

(c) Within 15 years from the effective date of this act, the lands shall be substantially improved by the city without expense to the state, and if the State Lands Commission determines that the city has failed to improve the lands as herein required, all right, title, and interest of the city in and to all lands granted by this act shall cease and the lands shall revert and rest in the state.

Nothing contained in this act, however, shall preclude expenditures for the development of the lands for any public purpose not inconsistent with commerce, navigation and fishery, by the state, or any board, agency or commission thereof, when authorized or approved by the city, nor 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 said 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, aircraft, 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 water over the lands for such purpose.

(g) There is hereby excepted and reserved in the state all deposits of minerals, as defined in Section 6407 of the Public Resources Code, in the lands, and to the state, or persons authorized by the state, the right to prospect for, mine, and remove such deposits from the lands.

(h) Such lands are granted 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, betterments or structures 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 his interest in the improvements, betterments or structures taken or the damages to such interest.

(i) The State Lands Commission shall, at the cost of the city, survey and monument the granted lands and record a description and plat thereof in the office of the County Recorder of Santa Barbara County.

SEC. 2. Section 6 of Chapter 1044 of the Statutes of 1968 is amended to read:

Sec. 6. The City of Carpinteria shall establish a separate trust fund or funds on or before December 31, 1972, for deposit of all moneys or proceeds derived from the granted tidelands in the city. The city shall submit a financial report to the State Lands

Commission annually, on or before 90 days following the conclusion of the fiscal year for that fiscal year. This report shall include, but not be limited to, a balance sheet of the granted lands operations, an income statement showing the results of operations of the granted lands, and a statement of sources and applications of funds for the granted lands. The State Lands Commission may request, and the trustee shall furnish, any additional accounting information which may be needed for proper trust administration.

SEC. 3. Section 6.5 is added to Chapter 1044 of the Statutes of 1968, to read:

Sec. 6.5. Notwithstanding Sections 3 and 4 of this act, on and after January 1, 1979, the City of Carpinteria may not authorize a capital outlay project, lease, or agreement for port facilities, such as marine terminals, pipelines, or other related energy facilities, on the granted lands without first requesting and receiving approval, in writing, of the State Lands Commission. Such approval shall not be required for piers of which a substantial portion is devoted to recreational and fishing uses.

Prior to approving any project, lease, or agreement subject to this section, the State Lands Commission shall consult with other governmental agencies and shall determine whether such project, lease, or agreement is in and for the best interests of the people of the state and conforms to provisions of law and whether the allocation between the state and the trustee of any revenues generated as a result of such project, lease, or agreement will be in accordance with the provisions for allocation of excess revenues contained in Section 10 of this act.

SEC. 4. Section 7 of Chapter 1044 of the Statutes of 1968 is amended to read:

Sec. 7. Notwithstanding any other provision of law to the contrary, 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 following purposes; provided, that they comply with the terms of the trust and are matters of statewide, as distinguished from local or purely private, interest and benefit:

(a) For the establishment, improvement and conduct of harbors, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient, for the promotion and accommodation of commerce and navigation.

(b) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair and maintenance of commercial and industrial buildings, plants and facilities.

(c) For the establishment, improvement and conduct of airport and heliport or aviation facilities, including, but not limited to, approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair,

maintenance and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary, or convenient for the promotion and accommodation of air commerce and air navigation.

(d) For the construction, reconstruction, repair and maintenance of highways, streets, roadways, bridges, belt-line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(e) For the construction, reconstruction, repair, maintenance and operation of public buildings, public assembly and meeting places, convention centers, public parks, public playgrounds, public bathhouses and public bathing facilities, public recreation and public fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(f) For the establishment, improvement and conduct of small boat harbors, marinas, aquatic playgrounds and similar recreational facilities, 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 of such uses, including, but not limited to, snackbars, cafes, cocktail lounges, restaurants, motels, hotels, and other forms of transient living accommodations open to the public, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas and other compatible commercial and recreational activities and uses.

(g) For the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open-space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the granted tidelands and submerged lands and the area, control of dredging or filling, or both, of the granted lands, and prevention of pollution of the granted lands.

(h) For the promotion, by advertising and such other means as may be reasonable and appropriate, of maximum public use of such granted tidelands or to encourage private investment in development of such granted tidelands for the highest and best use in the public interest.

(i) For any other uses or purposes of statewide, as distinguished from purely local or private, interest and benefit which are in fulfillment of those trust uses and purposes described in this act.

(j) For the acquisition of property and the rendition of services reasonably necessary to the carrying out of the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in this act.

SEC. 5. Section 12 of Chapter 1044 of the Statutes of 1968 is amended to read:

Sec. 12. 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 within the time period specified by this act, or any extension period granted pursuant to this act within 30 days after written notice to the city, or fails or refuses to carry out the terms of the grant within 30 days after written notice to the city, the State Lands Commission shall within 60 days notify the Chief Clerk of the Assembly and the Secretary of the Senate.

The Attorney General shall, upon request of the State Lands Commission, after the city has been given such notice and after such failure or refusal by the city, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any properties and assets situated on the granted tidelands or derived therefrom.

SEC. 6. Section 14 of Chapter 1044 of the Statutes of 1968 is amended to read:

Sec. 14. The State Lands Commission shall, on or before March 30 of each year, commencing on March 30, 1975, 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 it pursuant to this act which it deems in probable conflict with the requirements of this act, or with any other applicable provision of law concerning these specific granted lands.

CHAPTER 698

An act to amend Section 4432 of and to add Sections 4103.5 and 4296.5 to the Public Resources Code, relating to fire protection.

[Approved by Governor September 8, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 4103.5 is added to the Public Resources Code, to read:

4103.5. "Campfire" means a fire, used for cooking, personal warmth, lighting, ceremonial, or aesthetic purposes, not within any building, mobilehome, or living accommodation mounted on a motor vehicle.

SEC. 2. Section 4296.5 is added to the Public Resources Code, to

read:

4296.5. (a) Any person or corporation operating a railroad on forest, brush, or grass-covered land shall, if ordered by the director or the agency having primary responsibility for fire protection of the area, destroy, remove, or modify so as not to be flammable any vegetation or other flammable material defined by regulation of the director to be a fire hazard on the railroad right-of-way. The director shall adopt regulations establishing fire prevention hazard reduction standards for broad geographic areas by fuel type, slope, and potential for ignition from hot or flaming exhaust, carbon particles, hot metal, burning signal devices, burning tobacco, and other similar potential sources of ignition.

(b) The order to destroy, remove, or modify vegetation or other flammable material shall specify the location of the hazard to be destroyed, removed, or modified within the right-of-way, the width of the hazard which shall not exceed the width of the right-of-way, and the time within which compliance with the order is required.

(c) The director or the agency having primary responsibility for fire protection of the area shall allow a reasonable period of time for compliance with an order to destroy, remove, or modify vegetation or other flammable material.

SEC. 3. Section 4432 of the Public Resources Code is amended to read:

4432. A person shall not leave a campfire, kindled or attended by him, burning or unextinguished unless one of the following requirements is satisfied:

(a) He leaves some person in attendance.

(b) The fire is enclosed within a stove, oven, drum, or other nonflammable container, in such manner that the fire cannot escape from the container.

No person shall allow a campfire, kindled or attended by him, to spread after it is built.

CHAPTER 699

An act to amend Sections 11055, 11056, 11377, 11382, and 11383 of, and to add Sections 11104, 11105, 11378.5, 11379.5, and 11380.5 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 9, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 11055 of the Health and Safety Code is amended to read:

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

section are included in Schedule II.

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

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

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

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

(3) Opium poppy and poppy straw.

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

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

(1) Alphaprodine.
(2) Anileridine.
(3) Bezitramide.
(4) Dihydrocodeine.
(5) Diphenoxylate.
(6) Fentanyl.
(7) Isomethadone.
(8) Levomethorphon.
(9) Levorphanol.

(10) Metazocine.
(11) Methadone.
(12) Methadone—intermediate, 4-cyano-2(N,N-dimethylamino)-4,4-diphenylbutane.
(13) Moramide—intermediate, 3-methyl-4-morpholino-2,2-diphenylbutanoic acid.
(14) Pethidine.
(15) Pethidine—intermediate—A, 4-cyano-N-methyl-4-phenylpiperidine.
(16) Pethidine—intermediate—B, ethyl 4-phenylpiperidine-4-carboxylate.
(17) Pethidine—intermediate—C, N-methyl-4-phenylpiperidine-4-carboxylic acid.
(18) Phenazocine.
(19) Piminodine.
(20) Racemethorphan.
(21) Racemorphan.

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

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
(2) Phenmetrazine and its salts.
(3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
(4) Methylphenidate.

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

SEC. 2. Section 11056 of the Health and Safety Code is amended to read:

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

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

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.
(2) Chlorhexadol.
(3) Glutethimide.
(4) Lysergic acid.
(5) Lysergic acid amide.
(6) Methaqualone and its salts.
(7) Methyprylon.
(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

(c) Nalorphine.

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

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

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

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

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

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

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

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

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

SEC. 2.3. Section 11104 is added to the Health and Safety Code, to read:

11104. Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the substances listed in subdivision (a) of Section 11100 with knowledge that the recipient will use the substance to unlawfully manufacture a controlled substance is guilty of a felony.

SEC. 2.5. Section 11105 is added to the Health and Safety Code, to read:

11105. Any person submitting a report or record to the Department of Justice pursuant to the requirements of this article shall certify the accuracy of information contained therein under penalty of perjury.

SEC. 3. Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, other than any substance specified in paragraph (6) of subdivision (b) of Section 11056, and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) or (e) of Section 11055, unless 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, 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, 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 licensed to practice in this state, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

(b) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance specified in paragraph (6) of subdivision (b) of Section 11056, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, 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, 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, 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, licensed to practice in this state, shall be punished by a fine of not exceeding five hundred dollars ($500), or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

SEC. 4. Section 11378.5 is added to the Health and Safety Code, to read:

11378.5. Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is specified in subdivision (e) of Section 11055, shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 5. Section 11379.5 is added to the Health and Safety Code, to read:

11379.5. Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and

Professions Code, every person who transports, imports into this state, sells, manufactures, compounds, furnishes, administers, or gives away, or offers to transport, import into this state, sell, manufacture, compound, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is specified in subdivision (e) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of three, four, or five years.

SEC. 6. Section 11380.5 is added to the Health and Safety Code, to read:

11380.5. (a) Every person 18 years of age or over who violates any provision of this chapter involving controlled substances which are specified in subdivision (e) of Section 11055, by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving such controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish such controlled substances to a minor shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(b) Nothing contained in this section shall apply to a registered pharmacist furnishing controlled substances pursuant to a prescription.

SEC. 7. Section 11382 of the Health and Safety Code is amended to read:

11382. Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) or (e) of Section 11055, to any person, or offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, or arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 8. Section 11383 of the Health and Safety Code is amended to read:

11383. (a) Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine is guilty of a felony and shall be punished by imprisonment in the state prison.

(b) Any person who possesses both piperidine and cyclohexanone at the same time, or a combination product thereof, with intent to

manufacture phencyclidine (PCP) is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years.

(c) For purposes of this section, possession of immediate precursors sufficient for the manufacture of methylamine, phenyl-2-propanone, piperidine, or cyclohexanone shall be deemed to be possession of such a derivative substance. Additionally, possession of any compound or mixture containing piperidine or cyclohexanone shall be deemed to be possession of such substance.

(d) The provisions of subdivisions (a), (b), and (c) shall not apply to drug manufacturers licensed by this state or persons authorized by regulation of the Board of Pharmacy to possess such substances or combinations of substances.

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 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 700

An act relating to welfare, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Under its pilot programs, the State Director of Health, or his successor, the State Director of Health Services, is required to establish a pilot program to compare patient treatment profiles and prior authorization as controls of overutilization. The Legislature finds that further data on the most cost-effective system is needed and may be secured by continuing such pilot project with some innovative modifications for an additional period in one or more representative geographical areas of the state, such as the area of Fresno County, that have demonstrated ability and willingness to participate. Such established pilot program may continue in Fresno County and such other areas as determined by the State Director of Health, or his successor, the State Director of Health Services, in carrying out the purpose of this section. The State Director of Health, or his successor, the State Director of Health Services, shall report to the Legislature on or before January 1, 1979, the results of the continuation of this project.

Providers of durable medical equipment who participate in the pilot project shall not supply durable medical equipment outside the geographic area of the project, unless the provider obtains prior authorization in the same manner as is required for nonparticipating providers located outside the geographic area of the project.

This section shall remain in effect only until January 1, 1981, and as of 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:

In order to prevent a costly interruption in the operation of the current pilot program, it is necessary that this act take effect immediately.

CHAPTER 701

An act to provide for the sale of a specified parcel of real property of the Metropolitan State Hospital in the City of Norwalk by the Director of General Services, relating to state land.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. The Director of General Services, with the approval of the State Public Works Board, shall sell, 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, the following real property: approximately 5.7 acres of land located at the south westerly corner of Metropolitan State Hospital, fronting on Imperial Highway in the City of Norwalk.

SEC. 2. The Director of General Services shall, as a condition of sale, assure that the sale price exceeds the cost of relocating utilities, buildings, and structures presently existing on the property; provided, however, that the comminutor/lift station and storm drain shall not be relocated.

For purposes of determining minimum sale price, the costs indicated above shall not exceed eight hundred fifty thousand dollars ($850,000).

SEC. 3. The State Department of Mental Health shall retain easement rights for maintenance of utility facilities, including any sewage disposal facilities either existing before, or constructed after sale of the property.

SEC. 4. Notice of every public auction or bid opening shall be posted on the property to be sold and shall be published in a newspaper of general circulation published in the county in which

the real property to be sold is situated.

SEC. 5. Any cost or expense incurred in the sale of the parcel may be reimbursed from the proceeds of such disposition.

SEC. 6. As to any property sold pursuant to Section 1 of 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, below a depth of 500 feet, without surface rights of entry.

CHAPTER 702

An act to amend Sections 55862.7, 56573.5, and 56703 of the Food and Agricultural Code, relating to processors of farm products, and making an appropriation therefor.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 55862.7 of the Food and Agricultural Code is amended to read:

55862.7. If any person is found to be operating a business without the license required by Section 55861, such person shall pay to the director double the amount of the license fee due pursuant to this chapter.

SEC. 2. Section 56573.5 of the Food and Agricultural Code is amended to read:

56573.5. If any person is found to be operating a business without the license required by Section 56181, such person shall pay to the director double the amount of the license fee due pursuant to this chapter.

SEC. 3. Section 56703 of the Food and Agricultural Code is amended to read:

56703. In addition to the fees required under Article 16 (commencing with Section 55861) of Chapter 6 and Article 17 (commencing with Section 56571) of Chapter 7 of this division, each principal applicant for a license, or for the renewal of a license, under Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101) shall pay to the director an annual fee of one hundred twenty-five dollars ($125) which shall be required to be paid before the director issues or renews any such license. If any person is found to be operating a business without the license required by Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101), such person shall pay to the director double the amount of the annual fee. All the fees collected pursuant to this chapter shall be deposited in the products fund. The director may establish a lower annual fee if he finds it to

be sufficient to defray the costs in carrying out the provisions of this chapter.

This chapter does not apply to any licensee who pays to the seller, at the time of obtaining title, possession, or control, or at the time of contracting for the title, possession, or control, of any farm product, the full agreed purchase price of such farm product in coin or currency, lawful money of the United States.

SEC. 4. Section 56703 of the Food and Agricultural Code is amended to read:

56703. In addition to the fees required under Article 16 (commencing with Section 55861) of Chapter 6 and Article 17 (commencing with Section 56571) of Chapter 7 of this division, each principal applicant for a license, or for the renewal of a license, under Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101) shall pay to the director an annual fee of one hundred twenty-five dollars ($125) which shall be required to be paid before the director issues or renews any such license. If any person is found to be operating a business without the license required by Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101), such person shall pay to the director double the amount of the annual fee. All the fees collected pursuant to this chapter shall be deposited in the products fund. The director may establish a lower annual fee if he finds it to be sufficient to defray the costs in carrying out the provisions of this chapter.

This chapter does not apply to any licensee who pays to the seller, at the time of obtaining title, possession, or control, or at the time of contracting for the title, possession, or control, of any farm product, the full agreed purchase price of such farm product in coin or currency, lawful money of the United States, nor to any licensee who purchases livestock for slaughter and is bonded under the federal Packers and Stockyards Act, 1921 (7 U.S.C. 181, et seq.).

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 2552 are both chaptered and become effective January 1, 1979, both bills amend Section 56703 of the Food and Agricultural Code, and this bill is chaptered after Assembly Bill No. 2552, that the amendments to Section 56703 proposed by both bills be given effect and incorporated in Section 56703 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 2552 are both chaptered and become effective January 1, 1979, both amend Section 56703, and this bill is chaptered after Assembly Bill No. 2552, in which case Section 3 of this act shall not become operative.

CHAPTER 703

An act to add Section 24205 to the Government Code, and to amend Sections 241.4, 243.4, 245.4 and 830.4 of the Penal Code, relating to peace officers.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 24205 is added to the Government Code, to read:

24205. (a) Notwithstanding any provision of Section 24204, or any other statute, the office of sheriff shall be filled by election as provided in this chapter for elective county officers, and vacancies shall be filled as provided by law for filling elective county offices, unless the county or city and county is chartered and such charter provides for election of the sheriff by vote of the electors.

(b) In any charter county or city and county, whose charter provides for filling the office of sheriff other than by election by vote of the electors, in conflict with subdivision (c) of Section 4 of Article XI of the California Constitution, the office of sheriff of such charter county or city and county shall be filled as provided in subdivision (a).

SEC. 2. Section 241.4 of the Penal Code is amended to read:

241.4. An assault is punishable by fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer engaged in the performance of his duties as a member of a security department of a school district pursuant to Section 39670 of the Education Code, and the person committing the offense knows or reasonably should know that such victim is such a peace officer engaged in the performance of his duties, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

SEC. 3. Section 243.4 of the Penal Code is amended to read:

243.4. A battery is punishable by fine of not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer engaged in the performance of his duties as a member of a security department of a school district pursuant to Section 39670 of the Education Code, and the person committing the offense knows or reasonably should know that such victim is such a peace officer engaged in the performance of his duties, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

SEC. 4. Section 245.4 of the Penal Code is amended to read:

245.4. Every person who commits an assault with a deadly

weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer engaged in the performance of his duties as a member of a security department of a school district pursuant to Section 39670 of the Education Code, and who knows or reasonably should know that such victim is such a peace officer engaged in the performance of his duties, shall be punished by imprisonment in the state prison for three, four, or five years.

When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

SEC. 5. 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 Department of Mental Hygiene or, on or after July 1, 1973, the State Department of Health, and police officers designated by him pursuant to Section 4312 of the Welfare and Institutions Code.

(7) Any railroad or steamboat company policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(8) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(9) Harbor policemen regularly employed and paid as such by a county, city, or district, and the port warden and special officers of the Harbor Department of the City of Los Angeles. However, notwithstanding the provisions of Section 171c, 171d, or 12027, such persons are not peace officers for purposes of such sections except when designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, as peace officers for such purposes.

(10) (A) Special officers of the Department of Airports of the City of Los Angeles commissioned by the city police commission.

(B) Any such officer so commissioned on or before July 6, 1973, shall have completed the course of instruction required by Section 832 by September 1, 1973. Any officer so commissioned after July 6, 1973, shall have completed the course of instruction within 60 days

after such commissioning. Any person who, within the time prescribed by this paragraph for such person, does not satisfactorily complete the course of instruction required by Section 832, shall not have the powers of a peace officer thereafter.

(C) Notwithstanding subdivision (b), the authority of such airport security officers shall not extend beyond the territory of the airport boundaries, except when in pursuit of any offender or suspected offender.

(11) The chief of toll services, captains, lieutenants, and sergeants employed by the Department of Transportation on vehicular crossings pursuant to Chapter 13 (commencing with Section 23250) of Division 11 of the Vehicle Code.

(12) Persons employed as members of a security department of a school district pursuant to Section 39670 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.

CHAPTER 704

An act to amend Sections 14204 and 14251 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 14204 of the Welfare and Institutions Code is amended to read:

14204. Pursuant to the provisions of this chapter, the department may contract with one or more prepaid health plans in order to provide the benefits authorized under this chapter and Chapter 7 (commencing with Section 14000) of this part. Contracts entered into pursuant to this chapter shall be awarded on a nonbid basis, except that contracts with prepaid health plans which are fiscal intermediaries at risk may be awarded on either a bid or nonbid basis.

SEC. 2. 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.

"Prepaid health plan" includes any organization which is licensed as a plan pursuant to the Knox-Keene Health Care Service Plan Act of 1975 and is subject to regulation by the Department of Corporations pursuant to that act, and which contracts with the State Department of Health Services solely as a fiscal intermediary at risk . Except for the requirement of licensure pursuant to the Knox-Keene Act, the Director of Health Services may waive any provision of this chapter which the director determines are inappropriate for a fiscal intermediary at risk. Any such exemption or waiver shall be set forth in the fiscal intermediary at risk contract with the State Department of Health Services.

"Fiscal intermediary at risk" means any entity which entered into a contract with the State Department of Health Services on a pilot basis pursuant to subdivision (f) of Section 14000, as in effect June 1, 1973, in accordance with which the entity received capitated payments from the state and reimbursed providers of health care services on a fee-for-service or other basis for at least the basic scope of health care services, as defined in Section 14256, provided to all beneficiaries covered by the contract residing within a specified geographic region of the state. The fiscal intermediary at risk shall be at risk for the cost of administration and utilization of services or the cost of services, or both, for at least the basic scope of health care services, as defined in Section 14256, provided to all beneficiaries covered by the contract residing within a specified geographic region of the state. The fiscal intermediary at risk may share the risk with providers or reinsuring agencies or both. Eligibility of beneficiaries shall be determined by the State Department of Health Services and capitation payments shall be based on the number of beneficiaries so determined.

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 make it possible for the State Department of Health Services to renew the contracts of medical care foundations which serve Medi-Cal beneficiaries and providers of services without interrupting such service, it is necessary that this act take effect immediately.

CHAPTER 705

An act to amend Sections 11453.1, 18900, 18904, 18907, 18908, 18911, and 18919 of, to add Sections 18904.1, 18913, and 18914 to, and to repeal Sections 18904.1, 18904.2, 18912, 18913, and 18914 of, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 11453.1 of the Welfare and Institutions Code is amended to read:

11453.1. (a) It is the intent of this section to assure that the food purchasing power provided by benefits available from food stamps under the federal Food Stamp Program (Chapter 51 (commencing with Section 2011), Title 7, United States Code) shall continue to be available to recipients of aid under this chapter, if, when and during such times as federal law is amended to preclude food stamp benefits to such recipients, but does expressly permit the equivalent of such benefits to be provided as cash benefits to such recipients.

(b) It is the further intent of this section to protect the financial interest of the state and counties by accomplishing the conversion of food stamp benefits in such a manner that the conversion does not result in state and county costs of aid exceeding the costs in the base year, as hereinafter defined in this section.

(c) If federal law is amended to preclude the provision of food stamp benefits pursuant to the federal Food Stamp Program to applicants or recipients of aid under this chapter, when such federal law becomes operative, such of the following provisions for converting food stamp benefits to cash benefits as is consistent with the intent of this section shall become operative immediately:

(1) The bonus value of food stamps shall be paid in addition to the amounts payable pursuant to subdivision (a) of Section 11450, provided that aggregate state and county expenditures pursuant to that section and this section do not thereby exceed the base-year costs.

(2) If aggregate state and county expenditures pursuant to subdivision (a) of Section 11450 and this section in any fiscal year would, by virtue of the operation of subsection (1) of subdivision (c) of this section, result in an increase over the aggregate of such expenditures in the base year, the bonus value of food stamps paid pursuant to this section shall be reduced, on a pro rata basis, by such amount as will reduce aggregate state and county expenditures under that section and this section to an amount equal to the aggregate state and county expenditures in the base year.

(d) For the purposes of this section, "base year" means that year designated by federal law as the year fixing the limit on nonfederal

expenditures for programs established to implement programs under Part A of Title 4 of the Social Security Act.

(e) For purposes of this section, "bonus value of food stamps" means the dollar amount that federal law permits to be paid to a child or a family of given size as a cash benefit in lieu of benefits under the federal Food Stamp Program.

(f) For purposes of this section, "aggregate state and county expenditure" is defined as expenditure made under subdivision (a) of Section 11450 and this section, after deducting any federal reimbursements or credits, and excluding any cost-of-living increment paid pursuant to Section 11453.

SEC. 2. Section 18900 of the Welfare and Institutions Code is amended to read:

18900. Finding that hunger, undernutrition, and malnutrition are present and continuing problems faced by low-income California households, and further finding that the federal Food Stamp Program (Chapter 51 (commencing with Section 2011), Title 7, United States Code) offers significant health-vital benefits, the purpose of this chapter is to establish a statewide program to enable recipients of aid under Part 3 (commencing with Section 11000) or Part 5 (commencing with Section 17000) of this division and other low-income households to receive food stamps under the federal Food Stamp Program.

SEC. 3. Section 18904 of the Welfare and Institutions Code is amended to read:

18904. Regulations, orders or standards of general application to implement, interpret or make specific the law relating to this chapter shall be adopted, amended or repealed only in accordance with Section 10554. The director shall also provide for the two procedures as described in subdivision (a) of Section 18904.1 by which a county welfare department shall distribute food stamps to eligible households. To the extent permitted by federal law, the director may, at county request, waive use of direct mail issuance.

SEC. 4. Section 18904.1 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 18904.1 is added to the Welfare and Institutions Code, to read:

18904.1. The director, to the extent permitted by federal law, shall establish procedures for food stamp issuance in all counties which guarantee to low-income households the health-vital nutritional benefits available under this chapter and to achieve the most efficient system for program administration so as to minimize administrative costs.

(a) The director shall immediately establish procedures for over-the-counter and direct mail issuance of food stamps in all counties.

(b) The director of a county welfare department may seek a waiver of direct mail issuance if the county director establishes that reasonable access is afforded recipients by over-the-counter issuance.

The request for a waiver shall be in writing and shall describe the reasons for the request. The county director shall submit a copy of the waiver request to the county board of supervisors.

(c) Upon receipt of a waiver request from a county, the director shall decide whether to grant the waiver in accordance with the following procedure. The director shall consider the waiver in light of the facts presented in the waiver request. If the director finds that the facts presented in the waiver request establish that the conditions in subdivision (b) of this section exist in the county and that waiver of the direct mail method of food stamp issuance will not substantially impair the ability of eligible households to obtain food stamps, he may waive the use of that method of food stamp issuance in the county. The director shall notify the county welfare director of this decision within 60 days of the receipt of the request, and shall send a copy of his decision to the county board of supervisors.

SEC. 6. Section 18904.2 of the Welfare and Institutions Code is repealed.

SEC. 7. Section 18907 of the Welfare and Institutions Code is amended to read:

18907. In the determination of eligibility for food stamps, there shall be no discrimination against any household by reason of race, color, religious creed, national origin, sex, marital status, or political belief to the extent not in conflict with federal law.

SEC. 8. Section 18908 of the Welfare and Institutions Code is amended to read:

18908. Except as provided in Section 18904.1, federal supplemental security income benefits, state supplemental security program benefits, public assistance, and county aid benefits shall not be reduced as a consequence of the receipt of food stamps under this chapter, to the extent permitted by federal law.

SEC. 9. Section 18911 of the Welfare and Institutions Code is amended to read:

18911. An application and an authorization for participation in the food stamp program shall be processed within a period of not more than 30 days from the date of application.

SEC. 10. Section 18912 of the Welfare and Institutions Code is repealed.

SEC. 11. Section 18913 of the Welfare and Institutions Code is repealed.

SEC 12 Section 18913 is added to the Welfare and Institutions Code, to read:

18913. The department shall provide to the Legislature and the public upon request copies of all reports submitted to the federal government pursuant to the federal Food Stamp Program.

SEC. 13. Section 18914 of the Welfare and Institutions Code is repealed.

SEC. 14. Section 18914 is added to the Welfare and Institutions Code, to read:

18914. To the extent provided by federal law, the county welfare

department shall provide food stamp benefits on an expedited basis to households determined to be in immediate need of food assistance.

SEC. 15. Section 18919 of the Welfare and Institutions Code is amended to read:

18919. (a) To the extent authorized by federal law, the director may directly or by contract with any person or public or private entity or agency, conduct pilot projects up to 18 months each in consenting counties designated by the director which are representative of urban, rural, and suburban mixtures.

The projects authorized under the section shall consist of the planning, development and implementation, including phased implementations, as appropriate, of alternative food stamp control systems and distribution methods for the purpose of significantly reducing food stamp program costs through greater program accountability and control which may include, but is not limited to:

(a) The reduction of losses caused by fraud and program abuse.

(b) The reduction of investigatory time in evaluating affidavit of loss claims.

(c) The reduction of time required to process and receive food stamps.

(d) The reduction of overall administrative costs of the food stamp program.

The director may determine that a pilot project that has demonstrated its effectiveness in carrying out the purpose of this section should be implemented statewide by legislation. In such event the director shall submit a report upon his determination and its demonstrated effectiveness to the Joint Legislative Budget Committee no later than three months after the conclusion of the first 18 months of the pilot project. The Legislative Analyst shall make an independent evaluation of the project and shall make a report, within three months of receipt of the director's evaluation, of his findings and recommendations to the Legislature. The director may extend an effective pilot project up to an additional 18 months to permit evaluation by the Legislature.

Any project which the department determines is not feasible shall be gradually phased out after the 18-month period of operation. In the event that the department decides under this section that a pilot project should be implemented statewide by the Legislature, all other projects may be gradually phased out regardless of their period of operation.

To enable it to conduct pilot projects under this section, the department may waive existing methods of food stamp issuance, and the enforcement of part or all of Sections 18902 and 18904, regulations, and standards in one or more counties or on a statewide basis by formal order of the director. The director may secure such approvals from the federal government and such waivers of federal requirements as are necessary to carry out this section. The director may utilize, to the extent that the department assumes a consenting

county's functions under the provisions of this section, the funds allocated for the counties' food stamp administration reimbursement in the Budget Act.

This section shall become inoperative five years after its effective date and on such date is repealed.

CHAPTER 706

An act to add Section 20999.2 to the Business and Professions Code, relating to franchises.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 20999.2 is added to the Business and Professions Code, to read:

20999.2. No petroleum distributor shall deny to any gasoline dealer or prospective gasoline dealer the right to be accompanied by counsel or a personal representative to any meeting held between the parties for the purpose of negotiating the terms of a franchise.

CHAPTER 707

An act to amend Section 20999.1 of, and to add Section 20999.3 to, the Business and Professions Code, relating to franchises.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 20999.1 of the Business and Professions Code is amended to read:

20999.1. Notwithstanding the terms of any franchise, no franchisor shall terminate, cancel or refuse to renew any existing franchise without good cause.

As used in this section good cause is limited to the following:

(a) The gasoline dealer or petroleum distributor failed to comply with essential and reasonable requirements of the franchise agreement;

(b) The gasoline dealer or petroleum distributor failed to act in good faith in carrying out the terms of the franchise; or

(c) The franchisor is withdrawing from the marketing location at which the franchise of a gasoline dealer is located, provided that the franchisor pays the gasoline dealer the current wholesale market

value for all qualifying equipment and supplies purchased by the gasoline dealer from the franchisor or affiliate of the franchisor. This subdivision shall only apply to those gasoline dealer franchises which are entered into or renewed on or after January 1, 1979. As used in this subdivision, "qualifying equipment and supplies" means all equipment and supplies purchased by the gasoline dealer from the franchisor or an affiliate of the franchisor which is free and clear of all liens, security interests and other encumbrances, valued on a first-in, first-out basis, evidenced by receipted invoices, and is (i) in first-class and resalable condition, (ii) in the original packages or containers and (iii) bears the original labels and trademarks, and (iv) the goods display no evidence of deterioration. This subdivision shall not be construed to create any priority over any other debt between the parties to the franchise arising from the same franchise agreement.

(d) For other legitimate business reasons (except that a termination, or cancellation of a franchise for the purpose of enabling the petroleum distributor or manufacturer to assume operation of the distributor's or gasoline dealer's business shall not be considered to be a legitimate business reason unless the gasoline dealer or distributor is paid reasonable compensation for the value of his franchise, including a reasonable amount for goodwill).

SEC. 2. Section 20999.3 is added to the Business and Professions Code, to read:

20999.3. (a) Any person who violates Section 20999.1 may be sued in the superior court in the county in which the defendant resides or where a franchise affected by the violation does business, for temporary and permanent injunctive relief and for damages, if any, and the costs of suit.

(b) No action shall be maintained to enforce any liability created under Section 20999.1 unless brought before the expiration of two years after the violation upon which it is based or the expiration of one year after the discovery by the plaintiff of the facts constituting such violation, whichever occurs first.

CHAPTER 708

An act to add Chapter 7.2 (commencing with Section 25625) to Division 20 of the Health and Safety Code, relating to nuclear medicine.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Chapter 7.2 (commencing with Section 25625) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 7.2. NUCLEAR MEDICINE TECHNOLOGY

25625. "Nuclear medicine technology" means that technology applied under the supervision of a physician and surgeon or a licensed clinical bioanalyst, when performing in vitro procedures, which pertains to the utilization of radiopharmaceuticals for the diagnosis and treatment of disease in humans and includes: (1) the standardization of radiopharmaceutical dosages prior to administering the preparation of radiopharmaceutical agents in accordance with State Department of Health Services regulations, (2) the administration of radiopharmaceuticals in accordance with statute or regulation, and (3) the calibration and use of radiation detection instruments and equipment to obtain clinical information. Nuclear medicine technology includes in vitro tests performed in a licensed clinical laboratory which use a radioactive marker substance not administered to human subjects and in vivo nuclear medicine procedures which involve administration of a radioactive marker substance to humans.

25626. (a) Any person not currently 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 clinical laboratory technologist, bioanalyst, or clinical chemist pursuant to Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code, who performs nuclear medicine technology shall be subject to the standards of competence established by the State Department of Health Services pursuant to this chapter.

(b) Nothing in this chapter shall be construed to limit the existing authority of, or scope of practice of, a physician and surgeon, clinical laboratory technologist, bioanalyst, or clinical chemist granted pursuant to their licenses, or to further require such persons to establish competence to perform in vitro tests.

(c) In vitro procedures using radioactive materials shall be performed in a licensed clinical laboratory.

(d) The provisions of this chapter shall not apply to any of the following persons:

(1) Any person employed by an agency of the United States government, while performing the duties of such employment.

(2) A licensed clinical laboratory technologist who administers a radioactive marker test substance to a human subject to perform a measurement on a sample containing the radioactive marker test substance which has been removed from the subject.

25627. The State Director of Health Services shall appoint an advisory committee to advise on the establishment of standards of competency for nuclear medicine technologists and such other regulations as are necessary under this part. The membership of the

advisory committee shall consist of six physicians and surgeons who are knowledgeable in the field of nuclear medicine and shall include the specialty fields of nuclear medicine, pathology, radiology, and internal medicine, four nuclear medicine technologists, one of whom shall be a licensed clinical laboratory technologist, and one of whom shall be a certified radiologic technologist, and one public member.

Members of the advisory committee shall serve without compensation but shall receive their actual and necessary expenses incurred in the performance of advisory committee activities.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute which is chaptered before January 1, 1985, deletes or extends such date.

25628. The State Department of Health Services shall provide by regulation a schedule of fees which shall be paid by persons applying to establish their competence to perform nuclear medicine technology. The revenue derived from such fees shall be sufficient to cover all costs incurred in the administration of this chapter.

25629. The establishment of a person as competent to perform nuclear medicine technology may be denied, revoked, or suspended by the state 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 negligence in performing nuclear medicine technology functions.

(c) Establishment of competence to perform nuclear medicine technology by fraud, or misrepresentation, or because of mistake.

(d) Use of a designation indicating that a person is established by the state department as competent to perform nuclear medicine technology by a person who has not been established by the state department as competent to perform nuclear medicine technology.

(e) Violation of the provisions of this chapter or regulations adopted pursuant thereto.

The proceedings for denial, revocation, or suspension pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all of the powers granted therein.

25630. Any person who violates the provisions of this chapter or any regulation adopted pursuant thereto shall be guilty of a misdemeanor.

25631. The state department shall enforce the provisions of this chapter.

CHAPTER 709

An act to amend Section 66477 of the Government Code, relating to subdivisions.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 66477 of the Government Code is amended to read:

66477. The legislative body of a city or county may, by ordinance, require the dedication of land, the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a final map or parcel map, provided that:

(a) The ordinance has been in effect for a period of 30 days prior to the filing of the tentative map of the subdivision or parcel map.

(b) The ordinance includes definite standards for determining the proportion of a subdivision, to be dedicated and the amount of any fee to be paid in lieu thereof.

(c) The land, fees, or combination thereof are to be used only for the purpose of providing park or recreational facilities to serve the subdivision.

(d) The legislative body has adopted a general plan containing a recreational element, and the park and recreational facilities are in accordance with definite principles and standards contained therein.

(e) The amount and location of land to be dedicated or the fees to be paid shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.

(f) The city or county shall develop a schedule specifying how and when it will use the land or fees or both to develop park or recreational facilities. Any fees collected under the ordinance shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(g) Only the payment of fees may be required in subdivisions containing fifty (50) parcels or less.

(h) Subdivisions containing less than five (5) parcels and not used for residential purposes shall be exempted from the requirements of this section; provided however, that a condition may be placed on the approval of such parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years the fee may be required to be paid by the owner of each such parcel as a condition to the issuance

of such permit.

Land or fees required under this section shall be conveyed or paid directly to the local public agency which provides park and recreational services on a communitywide level and to the area within which the proposed development will be located, if such agency elects to accept the land or fee. The local agency accepting such land or funds shall develop the land or use the funds in the manner provided herein.

In the event park and recreational services and facilities are provided by a public agency other than a city or a county, the amount and location of land to be dedicated or fees to be paid shall be jointly determined by the city or county having jurisdiction and such public agency.

The provisions of this section do not apply to industrial subdivisions; nor do they apply to condominium projects which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added, nor do they apply to parcel maps for a subdivision containing less than five (5) parcels for a shopping center containing more than 300,000 square feet of gross leasable area and no residential development or uses.

Park and recreation purposes shall include land and facilities for the activity of "recreational community gardening," which activity consists of the cultivation by persons other than, or in addition to, the owner of such land, of plant material not for sale.

CHAPTER 710

An act to add Section 11380.3 to the Government Code, relating to regulations of state agencies.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 11380.3 is added to the Government Code, to read:

11380.3. A regulation delivered to the department pursuant to Section 11380 shall contain a reference to the authority under which the regulation is being adopted and a reference to the particular code sections or other provisions of law which are being implemented, interpreted, or made specific. Such references shall be printed with the regulation in the California Administrative Code.

CHAPTER 711

An act to amend Sections 18621, 18685.3, 18817, 19282, 23301, 23571, 23772, 23775, 25702, 26132, and 26451 of, and to repeal Section 23571.5 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 18621 of the Revenue and Taxation Code is amended to read:

18621. The taxes imposed by this part upon any taxpayer for which any person other than the taxpayer is liable may be assessed against such person in the manner provided for the assessment of deficiencies. The taxes may be assessed at any time within which deficiency assessments may be made against the taxpayer; provided, however, the running of the period of limitations upon the assessment of the liability imposed upon any person other than the taxpayer shall, after the mailing of the notice provided for in Section 18583 to the taxpayer, be suspended for the period during which the taxpayer exercises an administrative remedy as provided in Section 18590 or 18593.

SEC. 2. Section 18685.3 of the Revenue and Taxation Code is amended to read:

18685.3. In addition to the criminal penalty provided by Section 19410, any person or employer required under the provisions of Section 18823 to furnish a statement to an employee who furnishes a false or fraudulent statement, or who fails to furnish a statement in the manner, at the time, and showing the information required under Section 18823, or regulations prescribed thereunder, shall for each such failure, unless due to reasonable cause, be subject to a penalty under this chapter of fifty dollars ($50), which shall be assessed and collected in the same manner as the tax.

SEC. 3. Section 18817 of the Revenue and Taxation Code is amended to read:

18817. The Franchise Tax Board may by notice, served personally or by first-class mail, require any employer, person, officer or department of the state, political subdivision or agency of the state, including the Regents of the University of California, a city organized under a freeholders' charter, or a political body not a subdivision or agency of the state, having in their possession, or under their control, any credits or other personal property or other things of value, belonging to a taxpayer or to an employer or person who has failed to withhold and transmit amounts due pursuant to Section 18815 or 18818, to withhold, from such credits or other personal property or other things of value, the amount of any tax, interest, or penalties due from the taxpayer or the amount of any liability incurred by such

employer or person for failure to withhold and transmit amounts due from a taxpayer under this part and to transmit the amount withheld to the Franchise Tax Board at such times as it may designate.

SEC. 4. Section 19282 of the Revenue and Taxation Code is amended to read:

19282. Except as otherwise provided in this article, it is a misdemeanor for the Franchise Tax Board or any member thereof, or any deputy, agent, clerk, or other officer or employee of the state (including its political subdivisions), or any former officer or employee or other individual, who in the course of his or her employment or duty has or had access to returns, reports, or documents required under this part, to disclose or make known in any manner information as to the amount of income or any particulars set forth or disclosed therein.

SEC. 5. Section 23301 of the Revenue and Taxation Code is amended to read:

23301. Except for the purpose of amending the articles of incorporation to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer, may be suspended, and the exercise of the corporate powers, rights and privileges of a foreign taxpayer in this state may be forfeited if any of the following conditions occur:

(a) If any tax, penalty or interest, or any portion thereof, which is due and payable either at the time the return is required to be filed, or on or before the 15th day of the ninth month following the close of the income year, is not paid on or before 6 p.m. on the last day of the 12th month after the close of the income year; or

(b) If any tax, penalty or interest, or any portion thereof, due and payable upon notice and demand from the Franchise Tax Board, or due and payable under Section 25936, is not paid on or before 6 o'clock p.m. on the last day of the 11th month following the due date of said tax.

SEC. 6. Section 23571 of the Revenue and Taxation Code is amended to read:

23571. (a) Except for the purpose of amending the articles of incorporation to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer may be suspended and shall not be exercised for any purpose or in any manner in this state:

(1) If any tax, penalty or interest, or any portion thereof, which is due and payable either at the time the return is required to be filed, or on or before the 15th day of the ninth month following the close of the income year, is not paid on or before 6 o'clock p.m. of the last day of the 12th month after the close of the income year; or

(2) If any tax, penalty or interest, or any portion thereof, other than jeopardy or fraud assessments, due and payable upon notice and demand from the Franchise Tax Board, is not paid on or before 6 o'clock p.m. on the last day of the 11th month following the due date of said tax; or

(b) Any taxpayer which has been suspended under subdivision

(a), may be revived in the manner provided for by Sections 23305 and 23305a.

SEC. 7. Section 23571.5 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 23772 of the Revenue and Taxation Code is amended to read:

23772. (a) For the purposes of this part—

(1) Except as provided in paragraph (2) every organization exempt from taxation under Section 23701 and every trust treated as a private foundation because of Section 4947(a)(1) of the Internal Revenue Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the laws under this part as the Franchise Tax Board may by rules or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Franchise Tax Board may from time to time prescribe. The return shall be filed on or before the 15th day of the fifth full calendar month following the close of the income year.

(2) Exceptions from filing—

(A) Mandatory exceptions—Paragraph (1) shall not apply to—

(i) Churches, their integrated auxiliaries, and conventions or association of churches,

(ii) Any organization (other than a private foundation as defined in Section 23709), the gross receipts of which in each taxable year are normally not more than ten thousand dollars ($10,000), or

(iii) The exclusively religious activities of any religious order,

(B) Discretionary exceptions—The Franchise Tax Board may permit the filing of a simplified return for organizations based on either gross receipts or total assets or both gross receipts and total assets, or may permit the filing of an information statement (without fee), or may permit the filing of a group return for incorporated or unincorporated branches of a state or national organization where it determines that an information return is not necessary to the efficient administration of this part.

(3) An organization that is required to file an annual information return shall pay a filing fee of five dollars ($5) on or before the due date for filing the annual information return (determined with regard to any extension of time for filing the return) required by this section. In case of failure to pay the fee on or before such due date unless it is shown that such failure is due to reasonable cause, the filing fee shall be ten dollars ($10). All collection remedies provided in Chapter 23 (commencing with Section 26131) of this part shall be applicable to collection of the filing fee. However, the filing fee shall not apply to the organization described in paragraph (4).

(4) Paragraph (3) shall not apply to: (A) a religious organization exempt under Section 23701d; (B) an educational organization exempt under Section 23701d, if such organization normally maintains a regular faculty and curriculum and normally has a

regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; (C) a charitable organization, or an organization for the prevention of cruelty to children or animals, exempt under Section 23701d, if such organization is supported, in whole or in part, by funds contributed by the United States or any state or political subdivision thereof, or is primarily supported by contributions of the general public; (D) an organization exempt under Section 23701d, if such organization is operated, supervised, or controlled by or in connection with a religious organization described in subparagraph (A).

(b) Every organization described in Section 23701d which is subject to the requirements of subdivision (a) shall furnish annually information, at such time and in such manner as the Franchise Tax Board may by rules or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,

(3) Its disbursements within the year for the purposes for which it is exempt,

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) The total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) The names and addresses of its foundation manager (within the meaning of Section 4946 of the Internal Revenue Code) and highly compensated employees,

(7) The compensation and other payments made during the year to each individual described in paragraph (6), and

(8) In the case of an organization with respect to which an election under Section 23704.5 is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) The lobbying expenditures (as defined in Section 23704(c)(1)).

(B) The lobbying nontaxable amount (as defined in Section 23740(c)(2)).

(C) The grassroots expenditures (as defined in Section 23740(c)(3)).

(D) The grassroots nontaxable amount (as defined in Section 23740(c)(4)). For purposes of this paragraph, if Section 23740(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.

(c) In addition to the above annual return any organization which is required to file an annual report under Section 6056 of the Internal Revenue Code will furnish a copy of the report to the Franchise Tax Board at the time the annual return is due.

(d) For the purposes of this part—

(1) In the case of a failure to file a return required under Section 23772 (relating to returns by exempt organizations) on the date and

in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the exempt organization or trust failing so to file, five dollars ($5) for each month or part thereof during which such failure continues, but the total amount imposed hereunder on any organization for failure to file any return shall not exceed forty dollars ($40).

(2) The Franchise Tax Board may make written demand upon a private foundation failing to file under paragraph (1) of this subdivision or subdivision (c) specifying therein a reasonable future date by which such filing shall be made, and if such filing is not made on or before such date, and unless it is shown that failure so to file is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the person failing so to file, in addition to the penalty prescribed in paragraph (1), a penalty of five dollars ($5) each month or part thereof after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed hereunder on all persons for such failure to file shall not exceed twenty-five dollars ($25). If more than one person is liable under this paragraph for a failure to file, all such persons shall be jointly and severally liable with respect to such failure. The term "person" as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(e) The reporting requirements and penalties shall be applicable for income years beginning after December 31, 1970, except that the provisions of subparagraph (B) of paragraph (2) of subdivision (a) shall apply to income years ending after December 31, 1970.

SEC. 9. Section 23775 of the Revenue and Taxation Code is amended to read:

23775. Except for purposes of amending the articles of incorporation to set forth a new name, under regulations prescribed by the Franchise Tax Board, the corporate powers, rights and privileges of an exempt domestic corporation may be suspended and the exercise of the corporate powers, rights and privileges of a foreign exempt corporation in this state may be forfeited if the organization fails to file the annual return or statement required under Section 23772 or 23774, or pay any amount due under Section 23703 or 23772 on or before the last day of the 12th month following the close of the income year.

SEC. 10. Section 25702 of the Revenue and Taxation Code is amended to read:

25702. The period of limitation for assessment of the liability of any bank, corporation or person other than the taxpayer who is a transferee or fiduciary of the taxpayer shall be as follows:

(a) In the case of the liability of an initial transferee of the property of the taxpayer, within one year after the expiration of the

period of limitation for assessment against the taxpayer;

(b) In the case of the liability of a transferee of a transferee of the property of the taxpayer, within one year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within three years after the expiration of the period of limitation for assessment against the taxpayer; except that if before the expiration of the period of limitation for the assessment of the liability of the transferee of a transferee, a court proceeding for the collection of the tax or liability in respect thereof has been begun against the taxpayer or last preceding transferee, respectively, then the period of limitation for assessment of the liability of the transferee of a transferee shall expire one year after the return of execution in the court proceeding.

(c) In the case of the liability of a fiduciary, not later than one year after the liability arises or not later than the expiration of the period for collection of the tax in respect of which such liability arises, whichever is the later;

(d) Where before the expiration of the time prescribed in paragraph (a), (b) or (c) for the assessment of the liability, both the Franchise Tax Board and the transferee or fiduciary have consented in writing to its assessment after such time, the liability may be assessed 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.

(e) Notwithstanding any of the above subdivisions, the running of the period of limitations upon the assessment of liability against any transferee shall be suspended for the period during which the taxpayer exercises an administrative remedy as provided in Sections 25664, 25666, and 25667.

SEC. 11. Section 26132 of the Revenue and Taxation Code is amended to read:

26132. The Franchise Tax Board may by notice, served personally or by first-class mail, require any bank, corporation or person, and any officer or department of the state or any political subdivision or agency of the state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state, having in their possession, or under their control, any credits or other personal property or other things of value, belonging to a taxpayer to withhold, from such credits or other property the amount of any tax, interest or penalties due from the taxpayer or the amount of any liability incurred by such person for failure to withhold and transmit amounts due from a taxpayer under this part and to transmit the amount withheld to the Franchise Tax Board at such times as it may designate. Any bank, corporation or person failing to withhold the amounts due from any taxpayer and transmit the same to the Franchise Tax Board after service of such a notice shall be liable for such amounts.

SEC. 12. Section 26451 of the Revenue and Taxation Code is

amended to read:

26451. Except as otherwise provided in this article, it is a misdemeanor for the Franchise Tax Board or any member thereof, or any deputy, agent, clerk or other officer or employee of the state (including its political subdivisions), or any former officer or employee or other individual, who in the course of his or her employment or duty has or had access to returns, reports or documents required under this part, to divulge or make known in any manner the amount of income or any particulars relating to the business affairs of the taxpayer set forth or disclosed therein.

SEC. 13. 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. 14. An amount which became due and payable as defined in Chapter 481, Statutes of 1977, prior to July 1, 1978, became a perfected and enforceable state tax lien as provided in Chapter 481, Statutes of 1977 on July 1, 1978.

This is a clarification of legislative intent and is not a change in existing law.

SEC. 15. Section 8 of this act shall apply to returns required to be filed for income years commencing on or after January 1, 1979.

CHAPTER 712

An act to amend Section 7437.4 of the Business and Professions Code, relating to cosmetology.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 7437.4 of the Business and Professions Code is amended to read:

7437.4. The board shall adopt regulations providing for an inactive license status commencing with the 1980 license renewal period and each subsequent renewal period.

CHAPTER 713

An act to amend Section 2550 of the Business and Professions Code, relating to registered dispensing opticians.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 2550 of the Business and Professions Code is amended to read:

2550. Individuals and firms filling prescriptions of physicians and surgeons licensed by the Division of Licensing of the Board of Medical Quality Assurance or optometrists licensed by the State Board of Optometry for prescription lenses and kindred products, and, as incidental to the filling of such prescriptions, doing any or all of the following acts, either singly or in combination with others, taking facial measurements, fitting and adjusting such lenses and fitting and adjusting spectacle frames, shall be known as dispensing opticians and shall not engage in such business unless registered with the Division of Allied Health Professions of the Board of Medical Quality Assurance.

CHAPTER 714

An act to amend Sections 13940 and 13941 of, to add Sections 13943.1 and 13943.2 to, to repeal and add Sections 13942 and 13943 of, and to repeal Sections 13942.1 and 13943.5 of, the Government Code, relating to the State Board of Control.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 13940 of the Government Code is amended to read:

13940. Any state agency or employee charged by law with the collection of any state taxes, licenses, fees, or money owing to the state for any reason, which is due and payable, may be discharged by the board from accountability for the collection of the taxes, licenses, fees, or money if it is uncollectible or the amount does not justify the cost of collection.

SEC. 2. Section 13941 of the Government Code is amended to read:

13941. The application for a discharge shall be filed with the State Controller and shall include:

(a) A statement of the nature and amount of the tax, license, fee, or other money due.

(b) The names of the persons liable.

(c) The estimated cost of collection.

(d) All other facts warranting the discharge, except where the Controller determines that the circumstances do not warrant the furnishing of detailed information.

SEC. 3. Section 13942 of the Government Code is repealed.

SEC. 4. Section 13942 is added to the Government Code, to read:

13942. The Controller shall audit the applications and recommend to the board an order discharging the applicant from further accountability for collection, and authorizing the applicant to close its books on that item, if it determines:

(a) That the matters contained in the application are correct.

(b) That no credit exists against which the debt can be offset.

(c) That collection is improbable for any reason.

(d) That the cost of recovery does not justify the collection.

(e) For items which exceed the monetary jurisdiction of the small claims court, the Attorney General has advised in writing that collection is not justified by the cost or is improbable for any reason.

SEC. 5. Section 13942.1 of the Government Code is repealed.

SEC. 6. Section 13943 of the Government Code is repealed.

SEC. 7. Section 13943 is added to the Government Code, to read:

13943. The board may delegate to the Controller, under such terms and conditions as are acceptable to the board, the authority to discharge from accountability a state agency, for accounts which do not exceed the amount specified in subdivision (e) of Section 13942 and thereby authorize the closing of the agency's books in regard to such item.

SEC. 8. Section 13943.1 is added to the Government Code, to read:

13943.1. Such a discharge of a state agency or employee does not release any person from the payment of any tax, license, fee, or other money which is due and owing to the state.

SEC. 9. Section 13943.2 is added to the Government Code, to read:

13943.2. Upon authorization of the board a state agency may refrain from collecting taxes, licenses, fees or money owing to the state for any reason where the amount to be collected is twenty-five dollars ($25) or less. State agencies desiring to secure such authorization shall file an application therefor with the board accompanied by a statement of circumstances. Nothing contained in this section shall be construed as releasing any person from the payment of any money due the state.

SEC. 10. Section 13943.5 of the Government Code is repealed.

CHAPTER 715

An act to amend Section 311 of the Penal Code, relating to pornography.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 311 of the Penal Code is amended to read:

311. As used in this chapter:

(a) "Obscene matter" means matter, taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to prurient interest, i.e., a shameful or morbid interest in nudity, sex, or excretion; and is matter which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters; and is matter which taken as a whole is utterly without redeeming social importance.

(1) The predominant appeal to prurient interest of the matter is judged with reference to average adults unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition, that it is designed for clearly defined deviant sexual groups, in which case the predominant appeal of the matter shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that matter is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is utterly without redeeming social importance.

(3) In determining whether the matter taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters the fact that the defendant knew that the matter depicts persons under the age of 16 years engaged in sexual conduct, as defined in subdivision (c) of Section 311.4, is a factor which can be considered in making such a determination.

(b) "Matter" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.

(c) "Person" means any individual, partnership, firm, association, corporation or other legal entity.

(d) "Distribute" means to transfer possession of, whether with or

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without consideration.

(e) "Knowingly" means being aware of the character of the matter or live conduct.

(f) "Exhibit" means to show.

(g) "Obscene live conduct" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, where, taken as a whole, the predominant appeal of such conduct to the average person, applying contemporary standards is to prurient interest, i.e., a shameful or morbid interest in nudity, sex, or excretion; and is conduct which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters; and is conduct which taken as a whole is utterly without redeeming social importance.

(1) The predominant appeal to prurient interest of the conduct is judged with reference to average adults unless it appears from the nature of the conduct or the circumstances of its production, presentation or exhibition, that it is designed for clearly defined deviant sexual groups, in which case the predominant appeal of the conduct shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, where circumstances of production, presentation advertising, or exhibition indicate that live conduct is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the conduct and can justify the conclusion that the conduct is utterly without redeeming social importance.

(3) In determining whether the live conduct taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters the fact that the defendant knew that the live conduct depicts persons under the age of 16 years engaged in sexual conduct, as defined in subdivision (c) of Section 311.4, is a factor which can be considered in making such a determination.

CHAPTER 716

An act to amend Sections 14123 and 14124.2 of the Welfare and Institutions Code, relating to health and welfare.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 14123 of the Welfare and Institutions Code is amended to read:

14123. Participation in the medical assistance program by a provider of service is subject to suspension in order to protect the health of the recipients and the funds appropriated to carry out this chapter.

(a) The director may suspend a provider of service from further participation under the medical assistance program for violation of the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part or any rule or regulation promulgated by the director pursuant to those chapters. Any such suspension may be for an indefinite or specified period of time and with or without conditions or may be imposed with the operation of the suspension stayed and probation granted.

(b) The proceedings for suspension 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. The director may temporarily suspend any provider of service prior to any hearing when in his opinion such action is necessary to protect the public welfare or the interests of the medical assistance program. The director shall notify the provider of service of the temporary suspension and the effective date thereof and at the same time serve such provider with an accusation. The accusation and all proceedings thereafter shall be in accordance with the sections of the Government Code specified in this subdivision. Upon receipt of a notice of defense by the provider, the director shall set the matter for hearing within thirty (30) days after receipt of said notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits, provided, however, said temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(c) The suspension by the director of any provider of service shall preclude such provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation or other association to the medical assistance program for any services or supplies he has provided under such program, except for services or supplies provided prior to the suspension. No clinic, group, corporation or other association which is a provider of service shall submit claims for payment to the medical assistance program for any services or supplies provided by a person within said organization who has been suspended or revoked by the director, except for services or supplies provided prior to the suspension.

Where the provisions of this chapter or Chapter 8 (commencing with Section 14200) of this part or the regulations promulgated by the director are violated by a provider of service which is a clinic, group, corporation, or other association, the director may suspend such organization and any individual person within said organization

who is responsible for such violation.

(d) Notice of the suspension shall be sent by the director to such provider's state licensing, certifying or registering authority along with the evidence upon which the suspension was based.

SEC. 2. Section 14124.2 of the Welfare and Institutions Code is amended to read:

14124.2. During normal working hours, the department may make any examination of the books and records of any provider pertaining to services rendered to any beneficiary under this chapter or Chapter 8 (commencing with Section 14200) of this part, and may visit and inspect the premises or facilities of any provider it may deem necessary to carry out the provisions of this chapter and regulations adopted thereunder. A provider shall furnish such information or copies of such records and documentation upon request by the department. Unannounced visits to request such information shall be reserved for those exceptional situations where arrangement of an appointment beforehand is clearly not possible or is clearly inappropriate to the nature of the intended visit. Only those related books and records of each service rendered, the beneficiary to whom rendered, the date, and such additional information as the department may by regulation require shall be subject to the requirement of furnishing copies. Such information may include records to support and document the recipient's eligibility for services, and to the extent necessary records to provide proof of the quantity and receipt of such services, and that the services were provided by proper personnel. Providers shall be reimbursed for reasonable photocopying related expenses as determined by the department. Failure to comply with such request shall be grounds for immediate suspension of the provider under subdivision (b) of Section 14123.

Any copies furnished pursuant to this section shall be used only to investigate and pursue criminal or administrative sanctions for Medi-Cal fraud and abuse, and such copies shall be destroyed when that purpose has been satisfied. This section shall not be construed to prohibit the referral of investigative findings, including copies of such books and records, to the appropriate state licensing, certifying or regulatory authority.

SEC. 3. The Legislature intends that the amendments made by this act to Sections 14123 and 14124.2 of the Welfare and Institutions Code which add references to Chapter 8 (commencing with Section 14200) constitute a clarification, not a change in, existing law.

CHAPTER 717

An act to amend Section 44255 of the Education Code, relating to teacher preparation and licensing.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 44255 of the Education Code is amended to read:

44255. No life credential shall be issued until all requirements for the credential have been met and the candidate has taught for two years in California public schools or California private schools offering instruction which exempts children from the requirements of attendance upon a public full-time day school as set forth in Section 48222.

CHAPTER 718

An act to repeal Section 4040 of the Business and Professions Code, to amend Sections 201a, 204, 204b, and 210 of, to add Sections 239 and 240 to, and to repeal Section 239 of, the Code of Civil Procedure, and to amend Section 14855 of the Health and Safety Code, relating to trial jurors.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 4040 of the Business and Professions Code is repealed.

SEC. 2. Section 201a of the Code of Civil Procedure is amended to read:

201a. The superior court in each county or city and county shall adopt written rules and regulations supplementary to such rules as may be adopted by the Judicial Council establishing a procedure whereby the jury commissioner of said county or city and county shall be empowered to grant excuses from jury service to such prospective jurors who in the opinion of the jury commissioner qualify for excuses under Section 200.

SEC. 3. Section 204 of the Code of Civil Procedure is amended to read:

204. (a) Except as otherwise provided in this section, during January in each year, the superior court of each county may make an order designating the estimated number of trial jurors that will, in

the opinion of the court, be required for the transaction of the business of the courts authorized to use the superior court jury panel, and the trial of causes therein, during the ensuing year. Immediately after such order is made, the board of supervisors shall select, pursuant to Sections 205 and 206, a list of men and women to serve as trial jurors in the superior court of the county during the ensuing year, or until a new list of jurors is provided. In counties having a population of 80,000 inhabitants or over, such selection shall be made by a majority of the judges of the superior court.

(b) In counties having a population of 300,000 inhabitants or over, other than a county of the first class, a majority of the judges of the superior court may, in January and July of each year or in the December or June immediately preceding, make the order designating the number of trial jurors and the selections and listings of men and women suitable and competent to serve as trial jurors.

SEC. 4. Section 204b of the Code of Civil Procedure is amended to read:

204b. Pursuant to written rules adopted by a majority of the judges of the superior court of the county, supplementary to such rules as may be adopted by the Judicial Council, the jury commissioner may furnish the judges of the court annually a list of persons qualified to serve as trial jurors during the ensuing year or until a new list of jurors is required. From time to time a majority of the judges of the superior court may adopt such rules supplementary to such rules as may be adopted by the Judicial Council as may be necessary for the guidance of the jury commissioner, who shall at all times be under the supervision and control of the judges of the court.

SEC. 5. Section 210 of the Code of Civil Procedure is amended to read:

210. The person whose names are so returned shall be known as regular jurors, and shall serve for such time as is established by local rule and until other persons are selected and returned.

SEC. 6. Section 239 of the Code of Civil Procedure is repealed.

SEC. 7. Section 239 is added to the Code of Civil Procedure, to read:

239. (a) Except in a county having a population of more than 6,000,000, any juror summoned shall be entitled to volunteer to be available on one-hour notice by telephone, in which case he would not be obligated to actually appear in court until so notified.

(b) In all counties, no trial juror shall be required during any twelve-month period to serve more than 10 court days, except as necessary to complete the hearing of an action.

SEC. 8. Section 240 is added to the Code of Civil Procedure, to read:

240. The jury commissioner in each county or city and county shall notify each trial juror of the provisions of Section 230 of the Labor Code.

SEC. 9. Section 14855 of the Health and Safety Code is amended to read:

14855. The officers and members of unpaid fire companies regularly organized, and exempt firemen, are entitled to the following privileges and exemptions:

(a) Exemption from payment of poll tax, road tax, and head tax of every description.

(b) Exemption from military duty, except in case of war, invasion, or insurrection.

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 there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 719

An act to add Article 13 (commencing with Section 6200) to Chapter 4 of Division 3 of the Business and Professions Code, relating to attorneys' fees.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Article 13 (commencing with Section 6200) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 13. Arbitration of Attorneys' Fees

6200. (a) The Board of Governors shall, by rule, establish, maintain, and administer a system and procedure for the arbitration of disputes concerning fees charged for professional services by members of the State Bar or by members of the Bar of other jurisdictions. Such rules may include provision for a filing fee in such amount as the Board of Governors may, from time to time, determine.

This section shall not apply to any of the following:

(1) Disputes where the attorney is also admitted to practice in another state, and he maintains no office in the State of California, and no material portion of the services were rendered in the State of California.

(2) Disputes where the client seeks affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct.

(3) Disputes where the fee to be paid by the client or on his behalf has been determined pursuant to statute or court order.

(b) Arbitration under this article shall be voluntary for a client and

shall be mandatory for an attorney if commenced by a client.

(c) The Board of Governors shall adopt rules to allow arbitration of attorney fee disputes under this article to proceed under arbitration systems sponsored by local bar associations in this state. Rules of procedure promulgated by such local bar associations are subject to review by the Board of Governors to insure that they provide for a fair, impartial, and speedy hearing and award. In adopting or reviewing such rules, the Board of Governors may provide for one lay member of any arbitration panel of three arbitrators.

6201. (a) The rules adopted by the Board of Governors may provide that an attorney forward a written notice to the client and the State Bar prior to or at the time of filing an action against the client for recovery of fees covered by the provisions of this article. The written notice shall be in such form as the Board of Governors may prescribe, but shall include a statement of the client's rights to arbitrate under this article. Failure to give such notice shall not be grounds for the dismissal of such action.

(b) If an attorney, or the attorney's assignee, subject to the provisions of this article, commences an action in any court, other than a small claims court, and the dispute is one to which subdivision (a) of Section 6200 applies, the client may stay the action by serving and filing a request for arbitration in accordance with the rules established by the Board of Governors pursuant to subdivision (a) of Section 6200. If, prior to the client initiating arbitration proceedings under this article, the attorney files an action against the client in small claims court for recovery of a fee covered by the provisions of this article, such small claims action, including any appeal, shall not be stayed under the provisions of this section. The request for arbitration must be served and filed prior to the filing of an answer in the action; failure to so request arbitration prior to the filing of an answer shall be deemed a waiver of the client's right to arbitration under the provisions of this article.

(c) Upon filing and service of such request, unless the court finds that the matter is not an appropriate one for arbitration under the provisions of this article, the action shall be stayed until the award of the arbitrators is issued. The action may thereafter proceed upon application of the attorney subject to the provisions of Section 6204.

(d) A client's right to request or maintain arbitration under the provisions of this article is waived by the commencement of an action or the filing of any pleading by the client seeking judicial resolution of a fee dispute in which subdivision (a) of Section 6200 applies, or seeking affirmative relief against the attorney for damages or otherwise based upon alleged malpractice or professional misconduct.

6202. The provisions of Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code shall not prohibit the disclosure of any communication which may be relevant to a dispute in an arbitration hearing pursuant to this article or to enforce

an arbitration award pursuant to Section 6203 or in connection with the judicial review of such award pursuant to Section 6204. The provisions of Section 2016 of the Code of Civil Procedure shall not prohibit the disclosure of any work product of the attorney which may be relevant to a dispute in such arbitration hearing or to enforce such an arbitration award or in connection with the judicial review of such award. The disclosure of any attorney-client communication or attorney's work product, as provided in this section, shall be limited to relevant communications between the parties to the fee dispute and the work product for which the disputed fee has been demanded, and in no event shall such disclosure be deemed a waiver of the confidential character of such matters for any other purpose.

6203. (a) The award shall be in writing and signed by the arbitrators concurring therein. It shall include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy.

(b) Unless a party to the arbitration has timely sought judicial review and a new trial pursuant to subdivision (a) of Section 6204 and in no event before the passage of 30 days after mailing of notice of the award, an arbitration award shall become final and may be confirmed, corrected, or vacated by petition to the court in the same manner as with arbitration awards generally, as provided in Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

6204. (a) The parties may agree in writing to be bound by the award of the arbitrators. In the absence of such an agreement, either party shall be entitled to a trial de novo. Such judicial review shall be initiated by the commencement of an action in the court having jurisdiction over the amount of money in controversy within 30 days after mailing of notice of the award.

In lieu of commencing such action, and within 30 days after the mailing of notice of the award, a party seeking such judicial review may file a pleading to such effect in any action which has been abated pursuant to Section 6201.

(b) The prevailing party upon such judicial review shall be the party who recovers a judgment more favorable than that provided by the arbitration award. The prevailing party may, in the discretion of the court, be entitled to an allowance for reasonable attorneys' fees and costs incurred in the judicial review, which allowance shall be fixed by the court. In fixing such attorneys' fees, the court shall consider the award and determinations of the arbitrators, in addition to any other relevant evidence.

(c) Except as provided in this section, the award and determinations of the arbitrators shall not be admissible nor operate as collateral estoppel or res judicata in any action or proceeding.

6205. The procedures provided for in this article shall apply to disputes concerning fees charged for professional services rendered on and after the date this article becomes effective.

6206. Arbitration may not be commenced under this article if the

time for filing a civil action requesting the same relief would be barred by any provision of Title 2 (commencing with Section 312) of Part 2 of the Code of Civil Procedure; provided that this limitation shall not apply to a request for arbitration by a client, pursuant to the provisions of subdivision (b) of Section 6201, following the filing of a civil action by the attorney.

CHAPTER 720

An act to amend Section 220.5 of the Streets and Highways Code, relating to safety roadside rests, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 220.5 of the Streets and Highways Code is amended to read:

220.5. The department may authorize the placement of vending machines in safety roadside rests, unless prohibited by federal laws, rules, or regulations.

Any money received by the state for authorizing the placement of such vending machines shall be transferred by the department to the State Highway Account in the State Transportation Fund.

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 conveniences provided through vending machines be available at safety roadside rests to the motoring public on a permanent basis as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 721

An act to amend Section 5028 of the Business and Professions Code, relating to accountancy.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 5028 of the Business and Professions Code is amended to read:

5028. The board may, in accordance with the intent of this article, make exceptions from continuing education requirements for licensees not engaged in public practice, or for reasons of health, military service, or other good cause; provided, however, that if such licensee returns to the practice of public accounting he shall meet such continuing education requirements as the board may determine.

CHAPTER 722

An act to add Section 74191.7 to the Government Code, to amend Section 40600 of, and to add Chapter 2.5 (commencing with Section 40650) to Division 17 of, the Vehicle Code, relating to administrative adjudication of traffic infractions, and making an appropriation therefor.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 74191.7 is added to the Government Code, to read:

74191.7. The judges of the Sacramento Municipal Court District shall appoint a commissioner as the business of the court requires. The commissioner shall possess the same qualifications as the law requires of a judge of the court. Such appointment shall be pursuant to Section 72190 and such commissioner shall receive a salary which equals 85 percent of the annual salary for a municipal court judge.

SEC. 2. Section 40600 of the Vehicle Code is amended to read:

40600. (a) Notwithstanding any other provision of law, a peace officer who has successfully completed at least 40 hours of instruction in a course or courses of instruction, approved by the Commission on Peace Officer Standards and Training, in the investigation of traffic accidents may prepare in triplicate, on a form approved by the Judicial Council, a written notice of violation when the peace officer has reasonable cause to believe that any person involved in a traffic accident has violated a provision of this code not declared to be a felony or a violation of a local ordinance and the violation was a factor in the occurrence of the traffic accident.

(b) A notice of violation shall contain the name and address of the person, the license number of his vehicle, if any, the name and address, when available, of the registered owner or lessee of the vehicle, the offense charged, and the time and place when and where he may appear in court or before a person authorized to receive a deposit of bail. The time specified shall be at least 10 days

after such notice of violation is delivered.

(c) The preparation and delivery of a notice of violation does not constitute an arrest.

(d) For the purposes of this article, a peace officer will be deemed to have reasonable cause to issue a written notice of violation if, as a result of his investigation, he has evidence, either testimonial or real, or a combination of testimonial and real, that would be sufficient to issue a written notice to appear if he had personally witnessed the events he investigated.

(e) As used in this section, "peace officer" means a member of the California Highway Patrol; a sheriff, undersheriff, or deputy sheriff of a county; a policeman of a city; or a policeman of a district authorized by statute to maintain a police department.

(f) The provisions of this article shall have no application to the procedures specified in Article 2 (commencing with Section 40500).

(g) This section shall apply to the procedures specified in Chapter 2.5 (commencing with Section 40650) of this division except that the notice of violation shall be as set forth and approved by the Traffic Adjudication Board.

SEC. 3. Chapter 2.5 (commencing with Section 40650) is added to Division 17 of the Vehicle Code, to read:

CHAPTER 2.5. ADMINISTRATIVE ADJUDICATION OF TRAFFIC SAFETY VIOLATIONS

Article 1. General Provisions

40650. It is the intent of the Legislature in enacting this chapter that uniform applications of justice and improved traffic safety be accomplished through the administrative adjudication of traffic safety violations by a traffic adjudication board. Further, it is the intent of the Legislature in enacting this chapter that peace officers' authority to apprehend drivers for violations of this code will not be diminished in any way. The board, as an alternative to criminal prosecution of traffic infractions, shall accomplish these objectives by formulating uniform hearing procedures and sanction guides which place emphasis upon providing all individuals with an opportunity for a fair hearing and which reflect the traffic safety implications of traffic safety violations.

In particular, the demonstration program provided in this chapter shall examine, in the pilot counties, whether such processing, adjudication and sanctioning would:

(a) Be more economical than present methods.

(b) Be more expeditious than present methods.

(c) Impose more consistent and uniform sanctions on traffic violations than at present.

(d) Improve the safe-driving characteristics of motorists.

(e) Be favorably received by the motorists.

The demonstration program shall implement a model procedure

for expeditious and fair disposition of traffic safety violations under the supervision of the board utilizing, as appropriate, department-operated electronic data-processing facilities. Nothing in this section shall be construed to prevent the courts from establishing improved methods of obtaining services from the department.

Article 2. Definitions

40652. For the purpose of this chapter, the following terms shall have the following meanings, unless the context clearly requires otherwise:

(a) "Admission" means that the party charged with a traffic safety violation admits to having committed the traffic safety violation.

(b) "Admission with explanation" means that the party charged with a traffic safety violation admits to having committed the traffic safety violation, but demands a summary hearing in order to explain the surrounding circumstances so as to mitigate the sanctions that may be imposed pursuant to this chapter.

(c) "Board" means the Traffic Adjudication Board.

(d) "Confrontation hearing" is a hearing at which the person charged with a traffic safety violation, the citing officer, and any witnesses are present.

(e) "Denial" means that the person charged with a traffic safety violation denies all or part of the traffic safety violation alleged in the notice to appear and demands a confrontation hearing.

(f) "Denial with waiver of confrontation" means that the person charged with a traffic safety violation denies all or part of the traffic safety violation alleged in the notice to appear and demands a summary hearing.

(g) "Hearing officer" means a person authorized by the board to conduct hearings pursuant to this chapter.

(h) "Monetary sanction" is a sanction imposed for the purpose of modifying and improving driver behavior. "Monetary sanction" does not include moneys collected as a penalty assessment.

(i) "No contest" means the person charged with a traffic safety violation neither admits nor denies the traffic safety violation alleged in the notice to appear. For procedural purposes, a no contest answer shall have the same effect as an admission. The no contest answer may not be used as an admission in any subsequent criminal or civil action.

(j) "Penalty assessments" are moneys collected as provided in Section 42050.

(k) "Summary hearing" means that the person charged with a traffic safety violation waives the right to confront the citing officer and any witnesses. The waiver shall include a stipulation by the person charged that the information appearing on the notice to appear, or on the complaint, in the event of an arrest by a private person, may be received as evidence with the same effect as if the

officer or such private person were present to testify.

(*l*) "Traffic adjudication office" is a location designated by the Traffic Adjudication Board for the conduct of administrative hearings pursuant to this chapter.

(m) "Traffic safety violation" includes any act or omission which constitutes an infraction, as specified in this code or under any local ordinance or resolution adopted pursuant to this code. A finding that a traffic safety violation has occurred is an administrative violation and shall not be deemed an adjudication of a crime. Nothing in this chapter shall be construed to mean that an act which constitutes a traffic safety violation is not also a crime.

Article 3. Advisory Committee

40653. On January 1, 1979, and continuing through December 31, 1983, inclusive, there shall be established a Traffic Adjudication Advisory Committee, which shall consist of the following:

(a) The commissioner or the commissioner's representative.

(b) The director or the director's representative.

(c) One person appointed by the Judicial Council.

(d) One person appointed by the Governor representing the League of California Cities or the County Supervisors Association of California.

(e) The chairperson of the board of supervisors, or the chairperson's representative, of each of the counties participating in the pilot project.

(f) The Director of the Office of Administrative Hearings or the director's representative.

(g) One person selected jointly by the police chiefs of the Cities of Sacramento, Davis, and Roseville.

(h) One person appointed by the Governor representing the motoring organizations of California.

40654. The advisory committee shall assist the board in developing rules, regulations, procedures, and evaluation guidelines for the administrative adjudication pilot program established pursuant to Article 8 (commencing with Section 40750) in an effort to ensure that all operational considerations are fully examined.

40655. The advisory committee shall convene within 15 days of its establishment. It shall, among other business, elect its chairperson at that time.

40656. Staff assistance to the advisory committee shall be provided by state agencies represented on the advisory committee.

40657. The members of the advisory committee shall serve without compensation but shall be reimbursed for actual and necessary expenses by the board.

Article 4. Traffic Adjudication Board

40658. There is in state government a Traffic Adjudication Board. The board for the pilot program established pursuant to Article 8 (commencing with Section 40750) shall consist of five members appointed by the Governor. The Counties of Yolo, Placer, and Sacramento shall each have one representative on the board appointed by the Governor from a list of at least three nominees prepared by each county's board of supervisors and submitted to the Governor on January 1, 1979. Each list of nominees shall include at least two active members of the State Bar of California who have practiced law in this state for at least five years. Of the five members, at least three shall be active members of the State Bar of California who have practiced law in this state for at least five years, and at least one shall be a person who has experience in traffic law enforcement.

The terms of the members of the board shall expire on July 1, 1984.

40659. The Governor may remove a member of the board for any cause specified in Section 1770 of the Government Code.

40660. The board shall organize itself and elect a president from among its members, for a term of one year, at the first meeting of each year. The newly elected president shall assume the duties of that office at the meeting at which the president is elected.

40661. The board shall conduct meetings as required by this chapter, and such meetings shall be subject to the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

40662. Three members of the board shall constitute a quorum for the transaction of business, for the performance of any duty, or the exercise of any of its powers or authority.

40662.5. The board shall have the same investigatory powers as department heads, as provided in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

40663. Each member of the board shall receive an annual salary of six thousand two hundred fifty dollars ($6,250); except, that the president of the board shall receive an annual salary of six thousand five hundred dollars ($6,500). Each member shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties as a member of the board.

40664. The department may not duplicate any action regarding a traffic safety violation that has been adjudicated by the board or a hearing officer. This section shall not preclude the department, upon the receipt of additional information, from taking additional action.

40665. Upon request, the department shall make immediate on-line computer access to the driving record of a cited person available to the board. Deletions from the driving record by the board shall be subject to the approval of the department.

40665.5. The department shall, as determined by the board, provide computer support to the board.

40666. The board shall do all of the following:

(a) Adopt rules and regulations, 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, governing such matters as are within its jurisdiction and as may be necessary to effectuate the purposes of this chapter.

(b) Arrange for the Office of Administrative Hearings to provide such hearing officers as may be necessary to hear and determine cases arising under this chapter. At least one-half of the hearing officers shall be attorneys with at least one year experience. The remainder shall have legal training, as a minimum, in the areas of evidence, constitutional law, criminal law, administrative law, and shall pass a written test accordingly. Additional minimum qualifications may be established by the State Personnel Board. Such appointments shall conform to civil service regulations.

(c) Subject to civil service rules and regulations, the board shall appoint an executive director who shall be the chief administrative officer. The executive director shall appoint such other persons as may be necessary to discharge the functions of the board as provided in this chapter.

(d) Hear and consider, within the limitations of, and in accordance with, the procedures provided in this chapter, all appeals from decisions of hearing officers.

(e) The board shall have the power to issue subpoenas and subpoenas duces tecum.

(f) After considering existing bail schedules, adopt a schedule of monetary and nonmonetary sanctions for traffic safety violations; provided, however, that no monetary sanction may exceed the maximum fine established for offenses declared to be infractions pursuant to Chapter 1 (commencing with Section 42000) of Division 18. The schedule of monetary sanctions shall include guidelines setting forth the circumstances under which the hearing officers, in the interest of traffic safety and equality of justice, may reduce the sanction for a traffic safety violation by as much as 50 percent or increase the sanction by as much as 25 percent. These increased or decreased sanctions shall be prescribed in an effort to improve the driving behavior of the person to whom the sanction is applied or to take into account mitigating circumstances. In addition, at the request of any county board of supervisors, the Traffic Adjudication Board may allow increases or decreases of not more than 25 percent from the monetary sanctions established in the schedule of sanctions for that county when the Traffic Adjudication Board has reasonable cause to believe that the deviation will further traffic safety efforts, including, but not limited to, accident reduction programs, better driving programs, or rewards for reduced accident or citation levels. No deviation may be calculated so as to permit a monetary sanction for a traffic safety violation to exceed the maximum fine established for an equivalent infraction or for the purpose of raising revenue.

(g) Give due consideration, in the establishment of the schedules

of sanctions, to the amount of use or mileage traveled in the operation of a motor vehicle.

(h) Prescribe by regulation the form for the notice to appear to be used for all traffic safety violations pursuant to this chapter and to establish procedures for administrative controls over the disposition thereof.

(i) Submit an annual report to the Governor and the Legislature, including, but not limited to, the past year's accomplishments, identification of problems, and recommendations for future legislation.

(j) The board shall reimburse the department for all administrative staff services provided thereto and not exempted by another statute.

40667. Notwithstanding any other provision of this chapter, the processing of noncontested parking violations shall continue to be administered by the courts unless a county participating in the demonstration program pursuant to Article 8 (commencing with Section 40750) enters into an agreement with the board for the processing of all parking violations for any judicial district within the county. The board shall study and make recommendations concerning the processing of parking violations by the board and include the analysis in its January 1, 1982, annual report to the Governor and the Legislature. The results of this study shall be considered by the Legislature in enacting any legislation to provide for the statewide administrative adjudication of traffic infractions.

Article 5. Notice to Appear

40675. (a) Except as provided in Section 40752 whenever any person is arrested for any violation which is both an infraction and a traffic safety violation pursuant to this chapter, the citing officer shall issue a notice to appear before a hearing officer for the adjudication of the traffic safety violation if the violation was committed within a municipal court district. The notice to appear shall contain, when available, the name, address, and driver's license number of the person to whom the notice to appear is issued, the license number of any vehicle involved, and the name and address of the registered owner or lessee of the vehicle. The notice shall specify the traffic safety violation alleged to have been violated, the circumstances surrounding such violation, and the time and place the cited person is required to appear before a hearing officer, if the person desires a hearing. The consequences for failing to appear or answer, and the various answer options available shall be set forth either on the notice or on a form accompanying the notice. The schedule of monetary sanctions, and penalty assessments, may be set forth either on the notice or may be set forth on a form accompanying the notice. The notice or the form accompanying the notice shall also state that, when additional nonmonetary sanctions may be imposed, a personal appearance will be required. The notice

or the form accompanying the notice shall also state that a person cited may request that the matter be adjudicated as an infraction by a court.

(b) Every notice to appear alleging a speeding violation that is a traffic safety violation shall specify the approximate speed at which the driver is alleged to have driven, the maximum or prima facie speed limit applicable to the highway at the time and place of the alleged violation, and any other speed limit alleged to have been exceeded that is applicable to the particular type of vehicle or combination of vehicles operated by the cited person.

(c) If the cited person refuses to sign the notice to appear before a hearing officer pursuant to this chapter, the citing officer shall proceed in the manner provided pursuant to Division 17, Chapter 2, beginning with Section 40300, relating to the arrest of a person for a traffic infraction.

40676. The time for a hearing specified on the notice to appear shall be at least 14 calendar days after such notice to appear is issued.

40677. (a) The citing officer shall deliver a copy of the notice to appear to the person alleged to have committed a traffic safety violation. One copy shall be timely filed with the local traffic adjudication area processing center. One copy shall be timely filed with the law enforcement agency employing the citing officer.

(b) The citing officer shall not enter on or attach to the notice to appear, or accompany the notice to appear with, any written statement giving information or containing allegations that have not been given to the person receiving the notice to appear.

40677.5. (a) The notice to appear forms to be used during the demonstration program shall be supplied to law enforcement agencies by the board. The board shall confer with the commissioner, or the commissioner's representative, prior to adopting the form to be used pursuant to this section.

(b) The operational considerations of this form shall be tested during the demonstration program.

40678. Any person served with a notice to appear in accordance with this article may appear with an attorney in any administrative adjudication proceedings under this chapter.

Article 6. Administrative Adjudication Procedure

40690. Notwithstanding any other provision of law, any person under the age of 18 who has been issued a license or permit to drive, alleged to have committed a traffic safety violation, shall be subject to adjudication pursuant to the provisions of this chapter and the rules and regulations of the board. The board may, by rule or regulation, request the person having custody or control of any person under 18 years of age to accompany such person. The board shall notify the person having custody or control of the cited minor of the nature of the offense and of the minor's right to request that the matter be adjudicated as an infraction by a court.

40691. (a) Any person who receives a notice to appear for a traffic safety violation shall answer such notice by mail postmarked within 14 days of the date of the alleged violation or by personal appearance at a traffic adjudication office within 14 days of the date of the alleged violation, in the manner provided in subdivisions (b), (c), (d), and (e).

(b) A person alleged to have committed a traffic safety violation shall have the following answer options:

(1) Admission.

(2) Admission with explanation.

(3) Denial.

(4) Denial with waiver of confrontation.

(5) No contest.

The terms and conditions under which a person may amend his answer shall be prescribed by rules and regulations of the board.

(c) If the person admits to the traffic safety violation alleged in the notice to appear, the person shall complete an appropriate answer form, as prescribed by the board, and forward the form to the local traffic adjudication area processing center specified in the notice to appear. A check or money order in the amount of the monetary sanction and penalty assessment for the traffic safety violation alleged, if specified in the schedule of sanctions accompanying the notice, shall be submitted with each such answer. Such answer may not be accepted by mail if the admission will result in the assignment of a point or points pursuant to Section 12810, with the result that the person's driving record will show three or more points within a 12-month period, four or more points within a 24-month period, or five or more points within a 36-month period unless the board determines otherwise based on traffic safety implications.

(d) If the person denies part or all of the traffic safety violation alleged in the notice to appear, the person shall complete an appropriate answer form, as prescribed by the board, and forward the form to the local traffic adjudication area processing center specified in the notice to appear. A check or money order in the amount of the monetary sanction and penalty assessment for the traffic safety violation alleged may be submitted with such answer. Upon receipt, such answer shall be recorded. The board may change the date, time, and place of appearance in the interests of justice. The local traffic adjudication area processing center shall notify such person by mail of the new date, time, and place of such hearing.

(e) If the person desires to answer with either an admission with explanation or a denial with waiver of confrontation, such answer shall be made within 14 days. The person may proceed with the summary hearing on any scheduled hearing date on or before the date and time specified on the notice to appear.

(f) If the person desires to neither admit nor deny the traffic safety violation alleged in the notice to appear, the person shall complete an appropriate answer form, indicating no contest, as prescribed by the board, and forward such form to the local traffic adjudication

area processing center specified in the notice to appear. A check or money order in the amount of the monetary sanction, and penalty assessments, for the traffic safety violation alleged, if specified in the schedule of sanctions accompanying the notice, shall be submitted with such answer. This answer shall be treated the same as an admission and shall be recorded in the same manner in the person's driving record. Such answer may be accepted by mail but is subject to the exception set forth in subdivision (c). Such answer shall constitute a waiver of the right to a confrontation hearing.

40692. In addition to the answer options provided in Section 40691, the cited person may, prior to the commencement of the hearing, request that the matter be adjudicated as an infraction by a court. If the cited person requests that the matter be adjudicated as an infraction by the court, the board shall refer the matter to the proper authority for prosecution. If the matter is adjudicated by the court as an infraction, the board shall take no action on the traffic safety violation.

40693. (a) The cited person may change an answer prior to the commencement of the hearing.

(b) After commencement of the hearing, in the hearing officer's discretion, the hearing officer may allow a change of answer. Further, if an admission could result in the suspension or revocation of the driving privilege, the person shall be apprised of this fact and shall be allowed to change such answer.

40694. (a) Every hearing for the adjudication of a traffic safety violation shall be held by a hearing officer.

(b) All confrontation hearings shall be held at the traffic adjudication office specified in the notice to appear.

(c) A summary hearing may be held at any traffic adjudication office selected by the cited person.

40695. (a) The traffic adjudication hearing shall be conducted in an impartial and informal manner.

(b) The cited person shall have the right to call and examine witnesses, introduce evidence through exhibits, and cross-examine opposing witnesses on any matter relevant to the hearing. At the request of the cited person, the hearing officer shall issue subpoenas to compel the attendance of witnesses and the production of documents.

(c) The citing officer, if present at the hearing, shall present evidence relating to the circumstances surrounding the issuance of the citation.

(d) The hearing officer may, on such hearing officer's own motion, call witnesses, issue subpoenas to compel the attendance of witnesses and the production of documents, and may ask questions of any witness.

(e) All evidence shall be given under oath or affirmation.

(f) In any hearing, or in the discharge of any duties imposed under this chapter, a member of the board or a hearing officer may administer oaths and certify to acts and records.

(g) Continuances may be granted for good cause shown.

(h) Traffic adjudication hearings shall be recorded entirely and verbatim by automatic recording devices. Recordings of hearings shall be preserved for such period as the board may specify by rule and regulation, but in no event for a period less than 30 days after the period for appeal has expired.

40696. No finding that a person committed a traffic safety violation as alleged may be sustained except by evidence beyond a reasonable doubt.

40697. The hearing officer may not review the driving record of the person prior to the determination of whether a traffic safety violation was committed. After that determination, but prior to the imposition of the sanction, the hearing officer shall review the driving record of the person to determine the proper sanction, as provided in the rules and regulations of the board.

40698. (a) Whenever the person answers by an admission or no contest and pays the appropriate monetary sanction and penalty assessment, a record of the person's response shall be entered in the records of the department and shall be considered a conviction for purposes of Division 6 (commencing with Section 12500).

(b) When a hearing is conducted, the finding of the hearing officer shall be entered in the records of the department; except, that all information in the driving record relating to issuance of a notice to appear and the resulting adjudication of the traffic safety violation shall be restricted for the auditing purposes of the board and the department upon a determination that the traffic safety violation was not committed. A finding indicating the traffic safety violation was committed shall have the same effect as a conviction for purposes of Division 6 (commencing with Section 12500).

40699. The board and hearing officers shall have the same power to suspend, revoke, and restrict the driving privilege as is granted to the department by law. The hearing officers may also impose any other sanction prescribed by the board.

40700. (a) When a person is required to pay a monetary sanction imposed for commission of a traffic safety violation, the monetary sanction and penalty assessment shall be payable forthwith, except that the hearing officer may grant permission for payment to be made within a specified period of time or in specified installments. Such permission shall be made contingent upon the person's giving a written promise to pay the sanction or installment within the time authorized, and if unable to do so, to appear at the hearing office for further proceedings on the date on which the sanction or any installment thereof is due.

(b) In lieu of payment of a monetary sanction, the person may elect to have an alternative, nonmonetary sanction imposed. The alternative sanction shall be determined by the hearing officer in accordance with guidelines established by the board and may consist of a suspension or revocation of the driving privilege, or other appropriate sanction, such as traffic safety school. When necessary,

the hearing officer shall make referrals to an appropriate agency for additional treatment.

(c) In all cases in which a sanction is imposed and not complied with at the time of the hearing, the driver's license shall be surrendered to the board or hearing officer upon request and a temporary license issued; except, that no temporary license may be issued during the period of any suspension or revocation of the driving privilege.

40701. (a) In addition to any other authority vested in the board, the board or hearing officer may suspend or revoke the driving privilege and order surrender of the driver's license of any person who fails to answer, appear, or otherwise comply with the requirements of the notice to appear or any order of the board or hearing officer. Such suspension or revocation shall continue until the person has complied with all of the orders of the board or hearing officer. A suspension for failure to comply with the requirements of the notice to appear shall not be effective any sooner than 60 days from the date of receipt, by certified mail, of the notice of suspension. At the termination of the suspension or revocation, a fee in the amount required in Section 14904 shall be paid to the board in addition to any other fees required by this code.

(b) If a person cited for a traffic safety violation not committed while operating a motor vehicle fails to answer, appear, or otherwise comply with the requirements of the notice to appear or any order of the board or hearing officer, the matter shall be referred to the proper authorities for prosecution as an infraction.

40702. (a) All monetary sanctions and penalty assessments collected by the board or a hearing officer shall be reported monthly to the State Controller and at the same time deposited in the State Treasury to the credit of the Traffic Adjudication Fund, which fund is hereby created.

(b) The money in the Traffic Adjudication Fund is hereby appropriated as specified in this section.

(c) The board shall report monthly to the State Controller and the auditor of each county the amount of all monetary sanctions and all penalty assessments collected during the preceding month as a result of traffic safety violations occurring in the county. The report to the county auditor shall also identify the amount of the sanctions collected as a result of actions by state officers, county officers, and city officers of each city in the county.

(d) Upon receiving the report from the board, the State Controller shall transfer the reported amount of penalty assessments from the Traffic Adjudication Fund as provided in Section 42052. The monetary sanctions deposited in the Traffic Adjudication Fund are hereby appropriated to the State Controller, who shall disburse to the auditor of each county the amount of monetary sanctions shown by the report to have been collected as a result of traffic safety violations in that county.

The money disbursed to the auditor shall be distributed among the

cities and the county according to the provisions of Section 1463 of the Penal Code.

40702.5. All other money received by the board during January 1, 1979, through June 30, 1979, shall be deposited into the Traffic Adjudication Fund and is hereby appropriated for the administrative costs of the Traffic Adjudication Board.

On and after July 1, 1979, all other money received shall be deposited into the Traffic Adjudication Fund and is hereby continuously available only for transfer to the General Fund to pay for administrative costs of the Traffic Adjudication Board.

40703. Any suspension or revocation of the driving privilege imposed pursuant to this article may be stayed for a period of up to 30 days from the date of the hearing officer's decision, or if an administrative appeal is instituted, until the effective date fixed by the board for its final order, unless the hearing officer or the board determines that a substantial traffic hazard, as defined by guidelines established by the board, would result.

40704. No findings, evidence, answer, or any other record acquired by, or in the possession of, the board or a hearing officer pursuant to the provisions of this chapter shall be admissible in any civil action.

40705. Notwithstanding the provisions of Section 14112 of this code, all hearings provided in this chapter shall be conducted pursuant to the provisions of this chapter and not Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Article 7. Administrative Review

40710. The board shall constitute an appeals board for review of decisions of hearing officers.

40711. (a) Any person who has been determined by a hearing officer to have committed a traffic safety violation may appeal such determination pursuant to the provisions of this article.

(b) The board on its own motion or on the motion of any law enforcement agency may review any such determination made by a hearing officer.

40712. (a) Each appeal filed pursuant to this article shall be heard by the board, which shall cause an appropriate entry to be made in the records of the department.

(b) No appeal shall be heard if it is received more than 30 days after the appellant received notice of the decision that is being appealed.

40713. Any appeal from an adverse determination pursuant to this chapter shall be filed in the form and manner provided by the board.

40714. The fee for filing an appeal shall be ten dollars ($10) to reimburse the board's costs. No appeal may be accepted unless the required fee has been paid.

40715. A written transcript of the record of any hearing may be obtained at cost by the appellant. A deposit fee of twenty dollars ($20) shall be paid before preparation of a written transcript will be initiated. Any additional costs incurred shall be collected from the appellant prior to delivery of such transcript and any excess amount deposited shall be returned. These fees are to reimburse the board's costs.

40716. The board may continue a matter for good cause. The board shall enter its order within 90 days after the filing of the appeal, not counting any days granted for continuance. If the board does not make such an order within 90 days the hearing officer's decision shall be reversed. The board shall enter an appropriate order showing the reversal.

40717. The board may reverse, amend, or modify the decision of a hearing officer that imposes a sanction on an appellant if it determines that any of the following exist:

(a) The hearing officer has proceeded in a manner contrary to the law or the rules and regulations of the board.

(b) The hearing officer's decision is not supported by the findings.

(c) Findings are not supported by the evidence.

(d) The determination of the sanction, as provided in the decision of the hearing officer, is not commensurate with the finding.

The board may remand a case to a hearing officer for additional proceedings if it determines that there exists relevant evidence, which, in the exercise of reasonable diligence, could not have been produced, or which was improperly excluded at the hearing.

40718. An order amending, modifying, or reversing the decision of the hearing officer shall be in writing and copies thereof shall be sent by certified or registered mail or delivered personally to the appellant. The board shall direct the department to take such further action as is required in the circumstances, and all fees and costs and any monetary sanction paid by the appellant shall be ordered to be returned when appropriate. The effective date of the order shall be as stated therein, but shall not be later than 15 days after the mailing of the order.

40719. An order affirming the decision of the hearing officer shall be in writing and copies thereof shall be sent by certified or registered mail or delivered personally to the appellant. The effective date of the order shall be as stated therein, but shall not be later than 15 days after the mailing of the order, and no reconsideration or rehearing may be permitted thereafter.

40720. Upon final completion of all administrative appeals, judicial review of any action shall be commenced within 90 days from the date such decision is final pursuant to Chapter 2 (commencing with Section 1094.5) of Title 1 of the Code of Civil Procedure.

Article 8. Demonstration Program

40750. In order to establish the practical application of the administrative adjudication of traffic safety violations, this chapter shall be implemented during the period from January 1, 1979, through July 1, 1984, on a demonstration basis in the Counties of Placer, Sacramento, and Yolo. If, however, the director, on January 1, 1979, determines that anticipated federal funding is either unavailable or insufficient, this chapter shall not be implemented until July 1, 1979. Articles 5, 6, and 7 of this chapter shall become operative July 1, 1980.

At the request of the board of supervisors, and with the approval of the Traffic Adjudication Board, any county shall be allowed to participate in the demonstration program. At the request of the board of supervisors, and with the approval of the Traffic Adjudication Board, any participating county may withdraw from the demonstration program.

40750.5. This chapter shall remain in effect only until July 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

40751. (a) For purposes of the demonstration program, administrative adjudication of traffic safety violations shall apply only to violations occurring within municipal court districts of the counties participating in the program.

(b) At the request of any justice court in any participating county, the board shall supply drivers' violations records, copies of schedules of sanctions adopted by the board, and any other information which may be of use in determining sentences. The board may also request the justice courts in the participating counties to furnish it with detailed reports regarding disposition of infraction cases as well as any other information which may be appropriate to an analysis and comparison of the efficiency and effectiveness of the demonstration program and criminal proceedings in the justice courts. The board shall reimburse the justice courts for any additional expenditures which may be required for the purpose of supplying such reports and information.

40752. The board shall submit a report on the progress of the demonstration program to the Governor and the Legislature on January 1 of each year in which the program is in effect. An evaluation prepared by a consultant who is retained by the board and is independent of the state and any state agency shall be submitted with this report. The evaluation shall include, but not be limited to, an analysis of the costs and benefits of administrative adjudication, both quantifiable and nonquantifiable, as they relate to the judicial system, law enforcement, local government, the defendant, the general public, public and private driver improvement programs and services and the department. Affected agencies shall develop and provide the data required to conduct such evaluation. The evaluation shall include recommendations relative to maximizing

the efficiency and effectiveness of the administrative adjudication program in terms of the preceding identified categories.

The evaluation shall also include an analysis of the traffic safety impacts of administrative adjudication, as compared to the court system.

The analysis of traffic safety impacts shall be based upon a monitoring of accident records or violation records, or both, of two groups of drivers: one group which shall be composed of drivers whose cases are adjudicated in the administrative adjudication system, and one group which shall be a sample of drivers in the demonstration area with driver's license numbers ending in "3", who shall be cited into the municipal court system for a period of two years, or as long as is necessary to achieve a statistically valid analysis, beginning on July 1, 1980. In addition, the effectiveness of postconviction traffic safety education treatments shall be scientifically evaluated. The evaluation shall utilize randomized treatment assignment and any other control procedures deemed necessary to assure the statistical validity of the study. The study shall include a sufficient sample of drivers who shall be assigned to a minimum of three groups: (1) traffic violator schools accredited pursuant to Sections 1660 and 1661, (2) the department's group educational meeting or experimental home study program, and (3) a no-treatment control group. Drivers subject to the study shall be assigned to the treatment categories when they have at least one prior conviction but no more than four prior convictions except those drivers subject to Section 12810.5 shall have no more than six prior convictions in the 12 months preceding the assigned treatment. The evaluation will examine the effectiveness of each treatment category in terms of costs and accident or violation reduction. This section shall not be construed as a limitation on the board's authority to establish a uniform sanction model.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act because this act is in accordance with the request of a local government entity which desired legislative authority to carry out the program specified in this act.

CHAPTER 723

An act to amend Sections 116, 116.8, 118, 119.4, and 120.1 of, to amend the heading of Article 4 (commencing with Section 121) of Chapter 5-B of Title 1 of Part 1 of, to amend and renumber Sections 118.1, 118.6, 118.7, and 120 of, to add Sections 116.3, 117.18, and 119.9 to, and to add Article 6 (commencing with Section 123) to Chapter

5-B of Title 1 of Part 1 to, the Code of Civil Procedure, and to amend Section 2 of Chapter 1287 of the Statutes of 1976, relating to small claims courts.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 116 of the Code of Civil Procedure is amended to read:

116. In each justice and municipal court there shall be a small claims division. The Judicial Council shall provide by rule for the practice and procedure and for the forms and use in proceedings in such division consistent with the provisions of this chapter. Each small claims division may formulate and distribute to litigants and the public a manual on small claims court rules and procedures. The manual shall explain how to fill out the necessary forms, how to determine the proper court to hear the matter, how to take defaults and have them set aside, how to pursue or defend against claims, how to appeal, how to collect after judgment, how to protect property that is exempt from execution, and such other matters as the court deems necessary or desirable.

The Judicial Council, in cooperation with the Department of Consumer Affairs, shall, if federal or other funding is available, formulate and distribute to each judge who sits in a small claims court a bench book describing all state and federal consumer protection laws reasonably likely to be applicable in actions brought in such court.

SEC. 1.1. Section 116 of the Code of Civil Procedure is amended to read:

116. (a) In each justice and municipal court there shall be a small claims division. The Judicial Council shall provide by rule for the practice and procedure and for the forms and use in proceedings in such division consistent with the provisions of this chapter.

(b) The Department of Consumer Affairs, in cooperation with the Judicial Council, shall prepare for distribution to the general public a manual on small claims court rules and procedures. The manual shall be designed to provide information regarding the use of the small claims court and the manner in which defaults can be avoided. The Department of Consumer Affairs shall distribute sufficient copies of the manual to each small claims division.

(c) The manual shall explain how to fill out the necessary forms, how to determine the proper court to hear the matter, how to take defaults and have them set aside, how to pursue or defend against claims, how to appeal, how to collect after judgment, how to protect property that is exempt from execution, how to collect costs, and such other matters as the Judicial Council and the department deem necessary or desirable.

(d) The Judicial Council, in cooperation with the Department of Consumer Affairs, shall, if federal or other funding is available, formulate and distribute to each judge who sits in a small claims court a bench book describing all state and federal consumer protection laws reasonably likely to be applicable in actions brought in such court.

SEC. 1.2. Section 116 of the Code of Civil Procedure is amended to read:

116. In each justice and municipal court there shall be a small claims division known as the small claims court. The Judicial Council may provide by rule for the practice and procedure and for the forms and use in proceedings in such court consistent with the provisions of this chapter. It may formulate and make available for distribution to litigants and the public, through each small claims court, other than those designated pursuant to Chapter 5-B (commencing with Section 118) of this title, a manual on small claims court rules and procedures. The manual shall explain how to fill out the necessary forms, how to determine the proper court to hear the matter, how to take defaults and have them set aside, how to pursue or defend against claims, how to appeal, how to collect after judgment, how to protect property that is exempt from execution, and such other matters as the court deems necessary or desirable.

The Judicial Council, in cooperation with the Department of Consumer Affairs, shall, if federal or other funding is available, formulate and distribute to each judge who sits in a small claims court a bench book describing all state and federal consumer protection laws reasonably likely to be applicable in actions brought in such court.

SEC. 1.3. Section 116 of the Code of Civil Procedure is amended to read:

116. (a) In each justice and municipal court there shall be a small claims division known as the small claims court. The Judicial Council may provide by rule for the practice and procedure and for the forms and use in proceedings in such court consistent with the provisions of this chapter.

(b) The Department of Consumer Affairs, in cooperation with the Judicial Council, shall prepare and make available for distribution to the general public through each small claims court, other than those designated pursuant to Chapter 5-B (commencing with Section 118) of this title, a manual on small claims court rules and procedures. The manual shall be designed to provide information regarding the use of the small claims court and the manner in which defaults can be avoided. The Department of Consumer Affairs shall distribute sufficient copies of the manual to each small claims division.

(c) The manual shall explain how to fill out the necessary forms, how to determine the proper court to hear the matter, how to take defaults and have them set aside, how to pursue or defend against claims, how to appeal, how to collect after judgment, how to protect property that is exempt from execution, how to collect costs, and

such other matters as the Judicial Council and the department deem necessary or desirable.

(d) The Judicial Council, in cooperation with the Department of Consumer Affairs, shall, if federal or other funding is available, formulate and distribute to each judge who sits in a small claims court a bench book describing all state and federal consumer protection laws reasonably likely to be applicable in actions brought in such court.

SEC. 2. Section 116.3 is added to the Code of Civil Procedure, to read:

116.3. In any action brought pursuant to subdivision (a) of Section 116.2, the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of or in addition to, money damages.

SEC. 3. Section 116.8 of the Code of Civil Procedure is amended to read:

116.8. (a) No formal pleading other than the claim and order are necessary. The defendant may file a claim in the same proceeding in an amount not to exceed the jurisdictional limit of the court. In the event the defendant files such a claim in the court, he shall serve a copy of his claim on the plaintiff at least five days before the hearing date, unless the plaintiff has served him 10 days or less before the hearing date in which case he shall serve a copy of his claim at least one day before the hearing date. Defendant shall file and serve his claim in the manner provided for filing and serving a claim under Section 116.4.

(b) If defendant has a claim against plaintiff in an amount over the jurisdiction of the small claims court as set forth in Section 116.2, but of a nature which would be the subject of a cross-complaint under the rules of pleading and practice governing the superior court, then defendant may commence an action against plaintiff in a court of competent jurisdiction and file with the small claims court wherein plaintiff has commenced his action, at or before the time set for the trial of the small claims action, an affidavit setting forth the facts of the commencement of such action by such defendant. He shall attach to such affidavit a true copy of the complaint so filed by defendant against plaintiff, and pay to the clerk of the small claims court the sum of one dollar ($1) for a transmittal fee, and shall deliver to plaintiff in person a copy of the affidavit and complaint at or before the time above stated. Thereupon the small claims court shall order that the small claims court action shall be transferred to the court set forth in the affidavit, and shall transmit all files and papers in the small claims actions to such other court, and the actions shall then be tried together in such other court.

The plaintiff in the small claims action shall not be required to pay to the clerk of the court to which the action is so transferred any transmittal, appearance, or filing fee in the action, but shall be required to pay the filing and any other fee required of a defendant if he appears in the action filed against him.

SEC. 3.5. Section 116.8 of the Code of Civil Procedure is amended to read:

116.8. (a) No formal pleadings other than the claim and order are necessary. The defendant may file a claim against the plaintiff in the same proceeding in an amount not to exceed the jurisdictional limit of the court. In the event the defendant files such a claim the judge or clerk shall cause a copy of the defendant's claim to be delivered to the plaintiff in person, or to be mailed by first-class mail to the plaintiff at least five days before the hearing date, unless the defendant has been served 10 days or less before the hearing date in which case the judge or the clerk shall cause such claim to be delivered to the plaintiff in person at least one day before the hearing date or shall be so mailed to the plaintiff not less than three days before the hearing.

(b) If defendant has a claim against plaintiff in an amount over the jurisdiction of the small claims court as set forth in Section 116.2, but of a nature which would be the subject of a cross-complaint under the rules of pleading and practice governing the superior court, then defendant may commence an action against plaintiff in a court of competent jurisdiction and file with the small claims court wherein plaintiff has commenced his action, at or before the time set for the trial of the small claims action, an affidavit setting forth the facts of the commencement of such action by such defendant. He shall attach to such affidavit a true copy of the complaint so filed by defendant against plaintiff, and pay to the clerk of the small claims court the sum of one dollar ($1) for a transmittal fee, and shall deliver to plaintiff in person a copy of the affidavit and complaint at or before the time above stated. Thereupon the small claims court shall order that the small claims court action shall be transferred to the court set forth in the affidavit, and shall transmit all files and papers in the small claims actions to such other court, and the actions shall then be tried together in such other court.

The plaintiff in the small claims action shall not be required to pay to the clerk of the court to which the action is so transferred any transmittal, appearance, or filing fee in the action, but shall be required to pay the filing and any other fee required of a defendant if he appears in the action filed against him.

SEC. 4. Section 117.18 is added to the Code of Civil Procedure, to read:

117.18. Each small claims court may provide by local rule for the establishment of small claims legal advisers. The advisers, who may be volunteers, and who shall be members of the State Bar, paralegals, or law students, shall directly assist litigants, but may not appear in court to act as advocates for any party. The qualification for such legal advisers shall be established by rule of court.

SEC. 5. Section 118.1 of the Code of Civil Procedure is amended and renumbered to read:

117.12. The judgment of the superior court shall be final and not appealable. If the judgment is affirmed in whole or in part or the

appeal is dismissed, the defendant shall pay to the plaintiff the amount of the judgment as affirmed, together with interest and costs and the sum of fifteen dollars ($15) as an attorney's fee.

SEC. 6. Section 118.6 of the Code of Civil Procedure is amended and renumbered to read:

117.14. A fee of two dollars ($2) shall be charged and collected for the filing of the claim under oath for the commencement of any action; for each defendant to whom a copy of the claim is mailed by the clerk a fee of three dollars ($3) shall be charged and collected. Fees as provided in Sections 72062 and 72065 of the Government Code shall be charged and collected by the clerk for the issuance of a writ of execution or an abstract of judgment. Except as otherwise provided for in this chapter, no other fee or charge shall be collected by any officer for any service rendered under this chapter, or for the taking of affidavits for use in connection with any action commenced under this chapter. All fees collected hereunder shall be deposited with the treasurer of the city and county or county under whose jurisdiction any such court shall exist.

SEC. 7. Section 118.7 of the Code of Civil Procedure is amended and renumbered to read:

117.16. Each small claims court shall make a reasonable effort to maintain and make available to the parties a list of interpreters, who are willing and able to aid parties in the small claims court for no fee, or for a fee, which is reasonable considering the size of the claims involved in such court. Such list shall include interpreters for all languages that require interpretation before the court, as determined by the court, in its discretion and in view of its experience. Failure to maintain such a list, or failure to have an interpreter for a particular language on such list, shall not invalidate any proceedings before the court.

SEC. 8. Section 118 of the Code of Civil Procedure is amended to read:

118. It is the intent of the Legislature in enacting this chapter to:

(a) Conduct a court assistance experiment in the small claims courts of specified districts to stimulate use of those courts by, and reduce the number of defaults by, untrained individual litigants unfamiliar with the judicial system who might have previously considered small claims courts an inconvenient or unsatisfactory forum for the resolution of disputes; and

(b) Conduct a monetary jurisdiction experiment to determine the effects of increased jurisdiction on litigants and the courts; and

(c) Establish systems for data collection and evaluation and provide the Legislature with reports on the results of these experiments with recommendations for future action.

SEC. 9. Section 119.4 of the Code of Civil Procedure is amended to read:

119.4. The advisory committee shall assist the Department of Consumer Affairs in compiling and evaluating data, and preparing reports to the Legislature of the effectiveness of the programs and

procedures in the project districts together with recommendations for future action.

SEC. 10. Section 119.9 is added to the Code of Civil Procedure, to read:

119.9. A monetary jurisdiction experiment, which shall operate in the manner specified in Article 6, shall be established in the small claims divisions of the following municipal court districts:

(1) Compton.
(2) East Los Angeles.
(3) Fresno.
(4) Oakland-Piedmont.
(5) San Bernardino (Chino Division).
(6) West Orange County.

SEC. 11. Section 120 of the Code of Civil Procedure is amended and renumbered to read:

119.6. The small claims divisions of three municipal court districts in three different counties have been designated as experimental districts for a court assistance experiment by the Judicial Council, with the advice of the Department of Consumer Affairs and the concurrence of the municipal court involved.

SEC. 12. Section 120.1 of the Code of Civil Procedure is amended to read:

120.1. This chapter shall be implemented in six phases. The first phase shall commence July 1, 1977. The last phase shall terminate June 30, 1980.

The six phases shall be:

(a) From July 1, 1977, to September 30, 1977. During this time the advisory committee shall be appointed and shall convene, and the experimental and other recordkeeping districts shall be designated. Although neither the procedures in experimental districts as set forth in Article 4 (commencing with Section 121) of this chapter nor the recordkeeping and evaluation procedures as set forth in Article 5 (commencing with Section 122) of this chapter shall be in effect during this time, preliminary preparations for the implementation of the procedures in Article 4 (commencing with Section 121) shall be made and preparation for the full implementation of recordkeeping procedures in Article 5 (commencing with Section 122) on October 1, 1977, shall be made during this time.

(b) From October 1, 1977, to March 31, 1978. During this time data shall be accumulated as provided in Sections 122 and 122.1. The procedures in experimental districts as set forth in Article 4 (commencing with Section 121) will not be in effect, but preparation for their full implementation beginning April 1, 1978, shall be made. This preparation shall include the establishing of administrative guidelines, the printing of all forms and manuals, and the training of personnel.

(c) From April 1, 1978, to March 31, 1979. During this time all programs and procedures mandated in Article 4 (commencing with Section 121) shall be in effect. The procedures in experimental

districts set forth in Article 4 (commencing with Section 121), and the recordkeeping set forth in Article 5 (commencing with Section 122) shall terminate after March 31, 1979.

(d) From April 1, 1979, to June 30, 1979. During this time the advisory committee and the Department of Consumer Affairs shall complete their report to the Legislature regarding the court assistance experiment.

(e) From April 1, 1979, until March 31, 1980. During this time the jurisdictional limits established pursuant to Article 6 (commencing with Section 123) shall be in effect in the courts designated under Section 119.8. Programs mandated under Article 4 (commencing with Section 121) may continue during this period.

(f) From November 1, 1979, until July 1, 1980. During this time the advisory committee and the Department of Consumer Affairs shall complete their reports to the Legislature concerning the monetary jurisdiction experiment.

SEC. 13. The heading of Article 4 (commencing with Section 121) of Chapter 5-B of Title 1 of Part 1 of the Code of Civil Procedure is amended to read:

Article 4. Procedures in the Court Assistance Experimental Project Districts

SEC. 14. Article 6 (commencing with Section 123) is added to Chapter 5-B of Title 1 of Part 1 of the Code of Civil Procedure, to read:

Article 6. Monetary Jurisdiction Experiment

123. (a) Notwithstanding the provisions of Section 116.2, the small claims divisions of the municipal courts specified in Section 119.9, shall have jurisdiction in actions:

(1) For recovery of money only where the amount of the demand does not exceed one thousand five hundred dollars ($1,500).

(2) To enforce payment of delinquent unsecured personal property taxes in an amount not to exceed one thousand five hundred dollars ($1,500), if the legality of the tax is not contested by the defendant.

(3) In unlawful detainer, after default in rent for residential property, where the term of tenancy is not greater than month to month and the amount claimed does not exceed one thousand five hundred dollars ($1,500).

(b) Notwithstanding any other provision of law, no plaintiff which is a corporation shall be allowed to bring an action exceeding seven hundred fifty dollars ($750) in the small claims divisions of the municipal courts specified in Section 119.9 unless, at the time of the commencement of the action, the defendant resides in the judicial district where the action is brought.

(c) In any action brought pursuant to paragraph (1) of subdivision

(a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of or in addition to money damages.

123.1. (a) In two of the six courts specified in Section 119.9, defendants shall have the option, prior to the small claims hearing, to transfer the action, upon payment of an appropriate fee, to the civil division of the municipal court. The plaintiff in such actions shall not be charged any additional fee when the case is transferred.

(b) Two of the remaining four courts specified in Section 119.9 shall provide for the establishment of small claims legal advisers pursuant to rules of the Judicial Council. The advisers, who may be members of the State Bar, paralegals, or law students, shall directly assist litigants, but may not appear in court to act as advocates for any party. The Judicial Council may provide by rule for an increase in the filing fee in such districts of up to two dollars ($2) in addition to the fees specified in Section 117.14 to fund the costs of such advisers.

(c) The courts which shall offer the foregoing features shall be selected under the supervision of the Judicial Council and designated by rule.

123.4. The Judicial Council, in cooperation with the Department of Consumer Affairs and the participating courts, shall, if federal or other funding is available, study the effects of the jurisdictional change on plaintiffs and defendants. The Judicial Council shall survey the effects of the jurisdictional change upon the courts. The Judicial Council, with the advice of the Department of Consumer Affairs, shall designate at least two courts operating pursuant to Section 116.2 to be included in the studies for purposes of comparison with the courts specified under Section 119.9.

123.5. The advisory committee and the Department of Consumer Affairs shall provide the Legislature with a preliminary report no later than February 1, 1980, and a final report by July 1, 1980. The reports shall discuss, to the extent relevant, at least the following: (a) any change in filing practices by plaintiffs, particularly corporate and governmental plaintiffs; (b) the reasons for any changes in filing behavior and patterns; (c) the impact on natural person plaintiffs and defendants which occur as a result of changed filing patterns; (d) any additional judicial and clerical time and expense; and (e) use of the transfer option by defendants and the reasons therefor.

123.7. In addition to the fees specified by Sections 117.14 and 123.1, the courts specified under subdivision (b) of Section 123.1 shall charge an additional fee of one dollar ($1) for the filing of a claim under oath for the commencement of any small claims action. The additional funds provided by such increased fees shall reimburse local agencies for costs incurred in connection with this article.

SEC. 15. Section 2 of Chapter 1287 of the Statutes of 1976 is amended to read:

Sec. 2. This act shall become operative on July 1, 1977, and shall continue in force until June 30, 1980, at which time it shall be repealed.

There are no state-mandated local costs within the meaning of Section 2231 of the Revenue and Taxation Code imposed on local governmental entities in 1976–1977 by this act. However, there are state-mandated local costs in this act in 1977–1978 and subsequent years that require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular budget process.

SEC. 16. It is the intent of the Legislature that if this bill and Assembly Bill No. 2115 or Assembly Bill No. 2574, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 116 of the Code of Civil Procedure, 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. 2115 are both chaptered and become effective January 1, 1979, both bills amend Section 116 of the Code of Civil Procedure, but Assembly Bill No. 2574 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2115, the amendments proposed by both bills shall be given effect and incorporated in Section 116 in the form set forth in Section 1.1 of this act. Therefore, if this bill and Assembly Bill No. 2115 are both chaptered and become effective January 1, 1979, both bills amend Section 116, this bill is chaptered after Assembly Bill No. 2115, and Assembly Bill No. 2574 is not chaptered or as chaptered does not amend that section, Section 1.1 of this act shall be operative and Sections 1, 1.2, and 1.3 of this act shall not become operative.

(2) If this bill and Assembly Bill No. 2574 are both chaptered and become effective January 1, 1979, both bills amend Section 116 of the Code of Civil Procedure, but Assembly Bill No. 2115 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2574, the amendments proposed by both bills shall be given effect and incorporated in Section 116 in the form set forth in Section 1.2 of this act. Therefore, if this bill and Assembly Bill No. 2574 are both chaptered and become effective January 1, 1979, both bills amend Section 116, this bill is chaptered after Assembly Bill No. 2574, and Assembly Bill No. 2115 is not chaptered or as chaptered does not amend that section, Section 1.2 shall be operative and Sections 1, 1.1, and 1.3 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 2115 and Assembly Bill No. 2574 are all chaptered and become effective January 1, 1979, all three bills amend Section 116 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill No. 2115 and Assembly Bill No. 2574, the amendments proposed by all three bills shall be given effect and incorporated in Section 116 in the form set forth in Section 1.3 of this act. Therefore, if this bill and Assembly Bill No. 2115 and Assembly Bill No. 2574 are all chaptered and become effective January 1, 1979, all three bills amend Section 116 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill No. 2115 and Assembly Bill No. 2574, Section 1.3 of this act shall be operative and Sections 1, 1.1, and 1.2 of this act shall not become operative.

SEC. 17. It is the intent of the Legislature, if this bill and Assembly Bill No. 2574 are both chaptered and become effective January 1, 1979, both bills amend Section 116.8 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill No. 2574, that the amendments to Section 116.8 proposed by both bills be given effect and incorporated in Section 116.8 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and Assembly Bill No. 2574 are both chaptered and become effective January 1, 1979, both amend Section 116.8, and this bill is chaptered after Assembly Bill No. 2574, in which case Section 3 of this act shall not become operative.

SEC. 18. 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 724

An act to amend Section 12525 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 12525 of the Welfare and Institutions Code is amended to read:

12525. If the regular monthly check for benefits under Chapter 3 (commencing with Section 12000) of this part or Title II of the federal Social Security Act (42 U.S.C. 401 et seq.) is not received by a recipient under Chapter 3 as verified by the federal Social Security Administration and the recipient does not receive a replacement of such check within four days after the normal delivery date of the check, excluding any days mail is normally not delivered, the county shall immediately loan the recipient the amount of his entitlement for the current month up to the amount of two hundred fifty dollars ($250) until his check is received.

In administering amounts appropriated or made available for disbursement through the counties for purposes of this section, the department shall adopt regulations that base eligibility for loans on repayment of previous loans. The district attorney or other civil legal officer of the county may maintain an action to enforce repayment of the loan. The county shall seek restitution by request, civil action, or other suitable means prior to the bringing of any criminal action.

The county shall prepare the affidavit for the recipient.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this

section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not place any financial burden on local government. If there are any costs incurred as a result of this act, local governments may file claims for reimbursement pursuant to Section 2231 of the Revenue and Taxation Code.

CHAPTER 725

An act to amend Section 24071.1 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 24071.1 of the Business and Professions Code is amended to read:

24071.1. When the ownership of 50 percent or more of the shares of stock of a corporation, which is required to report the issuance or transfer of such shares of stock under Section 23405, is acquired by or transferred to a person or persons who did not hold the ownership of 50 percent of such shares of stock on the date the license was issued to the corporation, the license of the corporation shall be transferred to the corporation as newly constituted. When the ownership of 50 percent or more of the capital or profits of a limited partnership, which is required to maintain a register under Section 23405.1, is acquired by or transferred to a person or persons as limited partners and who did not hold ownership of 50 percent or more of the capital or profits of such limited partnership on the date the license was issued to the general partners of such limited partnership, the license of the general partners of such limited partnership shall be transferred to the general partners of the limited partnership as newly constituted. The fee for such transfer shall be equal to 50 percent of the original fee for the license, provided that the minimum fee shall be one hundred dollars ($100) and the maximum fee shall be eight hundred dollars ($800). In situations involving the multiple and simultaneous transfer of licenses under this section, the regular transfer fee shall only be required for one of the licenses being transferred and the remainder of the licenses shall be transferred for a fee of one hundred dollars ($100) each. All of the transfer fees collected pursuant to this section shall be deposited directly in the General Fund in the State Treasury, rather than in the Alcohol Beverage Control Fund as provided in Section 25761. Before the license is transferred, the department shall conduct an investigation pursuant to the provisions of Section 23958. Any person

or persons who own 50 percent or more of the shares of stock of the corporation or who own as limited partners 50 percent or more of the capital or profits of the limited partnership, as the case may be, shall have all the qualifications required of a person holding the same type of license.

No retail license shall be transferred by a corporation under this section unless, before the filing of the transfer application with the department, the corporation initiating such transfer records in the office of the county recorder of the county or counties in which the premises to which the license has been issued are situated a notice of the intended transfer, stating all of the following:

(a) The name and address of the corporation.

(b) The name and address of the person or persons acquiring ownership of 50 percent or more of the stock of the corporation.

(c) The amount of the consideration paid for the stock.

(d) The kind of license or licenses intended to be transferred.

(e) The address or addresses of the premises to which the license or licenses have been issued.

A copy of the notice of the intended transfer, certified by the county recorder, shall be filed with the department together with the transfer application.

Notwithstanding any other provision of this division to the contrary, a corporation as newly constituted by transfer under this section, shall not be eligible for any new credit from an alcoholic beverage supplier or manufacturer named in Section 25509 until all delinquent payments owed by the corporation as formerly constituted, are made, nor shall any corporate retail licensee, by transferring its license under this section, avoid the provisions of Section 25509 with regard to 42-day or 30-day periods, percentage charges for unpaid balances, or cash on delivery basis.

CHAPTER 726

An act to amend Sections 5751 and 5751.1 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 5751 of the Welfare and Institutions Code is amended to read:

5751. The Director of Mental Health, after approval by the California Conference of Local Mental Health Directors, shall by regulation establish standards of education and experience for professional, administrative, and technical personnel employed in mental health services and for the organization and operation of

mental health services. No regulations shall be adopted by the state or any county, nor shall any procedures be implemented by a local mental health program or contract agency, which prohibit a psychiatrist, psychologist or clinical social worker from employment in a local mental health program in any professional, administrative or technical positions in mental health services.

Appointments of directors, program chiefs, and comparable positions, and unit or treatment team leaders shall be made on the basis of professional competence. No local program or its contractors may restrict such appointments to one discipline. Each local program and its contractors shall consider applications from, and make appointments equally open to, all professions that are eligible pursuant to this section.

Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. Such standards may include the maintenance of records of service which shall be reported to the State Department of Mental Health in a manner and at such times as it may specify.

Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist, psychologist, clinical social worker or hospital administrator, who meets standards of education and experience established by the Director of Mental Health. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2137 of the Business and Professions Code.

The regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of the Government Code.

SEC. 2. Section 5751.1 of the Welfare and Institutions Code is amended to read:

5751.1. Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director meet the standards of education and experience established by the Director of Mental Health and that the appointment be open on the basis of competence to all eligible disciplines pursuant to Section 5751. Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607.

Where the director of local mental health services is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2137 of the Business and Professions Code.

CHAPTER 727

An act to add Section 14502 to the Welfare and Institutions Code, relating to family planning.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 14502 is added to the Welfare and Institutions Code, to read:

14502. The Office of Family Planning may, to the extent funds are available, and not more frequently than once each year, advance up to 25 percent of the yearly allocation to an individual or entity with which it has contracted, pursuant to subdivision (i) of Section 14501, to provide material, equipment, and services.

CHAPTER 728

An act relating to filing maps and plats, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978]

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

SECTION 1. Notwithstanding the provisions of Sections 54902 and 54903 of the Government Code, any community services district formed prior to January 20, 1978, which files its map or plat with the State Board of Equalization on or before January 20, 1978, shall be effective for assessment and taxation purposes for the 1978–1979 fiscal year.

SEC. 2. Except as provided in subparagraph (C) of paragraph (1) of subdivision (b) of Section 26912 of the Government Code, for the purpose of Section 26912 of the Government Code, a city or special district formed after December 1, 1976 shall be a local agency for the purposes of that section and shall be assumed to have levied during the 1975–76, 1976–77, and 1977–78 fiscal years tax rates equal to two thirds of its maximum tax rate for the 1978–79 fiscal year which would have been permitted under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code, prior to its amendment by Chapter 292 of the Statutes of 1978.

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

governmental entities or school districts by this act are such that related costs are incurred as 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:

The Daphnedale Community Services District has been formed but, due to inadvertence, neglected to timely file the required maps and plats with the State Board of Equalization. This act will remedy the situation by allowing the Daphnedale Community Services District and other community services districts similarly situated to have their property taxes collected for them for the 1978–1979 fiscal year. Therefore, it is necessary for this act to take effect immediately.

CHAPTER 729

An act to add Section 10177.4 to the Business and Professions Code, relating to real estate licenses.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 10177.4 is added to the Business and Professions Code, to read:

10177.4. Notwithstanding any other provision of law, the commissioner may, after hearing in accordance with the provisions of this part relating to hearings, suspend or revoke the license of a real estate licensee who claims, demands, or receives a commission, fee or other consideration, as compensation or inducement, for referral of customers to any escrow agent, structural pest control firm, title insurer, controlled escrow company, or underwritten title company.

The term "other consideration" as used in this section does not include:

(1) Bona fide payments for goods or facilities actually furnished by a licensee or for services actually performed by a licensee, provided such payments are reasonably related to the value of the goods, facilities or services furnished;

(2) Furnishing of documents, services, information, advertising, educational materials, or items of a like nature which are customary in the real estate business and which relate to the product or services of the furnisher and which are available on a similar and essentially equal basis to all customers or the agents of such customers of the furnisher;

(3) Moderate expenses for food, meals, beverages and similar

items furnished to individual licensees or groups or associations of licensees within a context of customary business, educational or promotional practices pertaining to the business of the furnisher;

(4) Items of a character and magnitude similar to those in subsections (2) and (3) which are promotional of the furnisher's business customary in the real estate business, and available on a similar and essentially equal basis to all customers, or the agents of such customers, of the furnisher.

Nothing in this section shall relieve any licensee of the obligation of disclosure otherwise required by this part.

CHAPTER 730

An act to amend Section 12403.7 of the Penal Code, relating to tear gas.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 12403.7 of the Penal Code is amended to read:

12403.7. (a) Notwithstanding any other provision of law, any person may purchase, possess or use tear gas and tear gas weapons for the projection or release of tear gas if such tear gas and tear gas weapons are approved by the Department of Justice and are used solely for self-defense purposes, subject to the following requirements:

(1) No person convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country shall purchase, possess, or use tear gas or tear gas weapons.

(2) No person who is addicted to any narcotic drug shall purchase, possess, or use tear gas or tear gas weapons.

(3) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

(4) (i) No person shall purchase, possess or use any tear gas weapon which expels a projectile, or which expels the tear gas by any method other than an aerosol spray, or which is of a type, or size of container, other than authorized by regulation of the Department of Justice.

(ii) The department, with the cooperation of the State Department of Health Services, shall develop standards and promulgate regulations regarding the type of tear gas and tear gas weapons which may lawfully be purchased, possessed, and used pursuant to this section.

(iii) The regulations of the department shall include a requirement that every mace container and tear gas weapon which

may be lawfully purchased, possessed, and used pursuant to this section have a label which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a felony under California law. The contents are dangerous--use with care."

(5) (i) No person shall purchase, possess, or use any tear gas or any tear gas weapon who has not completed a course certified by the Department of Justice in the use of tear gas and tear gas weapons pursuant to which a card is issued identifying the person who has completed such a course. Such a course shall be taken in any training institution approved by the Department of Justice to offer tear gas training. Such a training institution is authorized to charge a fee covering the actual cost of such training.

(ii) The Department of Justice, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the use of tear gas and tear gas weapons.

(6) No person shall purchase, possess or use any tear gas or tear gas weapon if such person has not been issued a permit by the police chief or sheriff having jurisdiction over the person's place of legal residence. The police chief or sheriff shall issue a permit to any person who has completed the course of training specified in paragraph (5), and who meets the following criteria:

(i) Is not a minor.

(ii) Has not been convicted of a felony.

(iii) Is not addicted to any narcotic drug.

(iv) Has not been convicted of any crime involving assault.

(v) Has not been convicted of misuse of tear gas under paragraph (8).

(7) If an application for a permit is denied, the police chief or sheriff denying such permit shall inform the applicant in writing of the reason for such denial.

The police chief or sheriff may charge a fee covering the actual cost of processing the application which shall also include the fee charged by the Department of Justice for noncriminal fingerprint card processing. The valid permit shall be carried on the person when carrying tear gas or tear gas weapons and shall be presented for examination to the vendor from whom any tear gas or tear gas weapons are purchased. The sale of tear gas or tear gas weapons by a vendor to a person who fails to present an identifying permit is a violation of Section 12420.

(8) Any person who has a valid permit, who uses tear gas or tear gas weapons except in self-defense or as authorized for training purposes by the department is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by fine not to exceed one thousand dollars ($1,000) or by both such fine and imprisonment.

(9) No person shall purchase, possess, or use any tear gas or tear gas weapon pursuant to this section prior to July 1, 1977.

(b) Such permit shall be valid for a period of seven years unless revoked because the person no longer meets the criteria specified under paragraph (6), and shall be nontransferable.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

The Department of Justice may adopt and promulgate such regulations concerning the purchase and disposal of self-defense tear gas weapons, the standards for tear gas training courses, and the approval of facilities at which such training shall occur as are necessary to insure the safe use and possession of such tear gas weapons by permit holders.

(c) Any person who successfully completes training under this section for which the course and training facility must be approved by the Department of Justice is entitled to receive a certificate of completion issued by the Department of Justice. A fee shall be charged by the Department of Justice for the certificate. The fee shall be no more than is necessary to reimburse the Department of Justice for the costs of approving the courses, the facilities, maintaining control of the quality of the courses, and issuing the certificate of completion. The Department of Justice may provide by regulations the manner in which the fee is collected and paid.

CHAPTER 731

An act to amend Section 7150 of the Financial Code, relating to savings and loan associations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 7150 of the Financial Code is amended to read:

7150. An association may make amortized loans, as defined in Section 5074, upon the security of real property for the following terms, from the due date of the first principal installment.

(a) Loans secured by improved real property, for a term of not more than 30 years.

(b) Loans secured by other real property, for a term of not more than 20 years.

(c) Loans made pursuant to Article 3 of this chapter, for the maximum term, applicable to such loan pursuant to the provisions of the National Housing Act or any act of Congress supplementary or amendatory thereof or of the Servicemen's Readjustment Act of 1944 or any act of Congress supplementary or amendatory thereof or of the Veteran's Readjustment Act of 1952 or any act of Congress

supplementary or amendatory thereof.

Notwithstanding subdivision (a), when a loan secured by residential real property contains a provision for a variable interest rate and there is an increase in the interest rate pursuant to such provision, the term of such loan may be extended on the mutual agreement between the lender and the person or persons obligated to repay the indebtedness for such additional period as may be required to amortize the loan without increasing the existing monthly payment, but not to exceed a maximum term of 40 years. Nothing in this paragraph shall affect the right of the borrower under Section 1916.5 of the Civil Code to secure an extension of terms.

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 loan instruments executed by state-chartered savings and loan associations on the security of residential real property in excess of four dwelling units that authorize increases in the interest rate and the monthly payments on the loan pursuant to variable interest rate provisions. In order to allow borrowers to extend the term of these loans in order to prevent an increase in monthly payments, the cost of which might be passed along to renters in the form of increased rents, it is necessary to allow borrowers who have loans secured by residential real property in excess of four dwelling units to extend the terms of the loans to up to 40 years. It is therefore necessary that this act take effect immediately.

CHAPTER 732

An act to amend Sections 469, 533, 534, 1605, 4831, 4986, 5096, and 5097 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 469 of the Revenue and Taxation Code is amended to read:

469. In any case in which locally assessable business tangible personal property owned, claimed, possessed or controlled by a taxpayer engaged in a profession, trade, or business has a full value of one hundred thousand dollars ($100,000) or more, the assessor shall audit the books and records of such profession, trade, or business at least once each four years. If the board determines the value of property pursuant to Chapter 2 (commencing with Section 1815) of Part 3 of this division, such determination may be deemed an audit by the assessor for purposes of this section.

Equalization of the property by a county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division shall not preclude a subsequent audit and shall not preclude the assessor from levying an escape assessment in appropriate instances, but shall preclude an escape assessment being levied on that portion of any such assessment which was the subject of any such equalization hearing.

If the result of an audit for any year discloses property subject to an escape assessment, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those instances when such property had previously been equalized for the year in question.

If the audit for any particular tax year discloses that the property of the taxpayer was incorrectly valued or misclassified for any cause, to the extent that this error caused the property to be assessed at a higher value than the assessor would have entered on the roll had such incorrect valuation or misclassification not occurred, then the assessor shall notify the taxpayer of the amount of the excess valuation or misclassification, and the fact that a claim for cancellation or refund may be filed with the county as provided by Sections 4986 and 5096.

SEC. 2. Section 533 of the Revenue and Taxation Code is amended to read:

533. Assessments made pursuant to Article 3 (commencing with Section 501) of this chapter or pursuant to this article shall be entered on the roll prepared or being prepared in the assessment year when it is so discovered and, if this is not the roll for the assessment year in which it escaped assessment, the entry shall be followed with "Escaped assessment for year 19__ pursuant to Sections _____ of the Revenue and Taxation Code."

If the assessments are made as a result of an audit which discloses that property assessed to the party audited has been incorrectly assessed either for a past tax year for which taxes have been paid and a claim for refund is not barred by Section 5097 or for any tax year for which the taxes are unpaid, the assessed values incorrectly assessed shall be an offset only against a proposed escape assessment for any tax year covered by the audit. If such values exceed any proposed escape assessment, the assessor shall notify the party audited and the State Controller of the amount of the excess and the fact that a claim for cancellation or refund may be filed with the county as provided by Sections 4986 or 5096. In the event that the assessment caused an excess payment of taxes and therefore resulted in an overpayment by the state for property tax relief as provided by Section 219, then subsequent subventions for property tax relief shall be reduced by the amount of such overpayment.

SEC. 3. Section 534 of the Revenue and Taxation Code is

amended to read:

534. Assessments made pursuant to Article 3 (commencing with Section 501) of this chapter or pursuant to this article shall be treated like, and taxed at the same rate applicable to, property regularly assessed on the roll on which it is entered, unless the assessment relates to a prior year and then the tax rate of the prior year shall be applied.

No such assessment shall be effective for any purpose, including its review, equalization and adjustment by the Board of Equalization, until the assessee has been notified thereof personally or by United States mail at his address as contained in the official records of the county assessor. Receipt of the assessee of a tax bill based on such assessment shall suffice as such notice. Any such assessment shall be subject to the provisions of Sections 469 and 1605.

SEC. 4. Section 1605 of the Revenue and Taxation Code is amended to read:

1605. (a) An assessment made outside of the regular assessment period is not effective for any purpose, including its review, equalization and adjustment by the county board, until the assessee has been notified thereof personally or by United States mail at his address as contained in the official records of the county assessor. Receipt by the assessee of a tax bill based on said assessment shall suffice as such notice.

(b) Upon application for reduction pursuant to subdivision (a) of Section 1603, such assessment shall be subject to review, equalization and adjustment by the county board. The application must be filed with the clerk no later than 60 days after the date on which the assessee was notified.

(c) In counties where assessment appeals boards have not been created and are not in existence, at any regular meeting, the board of supervisors, on the request of the assessor or any taxpayer, shall sit as the county board to equalize any assessments made by the assessor outside the regular assessment period for such assessments. Notwithstanding any other provision of law to the contrary, in any county in which assessment appeals boards have been created and are in existence, the time for equalization of assessments made outside the regular assessment period for such assessments, including assessments made pursuant to Sections 501, 503, 504, 531, and 531.1, shall be prescribed by rules adopted by the board of supervisors.

(d) If an audit of the books and records of any profession, trade, or business pursuant to Section 469 of this code discloses property subject to an escaped assessment for any year, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those instances when such property had previously been equalized for the year in question by the county board of equalization or assessment appeals board The

application must be filed with the clerk no later than 60 days after the mailing of the tax bill on such assessment to the assessee.

SEC. 4.5. Section 4831 of the Revenue and Taxation Code is amended to read:

4831. (a) When it can be ascertained from an inspection of the property, the records of the assessee, or from the roll or any papers in the assessor's office what was intended, or what should have been assessed, defects in description or form or clerical errors of the assessor on the roll or other errors of the assessor not involving the exercise of judgment as to value which result in the entry on the roll of assessed values other than those intended by the assessor, or which result in the assessment of nonexistent improvements or personal property, may be corrected under this article at any time after the roll is delivered to the auditor and prior to the expiration of four years after the making of the assessment which is being corrected. If any such error is discovered as the result of an audit of a taxpayer's books and records, such error may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) This section shall also be applicable in the case of the assessment of improvements or personal property which are subsequently determined not to have existed on the lien date, notwithstanding the fact that some improvements or personal property were in existence and were assessed relative to a particular parcel or account.

(c) Taxes which do not create, impose or constitute a lien or charge on the property assessed may be transferred from the secured roll to the unsecured roll of the corresponding year by the county auditor on order of the board of supervisors with the written consent of the district attorney and shall be collected in the same manner as other delinquent taxes on the unsecured roll and shall be subject to delinquent penalties in the same manner as taxes transferred to the unsecured roll under Section 4986. The statute of limitations for the collection of such taxes shall commence to run from the date of transfer.

(d) Any liens created pursuant to this section prior to the effective date of Chapter 1190 of the Statutes of 1973 (January 1, 1974), shall have the force, effect and priority of a judgment lien, and shall continue for 10 years from the time of recording of the certificate authorized under this section unless sooner released or otherwise discharged.

SEC. 5. 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.

(7) On that portion of an assessment in excess of the value of the property as determined by the assessor pursuant to Section 469.

(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, of 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 of immediate possession 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 such order of immediate possession.

The subject of the amount of the taxes which may be due on the property shall not be considered relevant on any issue in the condemnation action, and the mention of said subject, either on the voir dire examination of jurors, or during the examination of witnesses, or as a part of the court's instructions to the jury, or in argument of counsel, or otherwise, shall constitute grounds for a mistrial in any such action.

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.

SEC. 6. Section 5096 of the Revenue and Taxation Code is amended to read:

5096. On order of the board of supervisors, any taxes paid before or after delinquency shall be refunded if they were:

(a) Paid more than once.

(b) Erroneously or illegally collected.

(c) Illegally assessed or levied.

(d) Paid on an assessment in excess of the ratio of assessed value to the full value of the property as provided in Section 401 by reason of the assessor's clerical error or excessive or improper assessments attributable to erroneous property information supplied by assessee.

(e) Paid on an assessment of improvements when the

improvements did not exist on the lien date.

(f) Paid on an assessment in excess of the equalized value of the property as determined pursuant to Section 1613 by the county board of equalization.

(g) Paid on an assessment in excess of the value of the property as determined by the assessor pursuant to Section 469.

SEC. 6.5. Section 5097 of the Revenue and Taxation Code is amended to read:

5097. (a) No order for a refund under this article shall be made, except on a claim:

(1) Verified by the person who paid the tax, his guardian, executor, or administrator.

(2) Filed within four years after making of the payment sought to be refunded or within one year after the mailing of notice as prescribed in Section 2635, whichever is later.

(b) An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund under this section if the applicant states in the application that the application is intended to constitute a claim for refund. If the applicant does not so state, he may thereafter and within the period provided in paragraph (2) of subdivision (a) file a separate claim for refund of taxes extended on the assessment which applicant applied to have reduced pursuant to Section 1603 or Section 1604.

(c) If an application for equalization of an escape assessment is filed pursuant to Section 1603, a claim may be filed on any taxes resulting from the escape assessment or the original assessment to which the escape relates within the period provided in paragraph (2) of subdivision (a) or within 60 days from the date the board of equalization makes its final determination on the application, whichever is later.

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 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 733

An act to add Sections 28217, 28697, and 28802.7 to the Health and Safety Code, relating to health and sanitation requirements.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 28217 is added to the Health and Safety Code, to read:

28217. Prior to a city, county, or city and county enforcing the provisions of this chapter by requiring that the area where food is processed or dispensed be enclosed, the local health department shall make a finding after a public hearing that such an enclosure is necessary for the protection of the public health and sanitation and such finding shall have been ratified by the legislative body of such local entity and shall have been concurred in by the State Director of Health Services.

SEC. 2. Section 28697 is added to the Health and Safety Code, to read:

28697. Notwithstanding the provisions of this chapter, prior to a city, county, or city and county requiring that the area where food is processed or dispensed be enclosed pursuant to this chapter, the local health department shall make a finding after a public hearing that such an enclosure is necessary for the protection of the public health and sanitation and such finding shall have been ratified by the legislative body of such local entity and shall have been concurred in by the State Director of Health Services.

SEC. 3. Section 28802.7 is added to the Health and Safety Code, to read:

28802.7. (a) Prior to a city, county, or city and county enforcing the provisions of this chapter by requiring that the area where food is processed or dispensed be enclosed, the local health department shall make a finding after public hearing that such an enclosure is necessary for the protection of the public health and sanitation and such finding shall have been ratified by the legislative body of such local entity and shall have been concurred in by the State Director of Health Services.

(b) Notwithstanding the provisions of Section 28802.5, this section shall be applicable to roadside stands, open-air food establishments, and retail dairies.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 734

An act to add Section 5203.6 to the Education Code, relating to the San Leandro Unified School District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 5203.6 is added to the Education Code, to read:

5203.6. If the Charter of the City of San Leandro is amended so that it no longer provides for a board of education of the San Leandro Unified School District, a new board of education composed of seven members is created under this section immediately upon the effective date of such amendment. The San Leandro Unified School District shall be divided into six trustee areas as had been provided in the Charter of the City of San Leandro, and the members thereof shall be elected in the same manner as provided in the Charter of the City of San Leandro, before the effective date of such amendment. The members of the board in office on the effective date of the charter amendments shall each continue in office until the first day of April, or until a successor qualifies therefor, in the year in which their respective term of office would otherwise have terminated.

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 an orderly transition of the governing board of the San Leandro Unified School District, it is necessary that this act take effect immediately.

CHAPTER 735

An act to amend Section 13073.5 of the Government Code, relating to the Population Research Unit.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 13073.5 of the Government Code is amended to read:

13073.5. The Legislature finds and declares that: (1) population size and distribution patterns in California exert a major influence on the physical, social, and economic structure of the state and on the quality of the environment generally; (2) sound and current data and methods to estimate population trends are necessary to enable state, regional, and local agencies to plan and function properly; and (3) there is a critical need for a proper study of the implications of present and future population trends in order that state, regional,

and local agencies might develop or reexamine policies and actions based thereon.

The Population Research Unit shall:

(a) Develop basic demographic data and statistical compilations, which may include current population survey and a mid-decade census.

(b) Design and test methods of research and data collection.

(c) Conduct local population estimates as required by law.

(d) Validate all official census data and population statistics.

(e) Analyze and prepare projections of enrollments in public schools, colleges, and universities.

(f) Analyze governmental records to establish characteristics of migration and distribution.

(g) Publish annual estimates of the population of the state and its composition.

(h) Prepare short- and long-range projections of population and its composition.

(i) Provide advisory services to state agencies and other levels of government.

(j) Evaluate and recommend data requirements for determining population and population growth.

(k) Analyze the demographic features of the causes and consequences of patterns of natural increase or decrease, migration, and population concentration within the state.

(*l*) Assess the need for population data required for determining the allocation of federal, state, and other subvention revenues.

(m) Request and obtain from any department, division, commission, or other agency of the state such assistance and information as will enable the unit to effectively carry out the provisions of this section.

(n) Cooperate with the Office of Planning and Research with respect to functions involving mutual areas of concern relating to demography and state planning.

(o) Enter into agreements to carry out the purposes of this section, including the application for and acceptance of federal funds or private foundation grants for demographic studies.

(p) Act as primary state government liaison with the Census Bureau, United States Department of Commerce, in the acquisition and distribution of census data and related documentation to state agencies.

(q) Administer, with other agencies, a State Census Data Center which will be responsible for acquiring decennial and other census data from the Bureau of the Census, and for providing necessary information to the Legislature and to the executive branch and for seeking to ensure the availability of census information to local governments. The unit and the Office of Planning and Research shall be responsible for designating subcenters of the State Census Data Center as needed. The unit will provide materials to subcenters of the State Census Data Center, will coordinate the efforts of the

subcenters to avoid duplication and may consult in the design of standard reports to be offered by the center and its subcenters.

(r) Coordinate with the Office of Planning and Research Environmental Data Center for the purposes of ensuring consistency and compatibility of data products, improving public access to data, ensuring the consistent interpretation of data, and avoiding duplication of functions.

CHAPTER 736

An act to amend Section 18415 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 18415 of the Revenue and Taxation Code is amended to read:

18415. Except as provided in subdivision (c), for taxable years beginning on and after January 1, 1973, every individual shall make a declaration of estimated tax for the lesser of the amounts stated in subdivision (a) or (b).

(a) The tax imposed under Section 17041 or 17048 for the preceding taxable year, minus the sum of any credits against the tax provided by this part.

(b) A tax computed under Section 17041 or 17048 upon the estimated income for the taxable year minus the sum of any credits against the tax provided by this part.

(c) No declaration is required if:

(1) The tax determined under subdivision (a) or subdivision (b) is less than one hundred dollars ($100) except in the case of a separate return filed by a married person the amount shall be less than fifty dollars ($50); or

(2) Eighty percent or more of the tax imposed under Section 17041 or 17048 for the preceding taxable year minus the sum of any credits against the tax provided by this part, except the credit allowed under Section 18551.1 for tax withheld on wages pursuant to Section 18806, was paid, or 80 percent or more of the estimated tax for the current taxable year will be paid, by withholding of tax on wages as provided by Section 18806; or

(3) Eighty percent or more of the adjusted gross income for the taxable year consists of wages subject to withholding pursuant to Section 18806.

(d) The declaration provided by this section shall contain such pertinent information as the Franchise Tax Board may by forms or regulations prescribe.

(e) An individual may make amendments of a declaration filed during the taxable year under regulations prescribed by the Franchise Tax Board.

(f) If on or before January 31 (or March 1, in the case of an individual referred to in paragraph (2) of subdivision (b) of Section 18435, relating to income from farming or fishing) of the succeeding taxable year the taxpayer files a return, for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the Franchise Tax Board—

(1) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15, such return shall be considered as such declaration; and

(2) If the tax shown on the return (reduced by the sum of the credits against tax provided by subdivision (b) of this section) is greater than the estimated tax shown in a declaration previously made, or in the last amendment thereof, such return shall be considered as the amendment of the declaration permitted by subdivision (e) to be filed on or before January 15.

In the application of this subdivision, in the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the 15th or last day of the months specified in this subdivision, the 15th or last day of the months which correspond thereto.

(g) An individual with a taxable year of less than 12 months shall make a declaration in accordance with regulations prescribed by the Franchise Tax Board.

(h) The provisions of this section shall not apply to an estate or trust.

(i) The provisions of this section shall apply to a nonresident individual.

(j) In the case of a husband and wife, a single declaration of estimated tax under Section 18414.5 or this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if either the husband or the wife is a nonresident, if they are separated under a decree of divorce or of separate maintenance or a final judgment of dissolution of marriage, or if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

SEC. 2. The provisions of this act shall apply to declarations of estimated taxes required to be filed in 1978 and thereafter.

CHAPTER 737

An act to add Section 402.9 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 402.9 is added to the Revenue and Taxation Code, to read:

402.9. In valuing property for persons of low and moderate income, which is financed under Section 236 of the federal National Housing Act, since federal restrictions accompanying such programs substantially affect actual income and expenses of the property owner, the assessor shall not consider as income any interest subsidy payments made to a lender on such property by the federal government.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, there shall be no reimbursement of local government pursuant to such section, nor shall any claims be made under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the exemption of property by Section 1 of this act.

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 are minor in nature and will not cause any financial burden to local government.

CHAPTER 738

An act to amend Section 1260 of the Education Code, relating to schools.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 1260 of the Education Code is amended to read:

1260. The county superintendent of schools with the approval of the county board of education may:

(a) Conduct studies through research and investigation as are determined by the county board to be required in connection with

the future management, conditions, needs, and financial support of the schools within the county; or join with one or more school district or community college district governing boards in the conduct of such studies.

(b) Install and maintain exhibits of educational programs and activities of the school districts and community college districts within the county at any county fair or at any agricultural district fair.

(c) Inform and make known to the citizens of the county, the educational programs and activities of the school districts or community college districts within his jurisdiction.

(d) Subscribe for membership in any society, association, or organization which has for its primary purpose the promotion and advancement of public or private education, subject to the same restrictions as are imposed by Section 35173 and Section 72631 on governing boards of school districts or community college districts respecting such subscriptions.

(e) Provide inservice programs and coordinative services for any school or community college district governing board or governing board association in the territory under the jurisdiction of the county superintendent of schools.

CHAPTER 739

An act relating to the Department of Corrections, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. The sum of one hundred seventy-four thousand two hundred and fifty dollars ($174,250) is hereby appropriated from the General Fund to the Department of Corrections to complete remodeling of the sewage plant at the California Correctional Center.

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 will provide funding for the completion of remodeling of the sewage plant at the California Correctional Center. It is imperative that such remodeling be completed at the earliest possible time; thus, it is necessary that this act take effect immediately.

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CHAPTER 740

An act to amend Section 5151 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 5151 of the Revenue and Taxation Code is amended to read:

5151. Interest at the rate of 6 percent per annum shall be paid, when such interest is ten dollars ($10) or more, on amounts refunded under Section 5096.3 or 5096.7, or refunded as a result of the reduction of assessed value following an application for equalization by a board of equalization or by a court action to recover taxes, or as a consequence of an assessor's clerical error. However, no interest shall be paid under the provisions of this section if the taxpayer has been given the notice required by Section 2635 and has failed to apply for the refund within 30 days after the mailing of such notice.

Interest allowed under this section shall be computed from whichever of the three following dates provides the longest period: the date of the recording of the deed to the public agency acquiring the property in eminent domain to the date of the filing of the claim for refund; the date of the payment of the tax on property subject to an application for equalization of the assessed value thereof to the date of the determination of the equalized value of the property; or a date preceding by 30 days the date of paying the refund.

The interest charged shall be apportioned to the appropriate funds, as determined by the county auditor.

SEC. 2. Notwithstanding Sections 2231 and 2234 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to those sections 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.

SEC. 3. Notwithstanding Article 3.5 (commencing with Section 2250) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, the Board of Control shall not accept claims from any local entity based upon this act.

CHAPTER 741

An act to add Section 30721 to the Public Resources Code, relating to the California Coastal Act of 1976.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 11, 1978.]

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

SECTION 1. Section 30721 is added to the Public Resources Code, to read:

30721. (a) The Legislature recognizes that Port Hueneme is unique in its relationship to the coast in that it is the only deep water port operated by a harbor district, and is without access to city or county funds. Therefore, the governing body of Port Hueneme may claim reimbursement of costs it incurs in the preparation and certification of a port master plan as required by this chapter.

(b) Prior to submitting any claim for reimbursement, the governing body of the port shall submit its proposed claims to the executive director of the commission for review and approval and shall provide adequate documentation to enable the executive director to make the following determinations:

(1) That the work done was directly attributable to the operation of this chapter.

(2) That the work done is reasonably related to, and appears to be necessary for, the preparation of a certifiable port master plan for the geographic area within the port's jurisdiction as identified by the commission pursuant to Section 30710.

(3) That the governing body of a port is not reimbursed for the costs of the work from any other source.

The executive director of the commission shall, within 60 days after receipt of the necessary information, approve the proposed claim, if the director can make the determinations set forth in this subdivision.

(c) After a proposed claim has been reviewed and approved by the executive director of the commission pursuant to subdivision (b), the governing body of the port may submit its claim for reimbursement to the Controller who shall then process and pay any such claim as provided for in Section 2231 of the Revenue and Taxation Code.

CHAPTER 742

An act to add Section 39837.5 to the Education Code, relating to schoolbuses.

[Approved by Governor September 11, 1978 Filed with Secretary of State September 11, 1978]

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

SECTION 1. Section 39837.5 is added to the Education Code, to read:

39837.5. The governing board of any school district may provide for the transportation of employees of the district and of parents of pupils of the district to and from educational activities authorized by the district.

CHAPTER 743

An act to repeal and add and repeal Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, relating to arbitration, and making an appropriation therefor.

[Approved by Governor September 11, 1978. Filed with Secretary of State September 12, 1978.]

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

SECTION 1. Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure is repealed.

SEC. 2. Chapter 2.5 (commencing with Section 1141.10) is added to Title 3 of Part 3 of the Code of Civil Procedure, to read:

CHAPTER 2.5. JUDICIAL ARBITRATION

1141.10. (a) The Legislature finds and declares that litigation involving small civil claims has become so costly and complex as to make more difficult the efficient resolution of such civil claims that courts are unable to efficiently resolve the increased number of cases filed each year, and that the resulting delays and expenses deny parties their right to a timely resolution of minor civil disputes. The Legislature further finds and declares that arbitration has proven to be an efficient and equitable method for resolving small claims, and that courts should encourage or require the use of arbitration for such actions whenever possible.

(b) It is the intent of the Legislature that:

(1) Arbitration hearings held pursuant to this chapter shall provide parties with a simplified and economical procedure for obtaining prompt and equitable resolution of their disputes.

(2) Arbitration hearings shall be as informal and private as possible and shall provide the parties themselves maximum opportunity to participate directly in the resolution of their disputes, and shall be held during nonjudicial hours whenever possible.

(3) Members of the State Bar selected to serve as arbitrators should have experience with cases of the type under dispute and are urged to volunteer their services without compensation whenever possible.

1141.11. (a) In each superior court with 10 or more judges, all

at-issue civil actions pending on or filed after the operative date of this chapter shall be submitted to arbitration, by the presiding judge or the judge designated, under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(b) In each superior court with less than 10 judges, the court may provide by local rule, when it determines that it is in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter if the amount in controversy in the opinion of the court will not exceed fifteen thousand dollars ($15,000) for each plaintiff, which decision shall not be appealable.

(c) In each municipal court district, the municipal court district may provide by local rule, when it is determined to be in the best interests of justice, that all at-issue civil actions pending on or filed after the operative date of this chapter in such judicial district, shall be submitted to arbitration by the presiding judge or the judge designated under this chapter. The provisions of this section shall not apply to any action maintained pursuant to Section 1781 of the Civil Code or Section 116.2, 378, or 1161 of this code.

1141.12. (a) In each superior court in which arbitration may be had pursuant to subdivision (a) or (b) of Section 1141.11, upon stipulation of the parties, any at-issue civil actions shall be submitted to arbitration regardless of the amount in controversy.

(b) In all other superior, municipal, and justice courts, the Judicial Council shall provide by rule for a uniform system of arbitration of the following causes:

(i) Any cause upon stipulation of the parties, and

(ii) Upon filing of an election by the plaintiff, any cause in which the plaintiff agrees that the arbitration award shall not exceed the total sum of fifteen thousand dollars ($15,000).

1141.13. This chapter shall not apply to any civil action which includes a prayer for equitable relief, except that if the prayer for equitable relief is frivolous or insubstantial, this chapter shall be applicable.

1141.14. Notwithstanding any other provision of law except the provisions of this chapter, the Judicial Council shall provide by rule for practice and procedure for all actions submitted to arbitration under this chapter. The Judicial Council rules shall provide for and conform with the provisions of this chapter.

1141.15. The Judicial Council rules shall provide exceptions for cause to arbitration pursuant to subdivision (a), (b), or (c) of Section 1141.11. In providing for such exceptions, the Judicial Council shall take into consideration whether the civil action might not be amenable to arbitration.

1141.16. (a) The determination of the amount in controversy, under subdivision (a) or (b) of Section 1141.11 and Section 1141.12,

shall be made by the court and the case submitted to arbitration at any conference at which all parties are present or represented by counsel. Such conference shall be held no sooner than nine months after the case has been placed on the civil active list and no later than 90 days before trial, whichever occurs first. At that time the court shall make a determination whether any prayer for equitable relief is frivolous or insubstantial, which decision shall not be appealable. The date of such conference may be postponed upon motion of any party for good cause shown. No determination pursuant to this section shall be made if all defendants stipulate in writing that the amount in controversy exceeds fifteen thousand dollars ($15,000).

(b) The determination of the amount in controversy shall be without prejudice to any finding on the value of the case by an arbitrator or in a subsequent trial de novo. The determination shall be based on the total amount of damages, and the judge shall not consider questions of liability or comparative negligence or other defenses.

(c) The case shall be submitted to arbitration at an earlier time upon the written request of all plaintiffs, subject to a motion by a defendant for good cause shown to delay the arbitration hearing.

1141.17. Submission of an action to arbitration pursuant to this chapter shall not toll the running of the time periods contained in Section 583 as to actions filed on or after the operative date of this chapter. Submission to arbitration pursuant to a court order within six months of the expiration of the statutory period shall toll the running of such period until the filing of an arbitration award.

1141.18. (a) Arbitrators shall be retired judges or members of the State Bar, and shall sit individually. A judge may also serve as an arbitrator without compensation. People who are not attorneys may serve as arbitrators upon the stipulation of all parties.

(b) The Judicial Council rules shall provide for the compensation, if any, of arbitrators, except that no compensation shall be paid prior to the filing of the award by the arbitrator, or prior to the settlement of the case by the parties. Compensation for arbitrators shall, unless waived in whole or in part, be one hundred fifty dollars ($150) per day, except that the board of supervisors of a county or a city and county may set a higher level of compensation for that county or city and county.

(c) The board of governors of the State Bar shall provide by rule for the method of selection of arbitrators after consulting with administrative committees established pursuant to Rule 1603 of the Judicial Arbitration Rules for Civil Cases and with county bar associations in counties where there are no administrative committees. These rules shall provide for specialized panels and shall become operative upon approval of the Judicial Council.

(d) Any party may request the disqualification of the arbitrator selected for his case on the grounds and by the procedures specified in Section 170 or Section 170.6 within five days of the naming of the arbitrator.

1141.19. Arbitrators approved pursuant to this chapter shall have the powers necessary to perform duties pursuant to this chapter as prescribed by the Judicial Council.

1141.20. An arbitration award shall be final if a request for a de novo trial is not filed within 20 days after the date the arbitrator files the award with the court. Any party may elect to have a de novo trial, by court or jury, both as to law and facts. Such trial shall be calendared, insofar as possible, so that the trial shall be given the same place on the active list as it had prior to arbitration, or shall receive civil priority on the next setting calendar.

1141.21. (a) If the judgment upon the trial de novo is not more favorable in either the amount of damages awarded or the type of relief granted for the party electing the trial de novo than the arbitration award, the court shall order that party to pay the following nonrefundable costs and fees, unless the court finds in writing and upon motion that the imposition of such costs and fees would create such a substantial economic hardship as not to be in the interest of justice:

(i) To the county, the compensation actually paid to the arbitrator.

(ii) To the other party or parties, all costs including, but not limited to, those specified in Sections 1032.5, 1032.6, 1032a, and 1032b, and the party electing the trial de novo shall not recover his costs.

(iii) To the other party or parties, the reasonable costs of the services of expert witnesses, who are not regular employees of any party, actually incurred or reasonably necessary in the preparation or trial of the case.

Such costs and fees, other than the compensation of the arbitrator, shall include only those incurred from the time of election of the trial de novo.

(b) If the party electing the trial de novo has proceeded in the action in forma pauperis and has failed to obtain a more favorable judgment, the costs and fees under paragraphs (ii) and (iii) of subdivision (a) shall be imposed only as an offset against any damages awarded in favor of that party.

(c) If the party electing the trial de novo has proceeded in the action in forma pauperis and has failed to obtain a more favorable judgment, the costs under paragraph (i) of subdivision (a) shall be imposed only to the extent that there remains a sufficient amount in the judgment after the amount offset under subdivision (b) has been deducted from the judgment.

1141.22. The Judicial Council rules shall specify the grounds upon which the arbitrator or the court, or both, may correct, modify or vacate an award.

1141.23. The arbitration award shall be in writing, signed by the arbitrator and filed in the court in which the action is pending. If there is no request for a de novo trial and the award is not vacated, the award shall be entered in the judgment book in the amount of the award. Such award shall have the same force and effect as a judgment in any civil action or proceeding, except that it is not

subject to appeal and it may not be attacked or set aside except as provided by Section 1286.2 or Judicial Council rule.

1141.24. In cases ordered to arbitration pursuant to Section 1141.16(a), absent a stipulation to the contrary, no discovery shall be permissible after an arbitration award except by leave of court upon a showing of good cause.

1141.25. Any reference to the arbitration proceedings or arbitration award during any subsequent trial shall constitute an irregularity in the proceedings of the trial for the purposes of Section 657.

1141.26. Nothing in this act shall prohibit an arbitration award in excess of fifteen thousand dollars ($15,000). No party electing a trial de novo after such award shall be subject to the provisions of Section 1141.21 if the judgment upon the trial de novo is in excess of fifteen thousand dollars ($15,000).

1141.27. This chapter shall apply to any civil action otherwise within the scope of this chapter in which a party to the action is a public agency or public entity.

1141.28. All administrative costs of arbitration, including compensation of arbitrators, shall be paid for by the county in which the arbitration costs are incurred, except as otherwise provided in Section 1141.21.

1141.29. The Judicial Council shall, by rule, require each superior and municipal court subject to the provisions of this chapter to file with it such data as will enable it to provide, on or before January 1, 1984, a report to the Governor and the Legislature which shall serve as a comprehensive review of the effectiveness of this chapter, and which shall include recommendations for future action.

The Judicial Council, in consultation with the Department of Finance and the Auditor General, shall include in its study an estimate of the potential costs or savings, if any, should the program be continued beyond the life of the act.

1141.30. The provisions of this chapter shall not be construed in derogation of the provisions of Title 9 (commencing with Section 1280) of Part 3, and, to that extent, the provisions of this chapter and that title are mutually exclusive and independent of each other.

1141.31. The provisions of this chapter shall become operative July 1, 1979, except that the Judicial Council shall adopt the arbitration rules for practice and procedures on or before March 31, 1979.

1141.32. This chapter shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 3. It is the intent of the Legislature that the additional costs incurred by counties in the 1979–80 fiscal year and subsequent years in administering the arbitration program required by this act be reimbursed to the extent that such costs are not offset by the avoidance of costs associated with the reduced need for additional

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superior court judgeships. Funding for such costs can be provided through the regular budget process. Claims for actual costs incurred in the 1979–80 fiscal year and subsequent fiscal years must be submitted to the State Controller pursuant to paragraph (2) of subdivision (d) of Section 2231 of the Revenue and Taxation Code. The Controller shall reduce such claims by the amount of any cost avoidance that is found to have occurred in each county in the report of the Auditor General pursuant to Section 4 of this act.

SEC. 4. The Auditor General shall conduct studies of the effects of this act on superior court workload in each county affected by this act. The studies shall include but not be limited to, an analysis of the reduction in superior court workload, which resulted in a decreased need for additional superior court judgeships. The report shall also include a statement of the costs avoided in each affected county due to the effect of this act. The results of these studies shall be reported annually to the Legislature and the State Controller beginning on October 31, 1980.

SEC. 5. The sum of one hundred seventy-three thousand nine hundred fifty dollars ($173,950) is hereby appropriated from the General Fund according to the following schedule:

(a) To the Judicial Council for implementing this act in Fiscal Year 1978–79 ..... $31,000

(b) To the State Controller for allocation and disbursement to counties pursuant to Section 2231 of the Revenue and Taxation Code to reimburse counties for costs incurred by them in Fiscal Year 1978–79 pursuant to this act; provided, claims for direct and indirect costs hereunder shall be filed as prescribed by the State Controller $142,950

SEC. 6. Section 1 of this act shall become operative July 1, 1979.

CHAPTER 744

An act to amend Sections 1156, 3526, and 6254 of, and to add Chapter 12 (commencing with Section 3560) to Division 4 of Title 1 of, the Government Code, relating to higher education employment relations.

[Approved by Governor September 13, 1978 Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 1156 of the Government Code is amended to read:

1156. State officers and employees may authorize deductions to be made from their salaries or wages for the payment of:

(a) Premiums on any health benefits plan provided for under Part 5 (commencing with Section 22751) of Division 5 of Title 2 of this code.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance.

(c) Dues in any bona fide association, other than an employee organization as defined in subdivision (a) of Section 3513, if the association, or the unit thereof, is comprised principally of employees and former employees of agencies of the State of California, and the California State University and Colleges.

(d) Shares or obligations to any regularly chartered credit union.

(e) Recurrent fees or charges payable to a state agency under a collection plan approved by the Director of General Services and the State Controller.

(f) Premiums on any insurance policy or payments for any other membership benefit program sponsored by an employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(g) Payments for insurance or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

(h) Membership dues, initiation fees, and general assessments of any employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

SEC. 1.5. Section 1156 of the Government Code is amended to read:

1156. State officers and employees may authorize deductions to be made from their salaries or wages for the payment of:

(a) Premiums on any health benefits plan provided for under Part 5 (commencing with Section 22751) of Division 5 of Title 2 of this code.

(b) Premiums on National Service Life Insurance or United States Government Converted Insurance.

(c) Dues in any bona fide association, other than an employee organization as defined in subdivision (a) of Section 3513, if the association, or the unit thereof, is comprised principally of employees and former employees of agencies of the State of California, and the California State University and Colleges.

(d) Shares or obligations to any regularly chartered credit union.

(e) Recurrent fees or charges payable to a state agency under a collection plan approved by the Director of General Services and the State Controller.

(f) Premiums on any insurance policy or payments for any other membership benefit program sponsored by an employee

organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

(g) Payments for insurance or other employee benefit programs sponsored by a state agency under appropriate statutory authority.

(h) Membership dues, initiation fees, and general assessments of any employee organization as defined in subdivision (a) of Section 3513, subject to the provisions of Section 3515.6.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

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, exept the University of California, Hastings College of the Law, and the California State University and Colleges.

(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, employees of the University of California, Hastings College of the Law, and the California State University and Colleges.

SEC. 2.3. 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, except the University of California, Hastings College of the Law, and the California State University and Colleges.

(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, the Public Employment Relations Board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations, 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, employees of the University of California, Hastings College of the Law, and the California State University and Colleges.

SEC. 2.5. *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, except the University of California, Hastings College of the Law, and the California State University and Colleges.

(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 any civil service employee of the state, the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, employees of the University of California, Hastings College of the Law, and the California State University and Colleges, managerial employees as defined in subdivision (e) of Section 3513, confidential employees as defined in subdivision (f) of Section 3513, and employees of the California Maritime Academy.

SEC. 2.7. 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, except the

University of California, Hastings College of the Law, and the California State University and Colleges.

(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, the Public Employment Relations Board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations, excepting those persons elected by popular vote or appointed to office by the Governor of this state, and excepting any civil service employees of the state, the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, employees of the University of California, Hastings College of the Law, and the California State University and Colleges, managerial employees as defined in subdivision (e) of Section 3513, confidential employees as defined in subdivision (f) of Section 3513, and employees of the California Maritime Academy.

SEC. 3. Chapter 12 (commencing with Section 3560) is added to Division 4 of Title 1 of the Government Code, to read:

CHAPTER 12. HIGHER EDUCATION EMPLOYER-EMPLOYEE RELATIONS

Article 1. General Provisions

3560. The Legislature hereby finds and declares that:

(a) The people of the State of California have a fundamental interest in the development of harmonious and cooperative labor relations between the public institutions of higher education and their employees.

(b) All other employees of the public school systems in the state have been granted the opportunity for collective bargaining through the adoption of Chapter 10.3 (commencing with Section 3512) and Chapter 10.7 (commencing with Section 3540) of this division, and it would be advantageous and desirable to expand the jurisdiction of the board created thereunder to cover the employees of the University of California, Hastings College of the Law, and the California State University and Colleges. These institutions of higher education have their own organizational characteristics.

(c) The people of the State of California have established a system of higher education under the Constitution of the State of California with the intention of providing an academic community with full freedom of inquiry and insulation from political influence in the administration thereof. In so doing the people have caused to be created a board of regents to govern the University of California, a board of directors to govern Hastings College of the Law, an affiliate of the University of California, and a board of trustees to govern the

California State University and Colleges.

(d) The people and the aforementioned higher education employers each have a fundamental interest in the preservation and promotion of the responsibilities granted by the people of the State of California. Harmonious relations between each higher education employer and its employees are necessary to that endeavor.

(e) It is the purpose of this chapter to provide the means by which relations between each higher education employer and its employees may assure that the responsibilities and authorities granted to the separate institutions under the Constitution and by statute are carried out in an atmosphere which permits the fullest participation by employees in the determination of conditions of employment which affect them. It is the intent of this chapter to accomplish this purpose by providing a uniform basis for recognizing the right of the employees of these systems to full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of representation in their employment relationships with their employers and to select one of such organizations as their exclusive representative for the purpose of meeting and conferring.

3561. (a) It is the further purpose of this chapter to provide orderly and clearly defined procedures for meeting and conferring and the resolution of impasses, and to define and prohibit certain practices which are inimical to the public interest.

(b) The Legislature recognizes that joint decisionmaking and consultation between administration and faculty or academic employees is the long-accepted manner of governing institutions of higher learning and is essential to the performance of the educational missions of such institutions, and declares that it is the purpose of this act to both preserve and encourage that process. Nothing contained in this chapter shall be construed to restrict, limit, or prohibit the full exercise of the functions of the faculty in any shared governance mechanisms or practices, including the Academic Senate of the University of California and the divisions thereof, the Academic Senates of the California State University and Colleges, and other faculty councils, with respect to policies on academic and professional matters affecting the California State University and Colleges, the University of California, or Hastings College of the Law. The principle of peer review of appointment, promotion, retention, and tenure for academic employees shall be preserved.

(c) It is the policy of the State of California to encourage the pursuit of excellence in teaching, research, and learning through the free exchange of ideas among the faculty, students, and staff of the University of California, Hastings College of the Law, and the California State University and Colleges. All parties subject to this chapter shall respect and endeavor to preserve academic freedom in the University of California, Hastings College of the Law, and the California State University and Colleges.

3562. As used in this chapter:

(a) "Arbitration" means a method of resolving a rights dispute under which the parties to a controversy must accept the award of a third party.

(b) "Board" means the Public Employment Relations Board established pursuant to subdivision (g) of Section 3513.

(c) "Certified organization" means an employee organization which has been certified by the board as the exclusive representative of the employees in an appropriate unit after a proceeding under Article 5 (commencing with Section 3573).

(d) "Meet and confer" means the performance of the mutual obligation of the higher education employer and the exclusive representative of its employees to meet at reasonable times and to confer in good faith with respect to matters within the scope of representation and to endeavor to reach agreement on matters within the scope of representation. The process should include adequate time for the resolution of impasses. If agreement is reached between representatives of the higher education employer and the exclusive representative, they shall jointly prepare a written memorandum of such understanding which shall be presented to the higher education employer for concurrence. However, these obligations do not compel either party to agree to any proposal or require the making of a concession.

(e) "Confidential employee" means any employee who is required to develop or present management positions with respect to meeting and conferring or whose duties normally require access to confidential information which contributes significantly to the development of such management positions.

(f) "Employee" or "higher education employee" means any employee of the Regents of the University of California, the Directors of Hastings College of the Law, or the Board of Trustees of the California State University and Colleges, whose employment is principally within the State of California. However, managerial, and confidential employees shall be excluded from coverage under this chapter. The board may find student employees whose employment is contingent on their status as students are employees only if the services they provide are unrelated to their educational objectives, or, that those educational objectives are subordinate to the services they perform and that coverage under this chapter would further the purposes of this chapter.

(g) "Employee organization" means any organization of any kind in which higher education employees participate and which exists for the purpose, in whole or in part, of dealing with higher education employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of employees. Employee organization shall also include any person such an organization authorizes to act on its behalf. An academic senate, or other similar academic bodies, or divisions thereof, shall not be considered employee organizations for the purposes of this chapter.

(h) "Employer" or "higher education employer" means the regents in the case of the University of California, the Directors in the case of Hastings College of the Law, and the trustees in the case of the California State University and Colleges, including any person acting as an agent of an employer.

(i) "Employer representative" means any person or persons authorized to act in behalf of the employer.

(j) "Exclusive representative" means any recognized or certified employee organization or person it authorizes to act on its behalf.

(k) "Impasse" means that the parties have reached a point in meeting and conferring at which their differences in positions are such that further meetings would be futile.

(*l*) "Managerial employee" means any employee having significant responsibilities for formulating or administering policies and programs. No employee or group of employees shall be deemed to be managerial employees solely because the employee or group of employees participate in decisions with respect to courses, curriculum, personnel and other matters of educational policy. A department chair or head of a similar academic unit or program who performs the foregoing duties primarily on behalf of the members of the academic unit or program shall not be deemed a managerial employee solely because of such duties.

(m) "Mediation" means the efforts of a third person, or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution to an impasse.

(n) "Person" means one or more individuals, organizations, associations, corporations, boards, committees, commissions, agencies, or their representatives.

(o) "Professional employee" means:

(1) Any employee engaged in work: (i) predominately intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(2) Any employee who: (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (1), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (1).

(p) "Recognized organization" means an employee organization which has been recognized by an employer as the exclusive representative of the employees in an appropriate unit pursuant to

Article 5 (commencing with Section 3573).

(q) For purposes of the University of California only, "scope of representation" means, and is limited to, wages, hours of employment, and other terms and conditions of employment. The scope of representation shall not include:

(1) Consideration of the merits, necessity, or organization of any service, activity, or program established by law or resolution of the regents or the directors, except for the terms and conditions of employment of employees who may be affected thereby.

(2) The amount of any fees which are not a term or condition of employment.

(3) Admission requirements for students, conditions for the award of certificates and degrees to students, and the content and supervision of courses, curricula, and research programs, as those terms are intended by the standing orders of the regents or the directors.

(4) Procedures and policies to be used for the appointment, promotion, and tenure of members of the academic senate, the procedures to be used for the evaluation of the members of the academic senate, and the procedures for processing grievances of members of the academic senate. The exclusive representative of members of the academic senate shall have the right to consult and be consulted on matters excluded from the scope of representation pursuant to this paragraph. If the academic senate determines that any matter in this paragraph should be within the scope of representation, or if any matter in this paragraph is withdrawn from the responsibility of the academic senate, the matter shall be within the scope of representation.

All matters not within the scope of representation are reserved to the employer and may not be subject to meeting and conferring, provided that nothing herein may be construed to limit the right of the employer to consult with any employees or employee organization on any matter outside the scope of representation.

(r) For purposes of the California State University and Colleges only, "scope of representation" means, and is limited to, wages, hours of employment, and other terms and conditions of employment. The scope of representation shall not include:

(1) Consideration of the merits, necessity, or organization of any service, activity, or program established by statute or regulations adopted by the trustees, except for the terms and conditions of employment of employees who may be affected thereby.

(2) The amount of any student fees which are not a term or condition of employment.

(3) Admission requirements for students, conditions for the award of certificates and degrees to students, and the content and conduct of courses, curricula, and research programs.

(4) Criteria and standards to be used for the appointment, promotion, evaluation, and tenure of academic employees, which shall be the joint responsibility of the academic senate and the

trustees. The exclusive representative shall have the right to consult and be consulted on matters excluded from the scope of representation pursuant to this paragraph. If the trustees withdraw any matter in this paragraph from the responsibility of the academic senate, the matter shall be within the scope of representation.

All matters not within the scope of representation are reserved to the employer and may not be subject to meeting and conferring, provided that nothing herein may be construed to limit the right of the employer to consult with any employees or employee organization on any matter outside the scope of representation.

Article 2. Administration

3563. This chapter shall be administered by the Public Employment Relations Board. In administering this chapter the board shall have all of the following rights, powers, duties and responsibilities:

(a) To determine in disputed cases, or otherwise approve, appropriate units.

(b) To determine in disputed cases whether a particular item is within or without the scope of representation.

(c) To arrange for and supervise representation elections which shall be conducted by means of secret ballot elections, and to certify the results of the elections.

(d) To establish lists of persons broadly representative of the public and qualified by experience to be available to serve as mediators, arbitrators, or factfinders. In no case shall such lists include persons who are on the staff of the board.

(e) To establish by regulation appropriate procedures for review of proposals to change unit determinations.

(f) To adopt, pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2, rules and regulations to carry out the provisions and effectuate the purposes and policies of this chapter.

(g) To hold hearings, subpoena witnesses, administer oaths, take the testimony or deposition of any person, and, in connection therewith, to issue subpoenas duces tecum to require the production and examination of any employer's or employee organization's records, books, or papers relating to any matter within its jurisdiction, except for those records, books, or papers confidential under statute.

(h) To investigate unfair practice charges or alleged violations of this chapter, and to take such action and make such determinations in respect of such charges or alleged violations as the board deems necessary to effectuate the policies of this chapter.

(i) To bring an action in a court of competent jurisdiction to enforce any of its orders, decisions or rulings or to enforce the refusal to obey a subpoena. Upon issuance of a complaint charging that any person has engaged in or is engaging in an unfair practice, the board

may petition the court for appropriate temporary relief or restraining order.

(j) To delegate its powers to any member of the board or to any person appointed by the board for the performance of its functions, except that no fewer than two board members may participate in the determination of any ruling or decision on the merits of any dispute coming before it and except that a decision to refuse to issue a complaint shall require the approval of two board members.

(k) To decide contested matters involving recognition, certification, or decertification of employee organizations.

(*l*) To consider and decide issues relating to rights, privileges, and duties of an employee organization in the event of a merger, amalgamation, or transfer of jurisdiction between two or more employee organizations.

(m) To take such other action as the board deems necessary to discharge its powers and duties and otherwise to effectuate the purposes of this chapter.

3563.1. Any person who shall willfully resist, prevent, impede or interfere with any member of the board, or any of its agents, in the performance of duties pursuant to this chapter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars ($1,000).

3563.2. 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.

(a) Any employee, employee organization, or employer shall have the right to file an unfair practice charge, except that the board shall not 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.

(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.

3563.3. 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.

Article 3. Judicial Review

3564. (a) No employer or employee organization shall have the right to judicial review of a unit determination except: (1) when the board in response to a petition from an employer or 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.

Article 4. Rights, Obligations, Prohibitions, and Unfair Labor Practices

3565. Higher education employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations and for the purpose of meeting and conferring. Higher education employees shall also have the right to refuse to join employee organizations or to participate in the activities of these organizations subject to the organizational security provision permissible under this chapter.

3567. Any employee or group of employees may at any time, either individually or through a representative of their own choosing, present grievances to the employer and have such grievances adjusted, without the intervention of the exclusive representative; provided, the adjustment is reached prior to arbitration pursuant to Section 3589, and the adjustment is not inconsistent with the terms of a written memorandum then in effect. The employer shall not agree to resolution of the grievance until the exclusive representative has received a copy of the grievance and the proposed resolution, and has been given the opportunity to file a response.

3568. Subject to reasonable regulations, employee organizations shall have the right of access at reasonable times to areas in which employees work, the right to use institutional bulletin boards, mailboxes and other means of communication, and the right to use institutional facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by this act.

3569. A reasonable number of representatives of an exclusive representative shall have the right to receive reasonable periods of released or reassigned time without loss of compensation when engaged in meeting and conferring and for the processing of grievances prior to the adoption of the initial memorandum of understanding. When a memorandum of understanding is in effect, released or reassigned time shall be in accordance with the memorandum.

3570. Higher education employers, or such representatives as they may designate, shall engage in meeting and conferring with the employee organization selected as exclusive representative of an appropriate unit on all matters within the scope of representation.

3571. It shall be unlawful for the higher education employer to:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(b) Deny to employee organizations rights guaranteed to them by this chapter.

(c) Refuse or fail to engage in meeting and conferring with an exclusive representative.

(d) Dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another; provided, however, that subject to rules and regulations adopted by the board pursuant to Section 3563, an employer shall not be prohibited from permitting employees to engage in meeting and conferring or consulting during working hours without loss of pay or benefits.

(e) Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590).

(f) Consult with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who are represented by an exclusive representative, or for whom an employee organization has filed a request for recognition or certification as an exclusive representative until such time as such request is withdrawn or an election has been held in which "no representative" received a majority of the votes cast. This subdivision is not intended to diminish the prohibition of unfair practices contained in subdivision (d). For the purposes of this subdivision, the term "academic" shall not be deemed to include the academic senates.

3571.1. It shall be unlawful for an employee organization to:

(a) Cause or attempt to cause the higher education employer to violate Section 3571.

(b) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter.

(c) Refuse or fail to engage in meeting and conferring with the higher education employer.

(d) Refuse to participate in good faith in the impasse procedure set forth in Article 9 (commencing with Section 3590).

(e) Fail to represent fairly and impartially all the employees in the unit for which it is the exclusive representative.

(f) Require of employees covered by a memorandum of understanding to which it is a party the payment of a fee, as a condition precedent to becoming a member of such organization, in an amount which the board finds excessive or discriminatory under all the circumstances. In making such a finding, the board shall consider, among other relevant factors, the practices and customs of employee organizations in higher education, and the wages currently paid to the employees affected.

(g) Cause, or attempt to cause, an employer to pay or deliver, or agree to pay or deliver, any money or other thing of value, in the nature of an exaction, for services which are not performed or are not to be performed.

3571.3. The expression of any views, arguments, or opinions, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute, or be evidence of, an unfair labor practice under any provision of this chapter, unless such expression contains a threat of reprisal, force, or promise of benefit; provided, however, that the employer shall not express a preference for one employee organization over another employee organization.

3572. This section shall apply only to the California State University and Colleges.

(a) The duty to engage in meeting and conferring requires the parties to begin meeting and conferring at least 60 days prior to the expiration of memoranda of understanding, or the May 1, if earlier, of any year in which a memorandum shall expire, or May 1, if there is no existing memorandum. The California State University and Colleges shall maintain close liaison with the Department of Finance and the Legislature relative to the meeting and conferring on provisions of the written memoranda which have fiscal ramifications. The Governor shall appoint one representative to attend the meeting and conferring, including the impasse procedure, to advise the parties on the views of the Governor on matters which would require an appropriation or legislative action, and the Speaker of the Assembly and the Senate Rules Committee may each appoint one representative to attend the meeting and conferring to advise the parties on the views of the Legislature on matters which would require an appropriation or legislative action.

No written memoranda reached pursuant to the provisions of this chapter which require budgetary or curative action by the Legislature or other funding agencies shall be effective unless and until such an action has been taken. Following execution of written memoranda of understanding, an appropriate request for financing or budgetary funding for all state-funded employees or for necessary

legislation will be forwarded promptly to the Legislature and the Governor or other funding agencies. When memoranda require legislative action pursuant to this section, if the Legislature or the Governor fail to fully fund the memoranda or to take the requisite curative action, the entire memoranda shall be referred back to the parties for further meeting and conferring; provided, however, that the parties may agree that provisions of the memoranda which are nonbudgetary and do not require funding shall take effect whether or not the funding requests submitted to the Legislature are approved.

3572.3. This section shall apply only to the University of California.

(a) The duty to engage in meeting and conferring requires the parties to begin meeting and conferring at least 60 days prior to the expiration of memoranda of understanding, or the May 1, if earlier, of any year in which a memorandum shall expire, or May 1, if there is no existing memorandum. The University of California and Hastings College of the Law shall maintain close liaison with the Department of Finance and the Legislature relative to the meeting and conferring on provisions of the written memoranda which have fiscal ramifications.

No written memoranda reached pursuant to the provisions of this chapter which require budgetary or curative action by the Legislature or other funding agencies shall be effective unless and until such an action has been taken. Following execution of written memoranda of understanding, an appropriate request for financing or budgetary funding in the aggregate for all state-funded employees or for necessary legislation will be forwarded promptly to the Legislature and the Governor or other funding agencies. When memoranda require legislative action pursuant to this section, if the Legislature or the Governor fail to fully fund the memoranda or to take the requisite curative action, the entire memoranda shall be referred back to the parties for further meeting and conferring; provided, however, that the parties may agree that provisions of the memoranda which are nonbudgetary and do not require funding shall take effect whether or not the aggregate funding requests submitted to the Legislature are approved. The Legislature recognizes that the University of California's sources of funding are multiple and approval by the Legislature, and by other public agencies, as to employees funded by those agencies, may be required prior to implementation of increased expenditures resulting from agreements reached in accordance with the provisions of this chapter.

3572.5. In the case where the following provisions of law are in conflict with a memorandum of understanding, the memorandum of understanding shall be controlling.

(a) Part 13 (commencing with Section 22000) of Division 1 of Title 1 of, Sections 66609, 66903, 89006, 89007, 89039, 89500, 89501, 89502, 89503, 89504, 89505, 89506, 89507, 89508, 89509, 89510, 89511, 89512,

89513, 89514, 89515, 89516, 89517, 89518, 89519, 89531, 89532, 89533, 89534, 89537, 89541, 89542, 89542.5, 89543, 89544, 89545, 89546, 89550, 89551, 89552, 89553, 89554, 89555, 89556, 89700 and 89701 of, the Education Code.

(b) Sections 825, 825.2, 825.6, 6700, 11020, 11021, 13926, 18005, 18006, 18007, 18020, 18020.1, 18022, 18023, 18025, 18025.1, 18050, 18051.5, 18053, 18100, 18100.5, 18101, 18102, 18102.5, 18103, 18105 and 18106 of, Chapter 3.5 (commencing with Section 18120), Chapter 3.6 (commencing with Section 18135) of Part 1 of Division 5 of Title 2 of, Chapter 4 (commencing with Section 18150) of Part 1 of Division 5 of Title 2 of, Section 18200, 18853 and 18853.5, Article 6 (commencing with Section 19460) of Chapter 7 of Part 2 of Division 5 of Title 2 of, Part 3 (commencing with Section 20000) of Division 5 of Title 2 of, and Part 5 (commencing with Section 22751) of Division 5 of Title 2 of, the Government Code.

(c) Sections 395, 395.01, 395.05, 395.1 and 395.3 of the Military and Veterans Code.

Article 5. Employee Organizations: Representation, Recognition, Certification and Decertification

3573. An employee organization may become the exclusive representative for the employees of an appropriate unit for purposes of meeting and conferring by filing a request with a higher education employer alleging that a majority of the employees in an appropriate unit wish to be represented by such organization and asking the employer to recognize it as the exclusive representative. The request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall certify that proof of majority support has been submitted to either the board or to a mutually agreed upon third party. Notice of any such request shall immediately be posted conspicuously on all employee bulletin boards in each facility of the employer in which members of the unit claimed to be appropriate are employed.

3574. The higher education employer shall grant a request for recognition filed pursuant to Section 3573 unless:

(a) The employer reasonably doubts that the employee organization has majority support or reasonably doubts the appropriateness of the requested unit. In such case the employer shall notify the board which shall conduct a representation election pursuant to Section 3577 unless subdivision (c) or (d) applies; or

(b) Another employee organization either files with the employer a challenge to the appropriateness of the unit or submits a competing claim of representation within 15 workdays of the posting of notice of the written request. If the claim is evidenced by the support of at least 30 percent of the members of the proposed unit, a question of representation shall be deemed to exist and the board shall conduct a representation election pursuant to Section 3577, or if the claim is evidenced by the support of at least 10 percent of the members of

the proposed unit, the board shall conduct such inquiries and investigations or hold such hearings as it shall deem necessary in order to decide the questions raised by the claim and may conduct a representation election pursuant to Section 3577. Evidence of such support shall be submitted to either the board or to a mutually agreed upon third party; or

(c) There is currently in effect a lawful written memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees included in the unit described in the request for recognition, unless the request for recognition is filed not more than 120 days and not less than 90 days prior to the expiration date of such memorandum of understanding, provided that if such memorandum of understanding has been in effect for three years or more, there shall be no restriction as to the time of filing the request; or

(d) Within the previous 12 months either another employee organization has been lawfully recognized or certified as the exclusive representative of any employees included in the unit described in the request for recognition, or a majority of the votes cast in a representation election held pursuant to Section 3577 were cast for "no representation."

3575. 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) An employee organization alleging that it has filed a request for recognition as an exclusive representative with an employer and that the request has been denied or has not been acted upon within 30 days after the filing of the request; or

(b) An employee organization alleging that it has filed a competing claim of representation pursuant to subdivision (b) of Section 3574; or

(c) An employee organization wishing to be certified by the board as the exclusive representative. Such petition for certification as the exclusive representative in an appropriate unit shall include proof of a 30-percent showing of interest designating the organization as the exclusive representative of the employees.

3576. 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 the employees wish to decertify an exclusive representative or to reconsider the appropriateness of a unit. Such petition may allege 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 30 percent of the employees in the unit indicating support for another organization or lack of support for the incumbent exclusive representative.

3577. (a) Upon receipt of a petition filed pursuant to Section

3575 the board shall conduct such inquiries and investigations or hold such hearings as it shall deem necessary in order to decide the questions raised by the petition. The determination of the board may be based upon the evidence adduced in the inquiries, investigations, or hearings. If the board finds on the basis of the evidence that a question of representation exists, or a question of representation is deemed to exist pursuant to subdivision (a) or (b) of Section 3574, it shall order that an election shall be conducted by secret ballot placing on the ballot all employee organizations evidencing support of at least 10 percent of the members of an appropriate unit, and it shall certify the results of the election on the basis of which ballot choice received a majority of the valid votes cast. There shall be printed on the initial ballot the choice of "no representation." If at any election no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted. The ballot for the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(b) No election shall be held and the petition shall be dismissed whenever:

(1) There is currently in effect a memorandum of understanding between the employer and another employee organization recognized or certified as the exclusive representative of any employees included in the unit described in the petition, unless the petition is filed not more than 120 days and not less than 90 days prior to the expiration date of such memorandum, provided that if such memorandum has been in effect for three years or more, there shall be no restriction as to time of filing the petition; or

(2) Within the previous 12 months either an employee organization other than the petitioner has been lawfully recognized or certified as the exclusive representative of any employees included in the unit described in the petition, or a majority of the votes cast in a representation election held pursuant to subdivision (a) of Section 3577 were cast for "no representation."

3578. The employee organization recognized or certified as the exclusive representative shall represent all employees in the unit, fairly and impartially. A breach of this duty shall be deemed to have occurred if the employee organization's conduct in representation is arbitrary, discriminatory, or in bad faith.

Article 6. Unit Determinations

3579. (a) In each case where the appropriateness of a unit is an issue, in determining an appropriate unit, the board shall take into consideration all of the following criteria:

(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals, the history of employee representation with the

employer, the extent to which such employees belong to the same employee organization, the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements, and the extent to which the employees have common supervision.

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account such factors as work location, the numerical size of the unit, the relationship of the unit to organizational patterns of the higher education employer, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the employer and the compatibility of the unit with the responsibility of the higher education employer and its employees to serve students and the public.

(4) The number of employees and classifications in a proposed unit, and its effect on the operations of the employer, on the objectives of providing the employees the right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employee groups or any proliferation of units among the employees of the employer.

(b) There shall be a presumption that professional employees and nonprofessional employees shall not be included in the same representation unit. However, the presumption shall be rebuttable, depending upon what the evidence pertinent to the criteria set forth in subdivision (a) establishes.

(c) There shall be a presumption that all employees within an occupational group or groups shall be included within a single representation unit. However, the presumption shall be rebutted if there is a preponderance of evidence that a single representation unit is inconsistent with the criteria set forth in subdivision (a) or the purposes of this chapter.

(d) Notwithstanding the foregoing provisions of this section, or any other provision of law, an appropriate group of skilled crafts employees shall have the right to be a single, separate unit of representation. Skilled crafts employees shall include, but not necessarily be limited to, employment categories such as carpenters, plumbers, electricians, painters, and operating engineers. The single unit of representation shall include not less than all skilled crafts employees at a campus or at a Lawrence Laboratory.

(e) Notwithstanding the foregoing provisions of this section, the only appropriate representation units including members of the academic senate of the University of California shall be either a single statewide unit consisting of all eligible members of the senate, or divisional units consisting of all eligible members of a division of

the senate. In addition to the limitations of subdivision (q) of Section 3562, the scope of representation of any divisional unit shall be limited to those matters which have customarily been determined on a division basis, but the employer shall consult with the exclusive representative of a division on matters which would be within the scope of representation or consultation of a statewide representative. At such time as 35 percent of the eligible members of the academic senate are represented by an exclusive representative or representatives in divisional units, the board, on petition of any such representative or of an organization comprised of such representatives, shall conduct an election to determine if the eligible members of the entire senate wish thereafter to be represented by a representative or organization in a single unit on all matters within the scope of representation. Any other such exclusive representative or organization of representatives or any employee organization meeting the requirements of subdivision (a) of Section 3577 shall be entitled, on petition, to appear on the ballot, and in the event no choice receives a majority of the votes cast, the runoff provisions of subdivision (a) of Section 3577 shall be applicable.

(f) The board shall not determine that any unit is appropriate if it includes, together with other employees, employees who are defined as peace officers pursuant to subdivisions (d) and (e) of Section 830.2 of the Penal Code.

Article 6.5. Supervisors

3580. Except as provided by this article, supervisory employees shall not have the rights, or be covered by, any provision or definition established by this chapter.

3580.3. "Supervisory employee" means any individual, regardless of the job description or title, having authority, in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. With respect to faculty or academic employees, any department chair, head of a similar academic unit or program, or other employee who performs the foregoing duties primarily in the interest of and on behalf of the members of the academic department, unit or program, shall not be deemed a supervisory employee solely because of such duties; provided, that with respect to the University of California and Hastings College of the Law, there shall be a rebuttable presumption that such an individual appointed by the employer to an indefinite term shall be deemed to be a supervisor. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.

3580.5. (a) Supervisory employees shall not participate in the

handling of grievances on behalf of nonsupervisory employees. Nonsupervisory employees shall not participate in the handling of grievances on behalf of supervisory employees.

(b) Supervisory employees shall not participate in meet and confer sessions on behalf of nonsupervisory employees. Nonsupervisory employees shall not participate in meet and confer sessions on behalf of supervisory employees.

(c) The prohibition in subdivisions (a) and (b) shall not be construed to apply to the paid staff of an employee organization.

(d) Supervisory employees shall not vote on questions of ratification or rejection of memoranda of understanding reached on behalf of nonsupervisory employees.

3581.1. Supervisory employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of supervisory employee-employer relations as set forth in Section 3581.3. Supervisory employees also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the employer.

3581.2. Employee organizations shall have the right to represent their supervisory employee members in their employment relations, including grievances, with the employer. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of employees from membership. Nothing in this section shall prohibit any employee from appearing on his or her own behalf or through his or her chosen representative in his or her employment relations and grievances with the higher education employer.

3581.3. The scope of representation for supervisory employees shall include all matters relating to employment conditions and supervisory employee-employer relations including wages, hours, and other terms and conditions of employment.

3581.4. The higher education employer shall meet and confer with representatives of employee organizations upon request. Meet and confer means that they shall consider as fully as the employer deems reasonable such presentations as are made by the employee organization on behalf of its supervisory members prior to arriving at a determination of policy or course of action.

3581.5. The higher education employer shall allow a reasonable number of supervisory public employee representatives of verified employee organizations reasonable time off without loss of compensation or other benefits when meeting and conferring with representatives of the higher education employer on matters within the scope of representation.

3581.6. The higher education employer and employee organizations shall not interfere with, intimidate, restrain, coerce, or discriminate against supervisory employees because of their exercise of their rights under this article.

3581.7. Subject to review by the board, the higher education employer may adopt reasonable rules and regulations for the administration of supervisory employee-employer relations under this article. Such rules and regulations may include provisions for:

(a) Verifying that an employee organization does in fact represent supervisory employees of the employer.

(b) Verifying the official status of employee organization officers and representatives.

(c) Access of employee organization officers and representatives to work locations.

(d) Use of official bulletin boards and other means of communication by employee organizations.

(e) Furnishing nonconfidential information pertaining to supervisory employee relations to employee organizations.

(f) Such other matters as are necessary to carry out the purposes of this article.

Article 7. Organizational Security

3582. Subject to the limitations set forth in this section, organizational security shall be within the scope of representation.

3583. Permissible forms of organizational security shall be limited to an arrangement pursuant to which an employee may decide whether or not to join the recognized or certified employee organization, but which requires the employer to deduct from the wages or salary of any employee who does join, and pay to the employee organization which is the exclusive representative of such employee, the standard initiation fee, periodic dues, and general assessments of such organization for the duration of the written memorandum of understanding. However, no such arrangement shall deprive the employee of the right to resign from the employee organization within a period of 30 days prior to the expiration of a written memorandum of understanding.

3585. In the absence of an arrangement pursuant to Section 3583, an employer shall, upon written authorization by the employee involved, deduct and remit to the exclusive representative, or in the absence of an exclusive representative to the employee organization of the employee's choice, the standard initiation fee, periodic dues, and general assessments of such organization, until such time as an exclusive representative has been selected for the employee's unit. Thereafter, deductions shall be made only for the exclusive representative.

3586. The Trustees of the California State University and Colleges shall continue all payroll assignments authorized by an employee prior to and until recognition or certification of an exclusive representative until notification is submitted by an employee to discontinue the employee's assignments.

3587. Every recognized or certified employee organization shall keep an adequate itemized record of its financial transactions and

shall make available annually, to the board and to the employees who are members of the organization, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by the president and treasurer or comparable officers. In the event of failure of compliance with this section, any employee within the organization may petition the board for an order compelling such compliance, or the board may issue such compliance order on its motion.

Article 8. Rights-Disputes Arbitration

3589. (a) An employer and an exclusive representative who enter into a written memorandum of understanding may agree to procedures for final and binding arbitration of disputes that may arise under the memorandum of understanding or between the parties.

(b) Where a party to a memorandum of understanding is aggrieved by the failure, neglect, or refusal of the other party to proceed to arbitration pursuant to the procedures provided therefor in the memorandum, the aggrieved party may bring proceedings pursuant to Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure for a court order directing that the arbitration proceed pursuant to the procedures provided therefor in such memorandum of understanding.

(c) An arbitration award made pursuant to this section shall be final and binding upon the parties and may be enforced by a court pursuant to Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure

(d) The board shall submit a list of names of arbitrators to employers and employee organizations upon their mutual request. Nothing in this subdivision shall preclude the parties from mutually agreeing to some other means of selecting an arbitrator. The board shall also, if mutually requested to do so, designate an arbitrator to hear and decide the rights dispute.

Article 9. Impasse Procedure

3590. Either an employer or the exclusive representative may declare that an impasse has been reached between the parties in negotiations over matters within the scope of representation and may request the board to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the board determines that an impasse exists, it shall, in no event later than five working days after the receipt of a request, appoint a mediator in accordance with such rules as it shall prescribe. The mediator shall meet forthwith with the parties or their representatives, either jointly or separately, and shall take such other steps as he may deem

appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable memorandum of understanding. The services of the mediator, including any per diem fees, and actual and necessary travel and subsistence expenses, shall be provided by the board without cost to the parties. Nothing in this section shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure and in the event of such agreement, the board shall not appoint its own mediator, unless failure to do so would be inconsistent with the policies of this chapter. If the parties agree upon their own mediation procedure, the cost of the services of any appointed mediator, unless appointed by the board, including any per diem fees, and actual and necessary travel and subsistence expenses, shall be borne equally by the parties.

3591. If the mediator is unable to effect settlement of the controversy within 15 days after his appointment and the mediator declares that factfinding is appropriate to the resolution of the impasse, either party may, by written notification to the other, request that their differences be submitted to a factfinding panel. Within five days after receipt of the written request, each party shall select a person to serve as its member of the factfinding panel. The board shall, within five days after such selection, select a chairman of the factfinding panel. The chairman designated by the board shall not, without the consent of both parties, be the same person who served as mediator pursuant to Section 3590.

3592. The panel shall, within 10 days after its appointment, meet with the parties or their representatives and consider their respective positions. The panel may make such additional inquiries and investigations, hold hearings, and take such other steps as it may deem appropriate. For the purpose of such hearings, investigations, and inquiries, the panel shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. The Regents of the University of California, the Directors of Hastings College of the Law, and the Trustees of the California State University and Colleges shall furnish the panel, upon its request, with all records, papers and information in their possession relating to any matter under investigation by or in issue before the panel, except for those records, books, and information which are confidential by statute.

3593. If the dispute is not settled within 30 days after the appointment of the panel, or, upon agreement by both parties, within a longer period, the panel shall make findings of fact and recommend terms of settlement, which recommendations shall be advisory only. Any findings of fact and recommended terms of settlement shall be submitted in writing to the parties privately before they are made public. The panel, subject to the rules and regulations of the board, may make such findings and recommendations public 10 days thereafter. During this 10-day period, the parties are prohibited from making the panel's findings and recommendations public. The costs for the services of the panel

chairman, including per diem fees, if any, and actual and necessary travel and subsistence expenses shall be borne by the board. Any other mutually incurred costs shall be borne equally by the employer and the exclusive representative. Any separately incurred costs for the panel member selected by each party, shall be borne by such party.

3594. Nothing in this article shall be construed to prohibit the mediator appointed pursuant to Section 3590, with the permission of the parties, from continuing mediation efforts on the basis of the findings of fact and recommended terms of settlement made pursuant to Section 3594.

Article 10. Public Notice

3595. (a) All initial proposals of exclusive representatives and of higher education employers, which relate to matters within the scope of representation, shall be presented at a public meeting of the higher education employer and thereafter shall be public records.

(b) Meeting and conferring shall not commence on an initial proposal until a reasonable time has elapsed after the submission of the proposal to enable the public to become informed and the public has the opportunity to express itself regarding the proposal at a meeting of the higher education employer.

(c) After the public has had the opportunity to express itself, the higher education employer shall, at a meeting which is open to the public, adopt a proposal, including any changes to its initial proposal which the higher education employer deems appropriate based on the public's comments.

(d) New subjects of meeting and conferring arising after the presentation of initial proposals shall be made public within 24 hours. If a vote is taken on such subject by the higher education employer, the vote thereon by each member voting shall also be made public within 24 hours.

(e) The board may adopt regulations for the purpose of implementing this section, which are consistent with the intent of the section; namely that the public be informed of the issues that are being met and conferred upon and have full opportunity to express their views on the issues to the higher education employer, and to know of the positions of the higher education employer.

Article 11. Miscellaneous

3596. All the proceedings set forth in this section shall be exempt from the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2, and Section 92030 of the Education Code, unless the parties mutually agree otherwise:

(a) Any meeting and conferring discussion between a higher education employer and a recognized or certified employee organization.

(b) Any meeting of a mediator with either par y or both parties to the meeting and conferring process.

(c) Any hearing, meeting, or investigation conducted by a factfinder or arbitrator.

(d) Any executive session of the higher education employer or between the higher education employer and its designated representatives for the purpose of discussing its position respecting meeting and conferring or regarding any matter within the scope of representation or instructing its designated representatives.

3597. (a) Subject to provisions of subdivision (d), in all meeting and conferring between higher education employers and employee organizations representing student service or academic personnel, a student representative shall have the right to be notified in writing by the employer and the employee organizations of the issues under discussion. A student representative shall have the right to be present and comment at reasonable times during meeting and conferring between the employer and such employee organizations.

(b) The student representative shall be provided access to all documents exchanged between the parties pertaining to the meeting and conferring and shall have the right to have an aide present during all meetings; in the case of mediation of impasses, the student representative shall have an opportunity at reasonable times to comment to the mediator on impasse issues; and shall be free from coercion or reprisals in the exercise of his or her rights as set forth in this section.

(c) The student representative shall respect and maintain the rules governing confidentiality as they pertain to all parties involved in the meeting and conferring. Violations of this provision shall result in the termination of student involvement for the remainder of such meeting and conferring, and such other remedy, if any, deemed appropriate by the board.

(d) For purposes of this section, a student representative shall be designated by the official student body association, if any, of the higher education employer, or segment thereof, engaged in meeting and conferring. If no student body association exists, the students may elect and designate a representative for the purposes of this section.

3598. No memorandum of understanding shall contravene any federal or state law, including rules and regulations promulgated pursuant to such laws, prohibiting discrimination in employment.

3599. If any provision of this chapter or the application of such provision to any person or circumstance shall be held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 4. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies;

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1);

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1); or

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes, except that local police agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the persons involved in an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage as the result of the incident caused by arson, burglary, fire, explosion, robbery, vandalism, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a

witness or other person involved in the investigation, disclosure would endanger the successful completion of the investigation or a related investigation;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

(j) Library and museum materials made or acquired and presented solely for reference or exhibition purposes;

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter;

(m) In the custody or maintained by the Legislative Counsel;

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license, certificate, or permit applied for;

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of such financial data would be competitively injurious to the applicant and such data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter;

(p) Records of the University of California, Hastings College of the Law, and the California State University and Colleges prepared for or during meeting and conferring sessions, or minutes of such sessions.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the

agency to public inspection, unless disclosure is otherwise prohibited by law.

SEC. 4.5. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies;

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1);

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1); or

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes, except that local police agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the persons involved in an

incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage as the result of the incident caused by arson, burglary, fire, explosion, robbery, vandalism, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, disclosure would endanger the successful completion of the investigation or a related investigation;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code;

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

(j) Library and museum materials made or acquired and presented solely for reference or exhibition purposes;

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter;

(m) In the custody or maintained by the Legislative Counsel;

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license, certificate, or permit applied for; and

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of such financial data would be competitively injurious to the applicant and such data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which

are subject to disclosure under this chapter.

(p) Records of the University of California, Hastings College of the Law, and the California State University and Colleges prepared for or during collective-bargaining sessions, or minutes of such sessions.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3053 are both chaptered and become effective January 1, 1979, both bills amend Section 1156 of the Government Code, and this bill is chaptered after Assembly Bill No. 3053, that Section 1156 of the Government Code, as amended by Section 1 of Assembly Bill No. 3053 be further amended on the operative date of this act in the form set forth in Section 1.5 of this act to incorporate the changes in Section 1156 proposed by this bill. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 3053 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 1156, and this bill is chaptered after Assembly Bill No. 3053, in which case Section 1.5 of this act shall become operative on the operative date of this act and Section 1 of this act shall not become operative.

SEC. 6. It is the intent of the Legislature that if this bill and Assembly Bill No. 3053 or Senate Bill No. 1943, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 3526 of the Government 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. 3053 are both chaptered and become effective January 1, 1979, both bills amend Section 3536 of the Government Code, but Senate Bill No. 1943 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 3053, that Section 3526 of the Government Code, as amended by Section 5.5 of Assembly Bill No. 3053 be further amended on the operative date of this act in the form set forth in Section 2.3 of this act to incorporate the changes in Section 3526 proposed by this bill. Therefore, if this bill and Assembly Bill No. 3053 are both chaptered and become effective January 1, 1979, both bills amend Section 3526, this bill is chaptered after Assembly Bill No. 3053, and Senate Bill No. 1943 is not chaptered or as chaptered does not amend that section, Section 2.3 of this act shall become operative on the operative date of this act and Sections 2, 2.5, and 2.7 of this act shall not become operative.

(2) If this bill and Senate Bill No. 1943 are both chaptered and become effective January 1, 1979, both bills amend Section 3526 of the Government Code, but Assembly Bill No. 3053 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1943, that Section 3526 of the Government Code,

as amended by Section 3 of Senate Bill No. 1943 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 3526 proposed by this bill. Therefore, if this bill and Senate Bill No. 1943 are both chaptered and become effective January 1, 1979, both bills amend Section 3526, this bill is chaptered after Senate Bill No. 1943, and Assembly Bill No. 3053 is not chaptered or as chaptered does not amend that section, Section 2.5 of this act shall become operative on the operative date of this act and Sections 2, 2.3, and 2.7 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 3053 and Senate Bill No. 1943 are all chaptered and become effective January 1, 1979, all three bills amend Section 3526 of the Government Code, and this bill is chaptered after Assembly Bill No. 3053 and Senate Bill No. 1943, that Section 3526 of the Government Code, as amended by Assembly Bill No. 3053 and Senate Bill No. 1943 be further amended on the operative date of this act in the form set forth in Section 2.7 of this act to incorporate the changes in Section 3526 proposed by this bill. Therefore, if this bill and Assembly Bill No. 3053 and Senate Bill No. 1943 are all chaptered and become effective January 1, 1979, all three bills amend Section 3526 of the Government Code, and this bill is chaptered after Assembly Bill No. 3053 and Senate Bill No. 1943, Section 2.7 of this act shall become operative on the operative date of this act and Sections 2, 2.3, and 2.5 of this act shall not become operative.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 2005 are both chaptered and become effective January 1, 1979, both bills amend Section 6254 of the Government Code, and this bill is chaptered after Senate Bill No. 2005, that Section 6254 of the Government Code, as amended by Section 3 of Senate Bill No. 2005 be further amended on the operative date of this act in the form set forth in Section 4.5 of this act to incorporate the changes in Section 6254 proposed by this bill. Therefore, Section 4.5 of this act shall become operative only if this bill and Senate Bill No. 2005 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 6254, and this bill is chaptered after Senate Bill No. 2005, in which case Section 4.5 of this act shall become operative on the operative date of this act and Section 4 of this act shall not become operative.

SEC. 8. This act shall be operative on July 1, 1979.

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 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 745

An act to amend Sections 34871, 34874, 34878, 34883, 35258, 35260 and 35262 of, and to add Section 34884 to, the Government Code, relating to elections.

[Approved by Governor September 13, 1978 Filed with Secretary of State September 14, 1978]

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

SECTION 1. Section 34871 of the Government Code is amended to read:

34871. At any municipal election, or special election held for that purpose, the legislative body may submit to the registered voters an ordinance providing for the election of members of the legislative body:

(a) By districts in five, seven, or nine districts; or

(b) From districts in five, seven, or nine districts; or

(c) By districts in four, six, or eight districts, with an elective mayor pursuant to Article 5 (commencing with Section 34900); or

(d) From districts in four, six, or eight districts, with an elective mayor pursuant to Article 5 (commencing with Section 34900).

The term "by districts" as used in this article shall mean election of members of the legislative body by voters of the district alone. The term "from districts" shall mean election of members of the legislative body who are residents of the district from which they are elected by the voters of the entire city. "Geographical area making up the district" shall in the case of elections by district mean the district, and in the case of elections from districts shall mean the entire city except with respect to the residence requirements imposed by Section 34882.

Such an ordinance also may be qualified for the ballot by means of an initiative measure in accordance with the provisions of Chapter 3 (commencing with Section 4000) of Division 5 of the Elections Code.

SEC. 2. Section 34874 of the Government Code is amended to read:

34874. No amendatory ordinance altering the boundaries of the legislative districts established pursuant to this article shall be submitted to the registered voters until the ordinance has been submitted to the planning commission of the city or, in absence of a planning commission, to the legislative body of said city for an examination as to the definiteness and certainty of the boundaries of the legislative districts proposed.

SEC. 3. Section 34878 of the Government Code is amended to read:

34878. If a majority of the registered voters of the city, who vote, vote in favor of the ordinance, at the expiration of the terms of office

of the members of the legislative body, or as provided by ordinance, members of the legislative body shall be elected by (or from) the districts described, or by or from districts with an elective mayor, and in the manner provided.

SEC. 4. Section 34883 of the Government Code is amended to read:

34883. Registered voters signing nomination petitions or voting for a member of the legislative body shall be residents of the geographical area making up the district from which the member is to be elected.

SEC. 4.5. Section 34884 is added to the Government Code, to read:

34884. If, at the time a vote is held on the subject of incorporation of a new city, a majority of the votes cast is for incorporation and, if, in accordance with Section 35258, a majority of the votes cast on the question of whether members of the city council in future elections are to be elected by district or at large is in favor of election by district, the following procedure shall apply:

(a) Prior to the first day on which voters may nominate candidates for election at the next regular municipal election, the legislative body shall, by ordinance or resolution, establish the boundaries of the councilmanic districts. The districts shall be as nearly equal in population as may be. In establishing the boundaries of the districts, the legislative body may give consideration to the following factors: (1) topography, (2) geography, (3) cohesiveness, contiguity, integrity, and compactness of territory, and (4) community of interests of the districts;

(b) The terms of office of the two members elected with the lowest vote shall expire on the Tuesday succeeding the next regular municipal election. At that election, members shall be elected by district in the even-numbered districts and shall hold office for four years; and

(c) The terms of office of the three members elected with the highest vote shall expire on the Tuesday succeeding the second regular municipal election following the incorporation. At that election, members shall be elected by district in the odd-numbered districts and shall hold office for four years.

The result of the vote cast on the question of whether members of the city council in future elections are to be elected by district or at large shall not preclude the submission to the voters at any future election of a measure in accordance with the provisions of Section 34871.

SEC. 5. Section 35258 of the Government Code is amended to read:

35258. If pursuant to Section 35257 the conducting authority adopts a resolution ordering incorporation of territory subject to the confirmation of the voters, such election shall be called and held on the next regular election date occurring at least 75 days after the date on which the resolution was adopted. In addition to the election on

the question of incorporation, the conducting authority shall provide for the election of the officers of the proposed city required to be elected and shall provide for an election on the question of whether members of the city council in future elections are to be elected by district or at large.

SEC. 6. Section 35260 of the Government Code is amended to read:

35260. The notice of election shall contain all the matters specified in Section 35061, and in addition shall:

(a) If the petition so requests, state that the voters may express a preference as to whether or not the city should operate under the city manager form of government, and the ballots used at the election shall include the words "for city manager form of government" and "against city manager form of government;" and

(b) Inform voters of their right to express a preference as between names for the proposed city, and the ballots used at the election shall contain the proposed names of the city in alternative form.

(c) State the proposed maximum property tax rate.

(d) State that the voters shall have the opportunity to select the system by which city council members are to be elected in future elections, that is, by district or at large.

SEC. 7. Section 35262 of the Government Code is amended to read:

35262. If the majority of votes cast is for incorporation, the conducting authority shall adopt a resolution:

(a) Confirming the order of incorporation;

(b) Giving the newly incorporated territory a name, such name being either the name in the petition or favored by the electors;

(c) Declaring the persons receiving the highest number of votes for the several offices of the newly incorporated city to be elected to those offices; and

(d) Declaring which system of electing council members was adopted, that is, election by district or election at large.

The clerk of the conducting authority shall cause a certified copy of the resolution to be filed with the executive officer of the commission.

CHAPTER 746

An act to amend Sections 13370, 13376, 13377, 13378, 13380, 13381, 13383, 13384, 13385, 13386, and 13387 of the Water Code, relating to water quality.

[Approved by Governor September 13, 1978 Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 13370 of the Water Code is amended to read:

13370. The Legislature finds and declares that since the Federal Water Pollution Control Act (33 U.S.C. 1151, et seq.), as amended, provides for permit systems to regulate the discharge of pollutants and dredged or fill material to the navigable waters of the United States and provides that permits may be issued by states which are authorized to implement the provisions of such act, it is in the interest of the people of the state, in order to avoid direct regulation by the federal government of persons already subject to regulation under state law pursuant to this division, to enact the provisions of this chapter in order to authorize the state to implement the provisions of the Federal Water Pollution Control Act and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto; provided, however, that the requirements of this chapter relating to the discharge of dredged or fill material shall be applicable only when the state has an approved permit program for the discharge of dredged and fill material in accordance with the provisions of the Federal Water Pollution Control Act; and provided further, that the state board shall request federal funding under the Federal Water Pollution Control Act for the purpose of carrying out its responsibilities under this program.

SEC. 2. Section 13376 of the Water Code is amended to read:

13376. Any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or any person discharging dredged or fill material or proposing to discharge dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of such discharge in compliance with the procedures set forth in Section 13260. Any person proposing to discharge pollutants or dredged or fill material shall file a report at least 180 days in advance of the date on which it is desired to commence the discharge of pollutants or dredged or fill material. Any person presently discharging pollutants or dredged or fill material (except where subject to general permit) shall file a report within 45 days of a written request by a regional board or the state board. The discharge of pollutants or dredged or fill material by any person except as authorized pursuant to waste discharge requirements or dredged or fill material permits is prohibited, except that no permit under this chapter is required for discharges into navigable waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to the mean higher water mark, including wetlands adjacent thereto.

SEC. 3. Section 13377 of the Water Code is amended to read:

13377. Notwithstanding any other provision of this division, the state board or the regional boards shall, as required or authorized by the Federal Water Pollution Control Act, as amended, issue waste discharge requirements and dredged or fill material permits which apply and ensure compliance with all applicable provisions of the act and acts amendatory thereof or supplementary, thereto, together with any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.

SEC. 4. Section 13378 of the Water Code is amended to read:

13378. Waste discharge requirements and dredged or fill material permits shall be adopted only after notice and any necessary hearing. Such requirements or permits shall be adopted for a fixed term not to exceed five years for any proposed discharge, existing discharge, or any material change therein.

SEC. 5. Section 13380 of the Water Code is amended to read:

13380. Any waste discharge requirements or dredged or fill material permits adopted under this chapter shall be reviewed at least every five years and, if appropriate, revised.

SEC. 6. Section 13381 of the Water Code is amended to read:

13381. Waste discharge requirements or dredged or fill material permits may be terminated or modified for cause, including, but not limited to, all of the following:

(a) Violation of any condition contained in the requirements or permits.

(b) Obtaining the requirements by misrepresentation, or failure to disclose fully all relevant facts.

(c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

SEC. 7. Section 13383 of the Water Code is amended to read:

13383. The state board or regional boards may require dischargers of pollutants or dredged or fill material to navigable waters or to public treatment systems to establish and maintain records, make reports, install, use and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required. The state board or regional boards may inspect the facilities of any discharger of pollutants or dredged or fill material pursuant to the procedure set forth in subdivision (c) of Section 13267.

SEC. 8. Section 13384 of the Water Code is amended to read:

13384. The state board or the regional boards shall ensure that the public, and that any other state, the waters of which may be affected by any discharge of pollutants or dredged or fill material to navigable waters within this state, shall receive notice of each application for requirements or report of waste discharge or application for a dredged or fill material permit or report of dredged or fill material discharge and are provided an opportunity for public hearing before

adoption of such requirements or permit.

SEC. 9. Section 13385 of the Water Code is amended to read:

13385. Any person who discharges pollutants or dredged or fill material, except as permitted by waste discharge requirements or a dredged or fill material permit, or who violates any cease and desist order, prohibition, waste discharge requirement, dredged or fill material permit, effluent limitation, water quality related effluent limitation, national standard of performance, pretreatment or toxicity standard or who refuses to comply with the requirements adopted pursuant to Section 13382 shall be subject to a civil penalty not to exceed ten thousand dollars ($10,000) for each day in which such discharge, violation, or refusal occurs. Funds collected shall be paid to the State Water Pollution Cleanup and Abatement Account.

SEC. 10. Section 13386 of the Water Code is amended to read:

13386. (a) The Attorney General, upon request of a regional board or the state board, shall petition the superior court to impose, assess and recover the sums provided in Section 13385.

(b) Upon the violation of the terms of any cease and desist order, prohibition, dredged or fill material permit, waste discharge requirement, effluent limitation, water quality related effluent limitation, national standard of performance, pretreatment or toxicity standard, the requirements of Section 13383, or upon the failure of any discharger into a public treatment system to comply with any cost or charge adopted by any public agency under Section 204(b) of the Federal Water Pollution Control Act, as amended, the Attorney General, upon the request of the state board or regional board shall petition the appropriate court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining such person or persons from continuing the violation. The provisions of subdivisions (b) and (c) of Section 13331 shall be applicable to proceedings under this subdivision.

(c) With respect to violation of waste discharge requirements or cease and desist orders, remedies under Section 13385 are in lieu of civil monetary remedies provided for in Section 13350.

SEC. 11. Section 13387 of the Water Code is amended to read:

13387. (a) Any person who willfully or negligently discharges pollutants or dredged or fill material, except as allowed by waste discharge requirements or dredged or fill material permits, or who willfully or negligently violates any effluent standard, water quality related effluent standard, national standard of performance, toxicity or pretreatment standard, or who refuses to comply with the requirements adopted pursuant to Section 13382, or who violates any cease and desist order, prohibition, or waste discharge requirement shall be punished by a fine of not more than twenty-five thousand dollars ($25,000) nor less than two thousand five hundred dollars ($2,500) for each day in which such violation occurs, or by imprisonment for not more than one year in the county jail, or by both. If the conviction is for a violation committed after a first conviction of such person under this section, punishment shall be by

a fine of not more than fifty thousand dollars ($50,000) for each day in which such violation occurs, or by imprisonment for not more than two years in the county jail, or both. Funds collected shall be paid to the State Water Pollution Cleanup and Abatement Account.

(b) Any person who knowingly makes any false statement, representation, record, report, plan or other document filed with a regional board or the state board, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division shall be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment in a county jail for not more than six months, or by both.

SEC. 12. 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 entitites and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 747

An act to amend Sections 6826.1, 6895, 6897, and 6898 of, and to add Section 6212.2 to, the Public Resources Code, relating to state lands.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978]

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

SECTION 1. Section 6212.2 is added to the Public Resources Code, to read:

6212.2. The commission may, under such rules and regulations as it may prescribe, issue permits for the taking of cores or other samples by means of drilling operations or other methods on or under any lands under the jurisdiction of the commission for the purpose of obtaining geological information to be used in assessing the nature and extent of any mineral interest reserved to the state, preparing environmental documents, locating nuclear or other energy-related plant sites, making soil surveys, conducting foundation exploration and oceanographic research, and making studies of geological hazards, flood control, harbor works, and other similar matters not involving an activity of commercial exploration or exploitation.

SEC. 2. Section 6826.1 of the Public Resources Code is amended to read:

6826.1. The State Lands Commission shall not permit the taking of cores or other samples by means of drilling operations on or under

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the tide and submerged lands described in subdivision (c), (d), or (f) of Section 6871.2 or on tide or submerged lands of the state along the coast of the Pacific Ocean extending from the southerly boundary of the state to the northerly boundary of the City of Newport Beach in Orange County for the purpose of exploring for, or exploiting, oil and gas resources.

SEC. 3. Section 6895 of the Public Resources Code is amended to read:

6895. Upon establishing to the satisfaction of the commission that commercially valuable deposits of minerals have been discovered within the limits of any permit, the permittee shall be entitled to a lease for not more than 160 acres of the land embraced in the prospecting permit, if there be that number of acres within the permit. The area selected by the permittee shall be in compact form, and if surveyed shall be described by the legal subdivisions of the public lands surveys; if unsurveyed, the area shall be surveyed by the commission at the expense of the applicant for the lease, in accordance with rules and regulations to be prescribed by the commission, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys. The lease shall provide for the payment of an annual rental of not less than one dollar ($1) per acre, as determined by the commission. The lease shall also provide for payment, which may be taken in kind, of either a royalty, to be taken in money or in kind at the option of the commission, of not less than 10 percent of the gross value of all mineral production from the leased lands, less any charges approved by the commission that were made or incurred with respect to transporting or processing the state's royalty share of production, or a percentage, to be determined by the commission, of the net profits derived from mineral extraction operations under the lease. Payment as a royalty or as a percentage of net profits shall be specified in the permit. Notwithstanding the 160-acre limitation of this section, whenever the lands for which a lease is sought are tide and submerged lands, the commission may divide such lands into such size and number of parcels as the commission shall determine will not substantially impair the public rights to navigation and fishing or interfere with the trust upon which such lands are held.

SEC. 4. Section 6897 of the Public Resources Code is amended to read:

6897. All deposits of minerals, other than oil and gas, in lands belonging to the state, which have been classified by the commission as lands containing commercially valuable mineral deposits and all deposits of such minerals within lands embraced within a prospecting permit and not subject to preferential lease to the permittee, may be leased by the commission to the highest qualified and responsible bidder; and bidding shall be by competitive bid and on the basis of a cash bonus, royalty rate, net profit, or other single biddable factor, and shall be conducted under general regulations and in such form as the commission deems to be in the best interest

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of the state. In addition to the payment of a royalty in money or in kind or a percentage of the net profits derived from mineral extraction operations provided therein, each bid and each lease shall also provide for an annual payment in advance of rent of not less than one dollar ($1) per acre or such greater sum as the commission may specify.

SEC. 5. Section 6898 of the Public Resources Code is amended to read:

6898. Leases under this article shall be for terms not to exceed 20 years with the preferential right in the lessee to renew the lease for successive periods not to exceed 10 years each, upon such reasonable terms and conditions as may be prescribed by the commission.

CHAPTER 748

An act to amend Sections 14406 and 14901 of the Financial Code, relating to credit unions.

[Approved by Governor September 13, 1978 Filed with Secretary of State September 14, 1978]

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

SECTION 1. Section 14406 of the Financial Code is amended to read:

14406. Unless the bylaws expressly reserve any or all of the following duties to the shareholders it shall be a special duty of the directors:

(a) To act upon all applications for membership. The directors may delegate the power to approve applications for new membership to the chairman of a membership committee or to an executive committee.

(b) To expel members for any of the following causes:

(1) Conviction of a criminal offense involving moral turpitude.

(2) Failure to carry out contracts, agreements or obligations with the credit union.

(3) Refusal to comply with the provisions of this division or of the bylaws.

Any member who shall have been expelled by the board of directors shall have the right to appeal therefrom to the members, in which event after hearing the order of suspension may be revoked by a two-thirds vote of the members present at a special meeting to consider the matter.

(c) To obtain adequate surety bond coverage for the treasurer and any assistant treasurer conditioned upon the honest performance of his trust. The minimum principal amount of such bond shall be based on the gross assets of the credit union, according to the following schedule:

Gross assets	*Amount of bond*
0 to $5,000	$1,000
5,001 to 10,000	2,000
10,001 to 20,000	4,000
20,001 to 30,000	5,000
30,001 to 40,000	8,000
40,001 to 50,000	10,000
50,001 to 75,000	15,000
75,001 to 100,000	20,000
100,001 to 150,000	30,000
150,001 to 200,000	40,000
200,001 to 300,000	50,000
300,001 to 400,000	60,000
400,001 to 500,000	70,000
500,001 to 750,000	85,000
750,001 to 1,000,000	100,000
1,000,001 to 50,000,000	100,000 plus 50,000 for each additional million or fraction thereof of assets over 1,000,000
50,000,001 to 150,000,000	2,500,000 plus 25,000 for each additional million or fraction thereof of assets over 50,000,000
Over 150,000,000	5,000,000.

(d) To obtain adequate fidelity bond coverage for each officer and employee having control of or access to funds or securities owned by or pledged with a credit union commensurate with risks involved.

(e) To determine from time to time the rate of interest which shall be allowed on shares or certificates and interest rate on loans.

(f) To fix the maximum number of shares which may be held by, and the maximum amount which may be lent to any one member.

(g) To declare dividends and to authorize the payment of interest refunds to borrowing members.

(h) To recommend amendments to the bylaws.

(i) To fill vacancies in the board of directors or credit committee, and temporarily fill vacancies caused by the suspension of any member of the board of directors, or any or all members of the credit committee, pending a meeting of the shareholders to determine whether to affirm such suspension and vacate the office, or to reinstate such members.

(j) To direct the deposit or investment of funds, except loans to members, and to perform such other duties as the bylaws may

prescribe.

(k) To designate alternate members of the credit committee who shall serve in the absence or inability of the regular members to perform their duties.

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

14901. No credit union shall charge more than 15 percent per annum simple interest on the unpaid balance, for any loan, including all charges incident to the making of the loan. Charges incident to the making of a loan as used in this section do not include the cost of any insurance or any cost of acknowledgment, certification, registration, recordation or filing, independent appraisals, separate escrows, and other fees actually paid by a credit union to third parties in connection with a loan. A charge for special services applied to a share account is not a charge incident to the making of a loan when an overdraft from the share account results in a loan advance, provided that the same charge is applied to the share account whether or not an overdraft occurs.

CHAPTER 749

An act to amend Section 8643 of the Business and Professions Code, relating to structural pest control operators.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 8643 of the Business and Professions Code is amended to read:

8643. The negligent handling or use of any poisonous exterminating agent is a ground for disciplinary action.

CHAPTER 750

An act to amend Section 9841 of the Business and Professions Code, relating to electronic repair dealers.

[Approved by Governor September 13, 1978 Filed with Secretary of State September 14, 1978.]

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

SECTION 1. It is the intent of the Legislature to strive to reduce incompetence and negligence in the electronic and appliance repair industry and not to impose unwarranted disciplinary action in any instance of an inadvertent act

SEC. 2. Section 9841 of the Business and Professions Code is amended to read:

9841. (a) The director may refuse to validate, or may invalidate temporarily or permanently the registration of a service dealer for any of the following acts or omissions done by himself or any employee, partner, officer, or member of the service dealer and related to the conduct of his business:

(1) Making or authorizing any statement or advertisement 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.

(2) Making any false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of the equipment covered by this chapter.

(3) Acting for more than one customer in a transaction without the knowledge or consent of all parties thereto.

(4) Any other conduct which constitutes fraud or dishonest dealing.

(5) Conduct constituting incompetence or negligence.

(6) Failure in any material respect to comply with the provisions of this chapter or regulations thereunder.

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair.

(8) Conviction of a felony or any offense involving moral turpitude which has a substantial relationship to the functions and responsibility of a registrant under this chapter, in which event the record of the conviction shall be conclusive evidence thereof.

(b) The director may also refuse to validate, or may invalidate temporarily or permanently, the registration of a service dealer if the applicant or registrant, as the case may be, lacks good moral character as defined by Section 9831.

CHAPTER 751

An act to add and repeal Section 6065.5 to the Business and Professions Code, relating to bar examinations.

[Approved by Governor September 13, 1978 Filed with Secretary of State September 14, 1978]

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

SECTION 1. Section 6065.5 is added to the Business and Professions Code, to read:

6065.5. Any applicant for the first-year law students' examination, after he has taken such examination and within four months after the results thereof have been declared, has the right to inspect his examination papers at the office of the examining committee located nearest to the place at which the applicant took the examination.

The applicant also has the right to inspect the grading of the papers whether the record thereof is marked upon the examination or otherwise.

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

CHAPTER 752

An act to add Article 2.5 (commencing with Section 6035) to Chapter 4 of Division 3 of the Business and Professions Code, relating to disclosure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978]

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

SECTION 1. Article 2.5 (commencing with Section 6035) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 2.5. Conflicts of Interest

6035. Unless the contrary is stated or clearly appears from the context, the definitions set forth in Chapter 2 (commencing with Section 82000) of Title 9 of the Government Code shall govern the interpretation of this article.

6036. (a) Any member of the board of governors must disqualify himself or herself from making, participating in the making of, or attempting to influence any decisions of the board or a committee of the board if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public or members of the State Bar generally or any significant segment thereof, on:

(1) Any business entity in which the member has a direct or indirect investment worth more than one thousand dollars ($1,000);

(2) Any real property in which the member has a direct or indirect interest worth more than one thousand dollars ($1,000);

(3) Any source of income including clients, other than loans by a commercial lending institution in the regular course of business, aggregating two hundred fifty dollars ($250) or more in value received by or promised to the member within twelve months prior to the time when the decision is made; or

(4) Any business entity in which the member is a director, officer, partner, trustee, employee, or holds any position of management.

(b) Any member of the board of governors must likewise

disqualify himself or herself when there exists a personal nonfinancial interest which will prevent the member from applying disinterested skill and undivided loyalty to the State Bar in making or participating in the making of decisions.

(c) Notwithstanding subdivisions (a) and (b), no member shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the action or decision to be made. The fact that a member's vote is needed to break a tie does not make his or her participation legally required for the purposes of this section.

(d) A member required to disqualify himself or herself because of a conflict of interest shall (1) immediately disclose the interest, (2) withdraw from any participation in the matter, (3) refrain from attempting to influence another member, and (4) refrain from voting. It is sufficient for the purpose of this section that the member indicate only that he or she has a disqualifying financial or personal interest.

(e) For purposes of this article and unless otherwise specified, "member" means any appointed or elected member of the board of governors.

6037. No action or decision of the board or committee of the board shall be invalid because of the participation therein by a member or members in violation of Section 6036. However, any member who intentionally violates the provisions of subdivision (a) of Section 6036 is guilty of a misdemeanor, punishable by imprisonment in county jail not exceeding five days, or by a fine not exceeding five hundred dollars ($500), or by both, and, if such member is an attorney member of the board, a certified copy of the record of conviction shall be transmitted to the Supreme Court for disposition as provided in Sections 6101 and 6102. Upon entry of final judgment of conviction, the member's term of office on the board of governors, and duties and authority incidental thereto, shall automatically terminate. Any member who intentionally violates the provisions of subdivision (b) of Section 6036 shall be liable for a civil penalty not to exceed five hundred dollars ($500) for each violation, which shall be assessed and recovered in a civil action in a court of competent jurisdiction brought in the name of the People of the State of California only by a district attorney of a county in which the member resides or maintains offices and the penalty collected shall be paid to the treasurer of that county.

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 integrity of action of the board of governors will be placed, as soon as possible, beyond question by standards of conduct which will prohibit conflicts of interest; and to assure that imminent decisions of members who serve on the board of governors are impartial and based solely on the merits, free from bias caused

by an economic interest or personal nonfinancial interest.

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.

CHAPTER 753

An act to amend Sections 12747, 12752, 12757, 12779, 12785, 12793, 20708, 20767, 20820, 20822, 20824, 20828, 20840, 20849, 20852, and 20853 of, to amend and renumber Section 21880.6 of, and to repeal Sections 12746, 12749, 12778, 12781, 20826, and 20826.5 of, the Business and Professions Code, relating to weights and measures.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978]

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

SECTION 1. Section 12746 of the Business and Professions Code is repealed.

SEC. 2. Section 12747 of the Business and Professions Code is amended to read:

12747. The department may refuse to grant any license provided for by this chapter, or may refuse to renew any such license, and may revoke or suspend any such license, when, after a hearing had in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the department is satisfied that the applicant or licensee is not qualified to capably or reliably perform the duties of a weighmaster, or has been found guilty of a misdemeanor as provided by this chapter.

SEC. 3. Section 12749 of the Business and Professions Code is repealed.

SEC. 4. Section 12752 of the Business and Professions Code is amended to read:

12752. In addition to the information required by this section pertaining to the weight, measure or count of the vehicle, commodity or article, there shall appear in an appropriate and conspicuous place on each certificate, and all copies, the following legend:

WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE

THIS IS TO CERTIFY that the following described merchandise was weighed, measured or counted by a private weighmaster, and his signature is a recognized authority of accuracy as prescribed by Chapter 7.3 (commencing with Section 12740) of Division 5 of the California Business and Professions Code, administered by the Division of Measurement Standards of the Department of Food and Agriculture of the State of California.

There shall also appear on each certificate, and all copies, immediately above the weighmaster's signature space, the printed name of the principal private weighmaster as it appears on the license.

Each certificate shall be numbered consecutively and shall provide for the following information as applicable to the transaction:

(a) The date on which the product or commodity was weighed, measured or counted.

(b) The name of the nearest city or town where the weighing or measuring occurred and the location of the scale.

(c) The complete signature of the weighmaster who determined the weight or measure of the commodity. In an automatic weighing system the signature may be defined by the director by regulation.

(d) The kind of product or article and such other information as may be necessary to identify the product or distinguish it from a like kind.

(e) The number of units of the product or article. The procedure for determining the acceptable source of this information may be prescribed by the director by regulation.

(f) The name of the owner, or his agent, and the consignee.

(g) One of the following:

(1) The gross weight of the product and the vehicle or container;

(2) The tare weight of the unladed vehicle or container;

(3) The gross, tare and net weights when a gross and tare are used in determining the net weight;

(4) The true net weight, measure or count when no gross and tare are involved in determining the net quantity of the product.

(h) The correct identification of the vehicle, or combination of vehicles or other means by which the product was delivered. If an equipment number is used to identify a vehicle or combination of vehicles, there shall be traceability to the registered vehicle license numbers through the weighmaster's records.

(i) The unit of measure, such as pounds, tons, gallons, kilograms or cubic yards, used to determine the quantity.

SEC. 5. Section 12757 of the Business and Professions Code is amended to read:

12757. Certificates issued by private weighmasters shall contain

the accurate and correct weight, measure, or count of any and all commodities or products weighed, measured, or counted.

Any private weighmaster who issues a private weighmaster's certificate without weighing, measuring, or counting the article or commodity or causing his deputy to weigh, measure, or count the article or commodity, when permitted by regulations, or who issues a private weighmaster's certificate giving thereon a false weight, measure, or count of the commodity weighed, measured, or counted by him or his deputy, or any person who alters a private weighmaster's certificate, is guilty of a misdemeanor.

SEC. 6. Section 12778 of the Business and Professions Code is repealed.

SEC. 7. Section 12779 of the Business and Professions Code is amended to read:

12779. The department may refuse to grant any license provided for by this chapter, or may refuse to renew any such license, and may revoke or suspend any such license when, after a hearing, had in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the department is satisfied the applicant or licensee is not qualified to capably or reliably perform the duties of a weighmaster, or has been found guilty of a misdemeanor as provided in this chapter.

SEC. 8. Section 12781 of the Business and Professions Code is repealed.

SEC. 9. Section 12785 of the Business and Professions Code is amended to read:

12785. In addition to the information required by this section pertaining to the weight, measure or count of the vehicle, commodity or article, there shall appear in an appropriate and conspicuous place on each certificate, and all copies, the following legend:

WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE

THIS IS TO CERTIFY that the following described merchandise was weighed, measured or counted by a public weighmaster at large, and his signature is a recognized authority of accuracy as prescribed by Chapter 7.7 (commencing with Section 12770) of Division 5 of the California Business and Professions Code, administered by the Division of Measurement Standards of the Department of Food and Agriculture of the State of California.

There shall also appear on each certificate and all copies, immediately above the weighmaster's signature space, the printed name of the principal public weighmaster at large as it appears on the license.

Each certificate shall be numbered consecutively and shall provide for the following information as applicable to the transaction:

(a) The date on which the product or commodity was weighed, measured or counted. If gross and tare weights are determined by different weighmasters, each signature shall be dated.

(b) The name of the nearest city or town where the weighing or measuring occurred and the location of the scale.

(c) The complete signature of the weighmaster who determined each weight or measure.

(d) The kind of product or article and such other information as may be necessary to identify the product or distinguish it from a like kind.

(e) The number of units of the product or article. The procedure for determining the acceptable source of this information may be prescribed by the director by regulation.

(f) The name of the owner, or his agent, and the consignee.

(g) One of the following:

(1) The gross weight of the product and the vehicle or container;

(2) The tare weight of the unladen vehicle or container;

(3) The gross, tare and net weights when the gross and tare are used in determining the net weight;

(4) The true net weight, measure or count when no gross and tare are involved in determining the net quantity of the product.

(h) The tare weights of boxes, bins, pallets or other containers.

(i) The name of the carrier and the license numbers of the vehicle and each unit of a combination of vehicles being weighed.

(j) The unit of measure, such as pounds, tons, gallons, kilograms or cubic yards, used to determine the quantity.

SEC. 10. Section 12793 of the Business and Professions Code is amended to read:

12793. Any person is guilty of a misdemeanor who does any of the following acts:

(a) Requests a public weighmaster at large or any person employed by him to weigh, measure or count any commodity falsely or incorrectly.

(b) Requests a false or incorrect certificate of weights and measures.

(c) Possesses unfilled or unused certificates of weights and measures forms if he is not a public weighmaster. This subdivision does not apply to a person engaged in the business of printing certificate of weights and measures forms nor to his representative.

(d) Furnishes or gives false information to a weighmaster for use in the completion of a certificate of weights and measures.

(e) Presents for payment a certificate made false by the insertion of any weight, measure or count not determined by the issuing weighmaster.

SEC. 11. Section 20708 of the Business and Professions Code is amended to read:

20708. (a) "Sell" or any of its variants means attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery or offer for delivery, trade, barter or expose for sale.

(b) "Manufacturer" means manufacturer, refiner, producer or importer.

(c) "Petroleum products" means gasoline, diesel fuel, liquefied petroleum gas only when used as a motor fuel, kerosene, thinner, solvent, liquefied natural gas, pressure appliance fuel, or white gasoline, or any motor fuel, or any oil represented as engine lubricant, engine oil, lubricating or motor oil, or any oil used to lubricate transmissions, gears or axles.

(d) "Barrel," when applied to petroleum products, shall consist of forty-two (42) gallons.

(e) "Oil" means motor oil, engine lubricant, engine oil, lubricating oil, or oils used to lubricate transmissions, gears or axles.

(f) "Motor oil" means engine oil, engine lubricant, or lubricating oil.

SEC. 12. Section 20767 of the Business and Professions Code is amended to read:

20767. (a) Application for a motor fuel pump license shall be filed with the department by the owner or operator of each such pump, container used as a dispensing device, or other dispensing device on a form prescribed and furnished by the department. The application shall be accompanied by a license fee of five dollars ($5) for each pump, container used as a dispensing device, or other dispensing device. Applications for the renewal of a motor fuel pump license for each fiscal year beginning July 1st shall be made on or before the last day of June next preceding.

(b) After compliance by the owner or operator with the provisions of Sections 20766 and 20767, the department shall grant and issue to each applicant a license for each separate place of business within the state. The license shall be valid only for the location for which it is issued and for the transaction of business at the place and the number of dispensing devices designated on the license and is not assignable or transferable to any other location. The license shall at all times be conspicuously and prominently displayed at the location for which the license is issued.

(c) Whenever application is being made to renew a motor fuel license that has expired, and the application is made for or by the owner or operator to whom the prior license was issued or transferred, there shall be added a penalty fee equal to the amount of the license fee.

SEC. 13. Section 20820 of the Business and Professions Code is amended to read:

20820. No person shall sell at retail to the general public, any motor vehicle fuel from any place of business in this state unless there is displayed on the dispensing apparatus in a conspicuous place at least one sign or price indicator showing the actual total price per gallon or litre of all motor vehicle fuel sold therefrom. The actual total price per gallon, or litre, shall include fuel taxes and all sales taxes.

If motor vehicle fuel is sold by the litre, the word "litre" shall be

conspicuously displayed on the side of the dispensing apparatus from which service can be made.

SEC. 14. Section 20822 of the Business and Professions Code is amended to read:

20822. When a sign is used in addition to a price indicator as defined in Section 20820, and if the same grade of motor fuel is sold at a different price from any other dispenser on the same premises, it shall be unlawful to display such sign on a dispenser unless a sign with price numerals of equal size is displayed upon each dispenser from which the same grade of motor fuel is dispensed at higher prices.

SEC. 15. Section 20824 of the Business and Professions Code is amended to read:

20824. All letters, figures or numerals which are part of any sign or price indicator required by this article shall be plainly legible. The color or tint shall contrast with the background and other parts of the sign.

SEC. 16. Section 20826 of the Business and Professions Code is repealed.

SEC. 17. Section 20826.5 of the Business and Professions Code is repealed.

SEC. 18. Section 20828 of the Business and Professions Code, is amended to read:

20828. The provisions of this article shall not apply to the sale of motor fuel for aircraft through or from any portable dispensing device.

SEC. 19. Section 20840 of the Business and Professions Code is amended to read:

20840. (a) It is unlawful for any person to sell any petroleum product referred to in this chapter at any place where petroleum products are kept or stored for sale, unless and until there is firmly attached to or painted upon each container, receptacle, pump, dispenser, and inlet end of the fillpipe of each underground storage tank, from which or into which such product is drawn or poured out for sale or delivery, a sign or label plainly visible consisting of the name of such product including in the case of gasoline and diesel fuel the grade or brand name designation, if any, in letters not less than one-half of an inch in height, together with the brand name, trademark or trade name of such product, which word or words shall also be in letters of not less than one-half of an inch in height.

The viscosity grade classification number shall be determined in accordance with the Society of Automotive Engineers latest recommended practice of crankcase oil or transmission and axle lubricant viscosity classification, and shall be preceded by the letters "S.A.E." Oil used to lubricate transmissions, gears or axles falling within more than one S.A.E. viscosity grade classification shall be labeled to show the grade or grades for which the supplier intends it for use.

(b) Notwithstanding the requirements specified in subdivision (a)

for petroleum products, when such product is oil, as defined in Section 20708, each such sign or label shall also have in letters and numerals, plainly visible, the viscosity grade classification.

The minimum size of such letters and numerals shall be:

(1) For containers of one gallon or less, one-quarter inch in height and not less than one-sixteenth inch in width.

(2) For containers greater than one gallon, one-half inch in height.

No person shall sell at retail to the general public, any gasoline from any place of business in this state, unless there is displayed on the dispensing apparatus in a conspicuous place at least one sign showing the minimum octane number or antiknock index, in letters and numerals not less than one-half inch in height, of all gasoline sold therefrom.

As used in this subdivision "octane number" means the octane number or antiknock index number of the gasoline as defined in Section 20710.

The provisions of this section pertaining to "gasoline octane number" and motor oil "S.A.E. viscosity number" shall not apply to products sold for aviation purposes.

Any device or pump used to dispense a mixture or premixture of gasoline and motor oil shall have displayed on such device a sign or label stating in letters or numerals not less than one-half of an inch in height the ratio of gasoline to motor oil, the name of the product, and the brand name.

The provisions of this section shall apply, with respect to thinners or solvents, only to the sale or delivery or offer for sale of such products through service stations, garages and other retail outlets.

SEC. 20. Section 20849 of the Business and Professions Code is amended to read:

20849. It is unlawful for any person to deliver, or permit to be delivered, into any tank or container, at any place where petroleum products are sold, any petroleum product referred to in this chapter, other than that indicated by the brand, trademark, trade name, or in the case of oil, as defined in Section 20708, the S.A.E. classification number or other viscosity grade classification number displayed on the tank or container or the inlet end of the underground storage tank, except as provided in this chapter.

The provisions of this section shall not be construed to prohibit the delivery of gasoline or diesel fuel into a storage tank labeled with the authorized rebrand as provided in Article 9 (commencing with Section 20911) of this chapter.

SEC. 21. Section 20852 of the Business and Professions Code is amended to read:

20852. The use of pumps or other devices which are capable of withdrawing gasoline from each of two tanks containing different qualities of the same petroleum product and dispensing them as a single combined product shall be authorized when the department determines that all of the following conditions exist:

(a) The device mechanism accurately measures the quantities of

the gasoline being simultaneously withdrawn from each of the two tanks and the quantity dispensed.

(b) The device mechanism accurately and visibly records and displays the resulting combined quality, the total quantity, the price per gallon or litre for the particular quality combination being dispensed, and the total price of the quantity of gasoline dispensed at the particular sale.

(c) The device has a locking selector mechanism which prevents the changing of the proportion of the two qualities being combined during the dispensing of the desired quantity.

The provisions of this section shall not supersede any other provisions in this chapter, except that they shall supersede the provisions of Sections 20782, 20783, 20840, 20846, 20849, 20850, 20851, and 20930 to the extent necessary to authorize the operation of a blending type of pump connected to two tanks containing two different products, or two different grades of the same product, which, when blended together in different proportions, will produce gasolines of different octane rating, each blend of which shall meet the specifications for gasoline as required by this chapter.

SEC. 22. Section 20853 of the Business and Professions Code is amended to read:

20853. The use of pumps or other devices which are capable of withdrawing gasoline from one tank and motor oil, or a premixture of gasoline and motor oil in a known ratio, from another tank, and dispensing them as a single combined product, or of withdrawing gasoline alone from the tank containing gasoline and of withdrawing a premixture of gasoline and motor oil alone from the tank containing a premixture of gasoline and motor oil shall be authorized when the department determines that all the following conditions exist:

(a) The device mechanism accurately measures the quantities being simultaneously withdrawn for dispensing as a combined product from each of the two tanks when the combined product is dispensed, the quantity being dispensed from the gasoline tank when gasoline alone is dispensed, or the quantity being dispensed from the tank containing a premixture of gasoline and motor oil when the premixture alone is dispensed.

(b) The device mechanism accurately and visibly records and displays: (1) the ratio of gasoline to motor oil or premixture, the quantity of each ingredient being dispensed, the price per gallon or litre for the gasoline being dispensed, and the price per quart or litre for any motor oil or premixture being dispensed or (2) the ratio of gasoline to motor oil or premixture and the price per gallon or litre for the product being dispensed.

(c) The device mechanism prevents the changing of the ratio of gasoline to motor oil or premixture during dispensing.

The provisions of this section shall not supersede any other provisions in this chapter, except that they shall supersede Sections 20782, 20783, 20840, 20846, 20849, 20850, 20851, and 20930 to the extent

necessary to authorize the operation of the above-described blending type of pump connected to two tanks, one containing motor oil, or a premixture of motor oil and gasoline in a known ratio, and the other gasoline, provided that the motor oil shall in its separate state meet the specifications for motor oil as required by Section 20800 and that the gasoline shall in its separate state meet the specifications for gasoline as required by Section 20780.

SEC. 23. Section 21880.5 of the Business and Professions Code 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).

CHAPTER 754

An act to amend Sections 2530.2, 2530.5, 2531.1, 2531.2, 2532, 2532.2, and 2534.2 of, and to repeal Section 2532.3 of, the Business and Professions Code, relating to speech pathology and audiology, and making an appropriation therefor.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

(a) "Committee" means the Speech Pathology and Audiology Examining Committee.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance of the State of California.

(c) "Person" means any individual, organization or corporate body except that only individuals can be licensed under this chapter.

(d) A "speech pathologist" is a person who practices speech pathology.

(e) "The practice of speech pathology" means the application of principles, methods, and procedures for measurement, testing, identification, prediction, counseling, or instruction related to the development and disorders of speech, voice, or language for the purpose of identifying, preventing, managing, habilitating or rehabilitating, ameliorating, or modifying such disorders and conditions in individuals or groups of individuals, and the planning, directing, conducting and supervision of programs for identification, evaluation, habilitation, and rehabilitation of disorders of speech, voice, or language.

(f) "Speech pathology aide" means any person meeting the

minimum requirements established by the committee, who works directly under the supervision of a speech pathologist.

(g) An "audiologist" is one who practices audiology.

(h) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to hearing and disorders of hearing and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from hearing loss; and the planning, directing, conducting, supervising, or participating in programs of identification of hearing problems, hearing conservation, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures such as, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading.

(i) "Audiology aide" means any person, meeting the minimum requirements established by the committee, who works directly under the supervision of an audiologist.

SEC. 2. Section 2530.5 of the Business and Professions Code is amended to read:

2530.5. (a) Nothing in this chapter shall be construed as restricting hearing testing conducted by licensed physicians and surgeons or by persons conducting such tests under the direct supervision of a physician and surgeon.

(b) Nothing in this chapter shall be construed to prevent a licensed hearing aid dispenser from engaging in testing of hearing and other practices and procedures used solely for the fitting and selling of hearing aids nor do the provisions of this chapter restrict persons practicing their licensed profession and operating within the scope of their licensed profession or employed by someone operating within the scope of their licensed professions, such as persons fitting and selling hearing aids who are properly licensed or registered under the laws of the State of California.

(c) Nothing in this chapter shall be construed as restricting or preventing the practice of speech pathology or audiology by personnel holding the appropriate credential from the Commission for Teacher Preparation and Licensing as long as such practice is conducted within the confines of or under the jurisdiction of a public elementary or secondary school by which they are employed and such persons do not either offer to render or render speech pathology or audiology services to the public for compensation over and above the salary they receive from the public elementary or secondary school by which they are employed for the performance of their official duties.

(d) Nothing in this chapter shall be construed as restricting the activities in services of a student or speech pathology intern in speech pathology pursuing a course of study leading to a degree in speech pathology at an accredited or approved college or university or an approved clinical training facility, provided that these activities

and services constitute a part of his supervised course of study and that such persons are designated by such title as "speech pathology intern," "speech pathology trainee," or other such title clearly indicating the training status appropriate to his level of training.

(e) Nothing in this chapter shall be construed as restricting the activities in services of a student or audiology intern in audiology pursuing a course of study leading to a degree in audiology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of his supervised course of study and that such persons are designated by such title as "audiology intern," "audiology trainee," or other such title clearly indicating the training status appropriate to his level of training.

(f) Nothing in this chapter shall be construed as restricting the practice of a speech pathologist or audiologist who is obtaining the required professional experience specified in subdivision (d) of Section 2532.2 and whose required professional experience application has been approved by the committee. The number of speech pathologists who may be supervised by a licensed speech pathologist or a speech pathologist having qualifications deemed equivalent by the committee shall be determined by the committee. The supervising speech pathologist shall register with the committee the name of each speech pathologist working under his or her supervision, and shall submit to the committee a description of the proposed professional responsibilities of the speech pathologist working under his or her supervision. The number of audiologists who may be supervised by a licensed audiologist or an audiologist having qualifications deemed equivalent by the committee shall be determined by the committee. The supervising audiologist shall register with the committee the name of each audiologist working under his or her supervision, and shall submit to the committee a description of the proposed professional responsibilities of the audiologist working under his or her supervision.

(g) Nothing in this chapter shall be construed as restricting hearing screening services in public or private elementary or secondary schools so long as these screening services are provided by persons registered as qualified school audiometrists pursuant to Sections 1685 and 1686 of the Health and Safety Code or hearing screening services supported by the State Department of Health Services so long as these screening services are provided by appropriately trained or qualified personnel.

(h) Persons employed as speech pathologists or audiologists by a federal agency shall be exempt from this chapter.

(i) Nothing in this chapter shall be construed as restricting consultation or the instructional or supervisory activities of a faculty member of an approved or accredited college or university for the first 60 days following appointment after the effective date of this subdivision.

SEC. 3. Section 2531.1 of the Business and Professions Code is

amended to read:

2531.1. Each member of the committee shall hold office for a term of four years, and shall serve until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No member may serve for more than two consecutive terms.

SEC. 4. Section 2531.2 of the Business and Professions Code is amended to read:

2531.2. The membership of the committee shall include three licensed speech pathologists, three licensed audiologists, and three public members one of whom is a licensed physician and surgeon, board certified in otolaryngology, and the remaining two public members who shall not be licentiates of the committee or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

SEC. 5. Section 2532 of the Business and Professions Code is amended to read:

2532. (a) On and after July 1, 1974, no person shall engage in the practice of speech pathology or audiology or represent himself or herself as a speech pathologist or audiologist unless he or she is licensed in accordance with the provisions of this chapter.

(b) A speech pathologist or audiologist who holds a license from another state or territory of the United States or who holds equivalent qualifications and has made application to the committee for a license in this state may perform activities and services of a speech pathology or audiological nature without a valid license for a period not to exceed 90 days from the time of submitting his or her application. With approval by the committee, such a speech pathologist or audiologist may be granted licensure on completion of the requirements specified in subdivisions (a), (b), (c), and (e) of Section 2532.2.

SEC. 6. Section 2532.2 of the Business and Professions Code is amended to read:

2532.2. To be eligible for licensure by the committee as a speech pathologist or audiologist, the applicant shall possess all of the following qualifications:

(a) Possess at least a master's degree in speech pathology or audiology from an educational institution approved by the committee or qualifications deemed equivalent by the committee.

(b) Submit transcripts from an educational institution approved by the committee evidencing the successful completion of at least 60 semester hours of courses related to the normal development, function, and use of speech, hearing, and language; and courses that provide information about, and training in, the management of speech, hearing, and language disorders. At least 24 semester units shall be in the field for which the license is sought. These 24 units do not include credit for thesis, dissertation or clinical practice.

(c) An applicant shall submit evidence of the completion of

supervised clinical experience with individuals representative of a wide spectrum of ages and communication disorders. The committee shall establish by regulation the required number of clock hours, not to exceed 300 clock hours, of supervised clinical experience necessary for such applicant.

(d) An applicant shall submit evidence of no less than nine months of satisfactorily completed supervised full-time experience or 18 months of part-time experience obtained under the supervision of a licensed speech pathologist or audiologist or a speech pathologist or audiologist having qualifications deemed equivalent by the committee. This experience shall be evaluated and approved by the committee. It shall follow completion of requirements listed in paragraphs (a), (b), and (c). Full time is defined as at least nine months in a calendar year and a minimum of 30 hours per week. Part time is defined as a minimum of 18 months and a minimum of 15 hours per week.

(e) Pass an examination or examinations approved by the committee. The committee shall determine the subject matter and scope of such examinations and may waive the examination upon evidence that the applicant has successfully completed an examination approved by the committee. Written examinations may be supplemented by such oral examinations as the committee shall determine. An applicant who fails his examination may be reexamined at a subsequent examination upon payment of the reexamination fee required by this chapter.

SEC. 7. Section 2532.3 of the Business and Professions Code is repealed.

SEC. 8. Section 2534.2 of the Business and Professions Code is amended to read:

2534.2. The amount of the fees prescribed by the provisions of this chapter is that fixed by the following schedule:

(1) The application fee and renewal fee shall be fixed by the committee in an amount which does not exceed one hundred fifty dollars ($150) but is sufficient to support the functions of the committee which relate to the functions authorized by this chapter.

(2) The delinquency fee shall be ten dollars ($10).

(3) The reexamination fee shall be fixed by the committee in an amount which does not exceed seventy-five dollars ($75).

(4) The fee for registration of an aide shall be fixed by the committee in an amount which does not exceed thirty dollars ($30).

(5) The fee for issuance of a duplicate license shall not exceed ten dollars ($10).

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 for such purposes 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 755

An act to amend Section 7154 of the Financial Code, relating to savings and loan associations.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 7154 of the Financial Code is amended to read:

7154. An association may make unamortized loans upon the security of improved real property on the following terms:

(a) In an amount not exceeding 60 percent of the appraised value of such property if the terms of such loans do not exceed three years, after which the loan may not be extended and may be refinanced or modified only with an amortized loan in accordance with the provisions of Section 7150.

(b) In an amount not exceeding 70 percent of the appraised value of such property if the terms of such loans do not exceed two years, after which the loan may not be extended and may be refinanced or modified only with an amortized loan in accordance with the provisions of Section 7150.

(c) In an amount which, together with any amount recorded by mortgage or deed of trust, does not exceed 80 percent of the fair market value of such property. Loans shall not be made under this subdivision unless (1) the terms of such loans do not exceed one year, (2) the terms of the loan prohibit the imposition of a prepayment penalty if the loan is repaid during the year, (3) the proceeds of the loans are utilized by the borrowers only toward the purchase of other improved real property to be occupied in whole or in part by the borrowers as a principal residence, and (4) the loan is on the principal residence of the borrower at the time the loan is made.

CHAPTER 756

An act to amend Sections 12304 and 12531 of, and to repeal Section 12302 of, the Business and Professions Code, relating to weights and measures.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 12302 of the Business and Professions Code is repealed.

SEC. 2. Section 12304 of the Business and Professions Code is amended to read:

12304. The standards shall be kept by the department in a safe and suitable place in its office from which they shall not be removed except for repairs or certification.

The department shall maintain such standards in such calibration as prescribed by the National Bureau of Standards.

SEC. 3. Section 12531 of the Business and Professions Code is amended to read:

12531. (a) A device repairman means any person who, engages in the business of installing, adjusting, servicing, or repairing commercial weighing or measuring devices. As used in this paragraph, installing does not include the installation of a device tested and sealed by a sealer prior to installation.

Any person engaged in the business of installing commercial weighing or measuring devices which are owned or operated by others for commercial purposes is exempted from the provisions of this chapter, if the devices so installed are required to be inspected, tested, adjusted, or repaired by a device repairman before the installed device is placed into service.

(b) Commercial weighing or measuring devices means all equipment specified in subdivision (a) of Section 12210, except any weight or measure or weighing or measuring instrument or device used by a public utility in connection with measuring gas, electricity, water, steam, or communication service subject to the jurisdiction of the California Public Utilities Commission shall be exempt from the requirements of this chapter.

CHAPTER 757

An act to amend Section 5681 of, and to repeal Chapter 3.5 (commencing with Section 5615) of Division 3 of, the Business and Professions Code, relating to landscape architects, and making an appropriation therefor.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code is repealed.

SEC. 2. Section 5681 of the Business and Professions Code is amended to read:

5681. The amount of fees prescribed by this chapter is that fixed by the following schedule:

(a) The application fee for examination shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed seventy-five dollars ($75).

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

(c) The fee for a temporary certificate shall be fixed by the board in an amount not to exceed fifty dollars ($50).

(d) The fee for a duplicate certificate shall be fixed by the board in an amount not to exceed twenty-five dollars ($25).

(e) The renewal fee shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed one hundred twenty dollars ($120).

(f) The penalty for failure to notify the board of a change of address within 30 days from an actual change in address shall be fixed by the board in an amount not to exceed twenty-five dollars ($25).

(g) The delinquency fee shall not exceed twenty-five dollars ($25).

(h) The fee for a branch office shall be fixed by the board in an amount not to exceed twenty-five dollars ($25).

SEC. 3. Section 1 of this act shall become operative on June 30, 1981, unless a later-enacted statute deletes or extends such date.

CHAPTER 758

An act relating to the Lake Temescal Restoration Project, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. The Legislature hereby finds that an emergency exists at Lake Temescal situated in the City of Oakland, Alameda County, in that it is rapidly losing water volume due to excessive

sedimentation and will soon transform into a meadow unless immediate, long-term dredging is initiated. The Legislature further finds that the accelerated rate of sedimentation is due primarily to construction of the monumental interchange on State Highway Routes 13 and 24 adjacent to the lake undertaken during the 1960's and 1970's by the Department of Transportation and to increased urban development around the lake. The Legislature furthermore recognizes that the East Bay Regional Park District has secured funding in the amount of four hundred eighty-eight thousand two hundred fifty dollars ($488,250) to initiate a dredging project for the lake to address the problems caused by increased urban development.

SEC. 2. In recognition of the Department of Transportation's significant responsibility for the emergency situation facing Lake Temescal, the most popular natural recreational site in the East Bay Regional Park District, the Department of Transportation shall grant funds appropriated from the State Highway Account in the State Transportation Fund by Section 3 of this act to the East Bay Regional Park District for purposes of the Lake Temescal Restoration Project to address the problems caused by highway construction. The expenditure of such funds shall be limited to dredging and related costs.

SEC. 3. The sum of three hundred fifty-nine thousand one hundred fifty dollars ($359,150) is hereby appropriated from the State Highway Account in the State Transportation Fund to the Department of Transportation for the purpose of making a grant of such sum to the East Bay Regional Park District for expenditure without regard to fiscal years for purposes of the Lake Temescal Restoration Project.

SEC. 4. The Legislature hereby finds and declares that the funds appropriated by Section 3 of this act represent an equitable share of the Department of Transportation's responsibility for the situation facing Lake Temescal described in Section 1 of this act. Such funds shall be deemed funds expended for purposes of Section 188 of the Streets and Highways Code in Group No. 1, as defined in Section 187 of that 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:

In order that the East Bay Regional Park District may receive a grant to commence immediate restoration of Lake Temescal for its long-term preservation to avoid its eventual transformance into a meadow, it is necessary that this act take effect immediately.

CHAPTER 759

An act to amend Sections 6317 and 6434 of the Labor Code, relating to occupational safety and health.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978]

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

SECTION 1. Section 6317 of the Labor Code is amended to read:

6317. If, upon inspection or investigation, the division believes that an employer has violated Section 25910 of the Health and Safety Code or any standard, rule, order, or regulation established pursuant to Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code, or any standard, rule, order, or regulation established pursuant to this part, it shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the code, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the alleged violation. The period specified for abatement shall not commence running until the date the citation or notice is received by certified mail and the certified mail receipt is signed, or if not signed, the date the return is made to the post office. If the division officially and directly delivers the citation or notice to the employer, the period specified for abatement shall commence running on the date of such delivery.

In the event the violations found in an inspection or investigation do not have a direct relationship upon the health or safety of an employee a "notice" in lieu of citation may be issued with respect to such de minimus violations. The director shall prescribe guidelines for the issuance of such notices.

The division may impose a civil penalty against an employer as specified in Chapter 4 (commencing with Section 6423) of this part, provided, that no civil penalty shall be imposed against any employer for first-instance violations of any standard, rule, order, or regulation, (other than serious, willful, or repeated violations) resulting from the inspection of such employer's establishment or workplace, unless such establishment or workplace is cited, on the basis of such inspection, for 10 or more violations.

No citation or notice shall be issued by the division for a given violation or violations after six months have elapsed since occurrence of the violation.

The director shall prescribe procedures for the issuance of a citation or notice.

The division shall prepare and maintain records capable of supplying an inspector with previous citations and notices issued to an employer.

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SEC. 2. Section 6434 of the Labor Code is amended to read:

6434. The civil penalties provided for in this chapter shall not be assessed against employers that are governmental entities or against any employer for first-instance violations of any standard, rule, order, or regulation (other than serious, willful, or repeated violations) resulting from the inspection of such employer's establishment or workplace, unless such establishment or workplace is cited, on the basis of such inspection, for 10 or more violations.

SEC. 2.5. Section 6434 of the Labor Code is amended to read:

6434. The civil penalties provided for in this chapter shall not be assessed against employees or against employers that are governmental entities or against any employer for first-instance violations of any standard, rule, order, or regulation (other than serious, willful, or repeated violations) resulting from the inspection of such employer's establishment or workplace, unless such establishment or workplace is cited, on the basis of such inspection, for 10 or more violations.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 3054 are both chaptered and become effective January 1, 1979, both bills amend Section 6434 of the Labor Code, and this bill is chaptered after Assembly Bill No. 3054, that the amendments to Section 6434 proposed by both bills be given effect and incorporated in Section 6434 in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Assembly Bill No. 3054 are both chaptered and become effective January 1, 1979, both amend Section 6434, and this bill is chaptered after Assembly Bill No. 3054, in which case Section 2 of this act shall not become operative.

CHAPTER 760

An act to amend Sections 21080, 21080.5, and 25519 of, and to add Sections 21080.7 and 25541.5 to, the Public Resources Code, relating to energy.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 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 thermal 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 conditional sale or purchase of equipment, fuel, steam, water (except ground water), or power for such a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Section 21080.5 which will be 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; provided that such environmental impact report, negative declaration, or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(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. 2. 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 thermal 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 conditional sale or purchase of equipment, fuel, water (except ground water), steam, or power for such a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5 which will be 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

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be located; provided that such environmental impact report, negative declaration, or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(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. 2.3. 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 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. 2.5. Section 21080.7 is added to the Public Resources Code, to read:

21080.7. (a) No environmental impact report or negative declaration shall be required for any project involving the construction of housing or neighborhood commercial facilities in an urbanized area if the lead agency does all of the following:

(1) Finds, after giving notice pursuant to subdivision (b) or (c) of Section 21092 and following the procedure prescribed by law or regulation which would be necessary to make a determination pursuant to Section 21080.1,

(i) That such project is consistent with a specific plan which has been adopted pursuant to Article 8 (commencing with Section 65450), Article 9 (commencing with Section 65500), and Article 10 (commencing with Section 65550) of Chapter 3 of Title 7 of the Government Code or, in the coastal zone, a local coastal program certified pursuant to Article 2 (commencing with Section 30510) of Chapter 6 of Division 20,

(ii) That such plan or program was adopted pursuant to the procedure established by Article 9 (commencing with Section 65500) of Chapter 3 of Title 7 of the Government Code not more than five years prior to the finding made pursuant to this section, and,

(iii) That such plan or program has been the subject of an environmental impact report, and

(iv) That the environmental impact report is sufficiently detailed so that the significant adverse effects of the project on the environment and measures necessary to mitigate or avoid any such effects can be determined, including significant physical effects on existing structures and neighborhoods of historical or aesthetic significance if any exist in the area covered by the plan or program, and measures necessary to mitigate such effects.

(2) Makes one or more of the findings as required pursuant to Section 21081.

(3) Files a notice of the decision on the proposed activity with the county clerk. 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 county clerk. Each such list shall remain posted for a period of 30 days.

(b) As used in this section:

(1) "Neighborhood commercial facilities" means those commercial facilities which are an integral part of a project involving the construction of housing and which will serve the residents of such housing.

(2) "Urbanized area" means a central city or cities and surrounding closely settled territory, as defined by the United States Department of Commerce Bureau of the Census in the Federal Register, Volume 39, Number 85, for Wednesday, May 1, 1974, at pages 15202-15203 and as periodically updated.

SEC. 3. Section 25519 of the Public Resources Code is amended to read:

25519. (a) In order to obtain certification for a site and related facility, an application for certification of such site and related facility shall be filed with the commission. Such application shall be in a form prescribed by the commission and shall be filed with the commission not later than 18 months before any construction is to commence. Such application shall be for a site and related facility which has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site which has been designated a potential multiple-facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility which was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516.

(b) The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the attachments required by subdivision (i), which it determines is reasonably necessary to make any decision on the application.

(c) The commission shall be the lead agency as provided in Section 21165 for all projects which require certification pursuant to this chapter and for projects which are exempted from such certification pursuant to Section 25541. Unless the commission's regulatory program governing site and facility certification and related proceedings are certified by the Resources Agency pursuant to Section 21080.5, an environmental impact report shall be completed within one year after receipt of the application. If the commission prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to Section 21080.5, any other public agency which must make a decision which is subject to the California Environmental Quality Act, Division 13 (commencing with Section

21000), on a site or related facility, shall use the document or documents prepared by the commission in the same manner as they would use an environmental impact report or negative declaration prepared by a lead agency.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Such local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(i) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. In the event the commission requires modification of the proposed facility, the commission shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of such modifications.

(j) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each such agency. The commission shall request

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any relevant laws, ordinances, or regulations which any such agency has promulgated or administered.

(k) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

SEC. 4. Section 25519 of the Public Resources Code is amended to read:

25519. (a) In order to obtain certification for a site and related facility, an application for certification of such site and related facility shall be filed with the commission. Such application shall be in a form prescribed by the commission and shall be for a site and related facility which has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site which has been designated a potential multiple-facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility which was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516.

(b) The commission, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the attachments required by subdivision (i), which it determines is reasonably necessary to make any decision on the application.

(c) The commission shall be the lead agency as provided in Section 21165 for all projects which require certification pursuant to this chapter and for projects which are exempted from such certification pursuant to Section 25541. Unless the commission's regulatory program governing site and facility certification and related proceedings are certified by the Resources Agency pursuant to Section 21080.5, an environmental impact report shall be completed within one year after receipt of the application. If the commission prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to Section 21080.5, any other public agency which must make a decision which is subject to the California Environmental Quality Act, Division 13 (commencing with Section 21000), on a site or related facility, shall use the document or documents prepared by the commission in the same manner as they would use an environmental impact report or negative declaration prepared by a lead agency.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the commission shall

transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the commission shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Such local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the commission shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The commission shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(i) For any proposed site and related facility requiring a certificate of public convenience and necessity, the commission shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. In the event the commission requires modification of the proposed facility, the commission shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of such modifications.

(j) The commission shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each such agency. The commission shall request any relevant laws, ordinances, or regulations which any such agency has promulgated or administered.

(k) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the

application and the schedule for obtaining any approvals or authorizations pending.

SEC. 5. Section 25541.5 is added to the Public Resources Code, to read:

25541.5. The commission shall, not later than January 31, 1979, adopt regulations pursuant to this chapter which comply with all the requirements of this chapter and Section 21080.5, and shall submit a regulatory program to the Secretary of the Resources Agency for certification pursuant to Section 21080.5. After certification by the Secretary of the Resources Agency, the commission shall amend such regulatory program from time to time, as necessary to permit the Secretary to continue to certify the program.

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill No. 2072 are both chaptered and become effective January 1, 1979, both bills amend Section 21080 of the Public Resources Code, and this bill is chaptered after Senate Bill No. 2072, that the amendments to Section 21080 proposed by both bills be given effect and incorporated in Section 21080 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. 2072 are both chaptered and become effective January 1, 1979, both amend Section 21080, and this bill is chaptered after Senate Bill No. 2072, in which case Section 1 of this act shall not become operative.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 1836 are both chaptered and become effective January 1, 1979, both bills amend Section 25519 of the Public Resources Code, and this bill is chaptered after Senate Bill No. 1836, that the amendments to Section 25519 proposed by both bills be given effect and incorporated in Section 25519 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Senate Bill No. 1836 are both chaptered and become effective January 1, 1979, both amend Section 25519, and this bill is chaptered after Senate Bill No. 1836, in which case Section 3 of this act shall not become operative.

CHAPTER 761

An act to amend Section 76034 of the Government Code, relating to jurors.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 76034 of the Government Code is amended to read:

76034. In Mendocino County, grand jurors and trial jurors in the

superior and justice courts shall receive ten dollars ($10) for each day's attendance, and fourteen cents ($0.14) for each mile actually and necessarily traveled in attending sessions of the grand jury or court, from their residences to the place of service, both ways, to be allowed but once per day. Jurors in coroner's inquests shall receive three dollars ($3) for each day's attendance, and twenty cents ($0.20) for each mile actually and necessarily traveled from their residences to the place of service, in going only. The fees of trial jurors in civil cases shall be paid by the litigants, as other costs are paid.

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.

CHAPTER 762

An act relating to public education.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. It is the intent of the Legislature to promote the investigation of effective educational programs in the area of personality development, since the Legislature finds that one of the major social problems in California is the healthy development of human personality, and since the Legislature finds that knowledge in this field is rapidly increasing and becoming available.

SEC. 2. The Superintendent of Public Instruction shall prepare a report identifying and describing good school programs in all of the following:

(a) Human growth and development and the roots of human behavior:

(1) Self-awareness

(2) Self-esteem

(3) Human relationships

(b) Development and clarification of values:

(1) Moral development

(2) Ethics

(3) Character and values clarification

(c) Human relationships:

(1) Parenting

(2) Human sexuality

(d) The interrelation of the programs specified in subdivisions (a)

to (c), inclusive.

The report shall specify how staff development, school environment, and parent involvement relate to the implementation of such programs.

The Superintendent of Public Instruction shall submit this report to the Legislature before January 30, 1980, and disseminate a copy of the report to each school and school district in the state before March 1, 1980.

CHAPTER 763

An act to amend Sections 54146, 60600, 60602, 60603, and 60640 of, to add Section 60604.5 to, and to repeal Section 60633 of, the Education Code, relating to testing of public school pupils.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 54146 of the Education Code is amended to read:

54146. Specialist teachers employed by a school district shall be relieved of all regular teaching and administrative responsibilities and shall devote their full time in performance of the following responsibilities, which shall be directed to training pupils to attain reading ability essential to success in studies to be undertaken beyond the grade 3 level:

(a) Supplementing the reading instruction otherwise provided in regular classes for all pupils in grade 1.

(b) Providing instruction to small groups of pupils, and to individual pupils, in grades 2 and 3 who have been determined to have reading disabilities.

SEC. 2. Section 60600 of the Education Code is amended to read:

60600. This chapter may be cited as the California School Testing Act.

SEC. 3. Section 60602 of the Education Code is amended to read:

60602. As used in this chapter:

(a) "Achievement test" means any standardized test which measures or attempts to measure the level of performance which a pupil has attained in one or more courses of study. It shall include (1) tests in basic skills courses administered annually and (2) tests in content courses administered from time to time as designated by the State Board of Education.

(b) "Physical performance test" means any test which measures or attempts to measure the physical fitness of a pupil.

(c) "Testing program" means the systematic achievement testing of all pupils in grades 6 and 12, and the physical performance testing

of all pupils in any three grades designated by the State Board of Education, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

(d) "Basic skills courses" means those subjects which involve, among other skills, memorization and mastery of specific functions, including, but not limited to, reading, spelling, basic mathematics, and effectiveness of written expression.

(e) "Content courses" means those subjects which require the integration of factual matter, logical analysis, the solution by the student of posed problems, and the communication of ideas, including, but not limited to, literature, history, advanced mathematics, and science.

SEC. 4. Section 60603 of the Education Code is amended to read:

60603. The State Board of Education shall:

(a) Require a testing program in all school districts.

(b) Require the Department of Education to submit and recommend achievement tests to the State Board of Education for approval and adoption. The adopted tests shall be printed or purchased and distributed to the various school districts in the state by the Department of Education.

(c) The State Board of Education shall develop a testing method that will obtain an accurate estimate of statewide performance, school district performance, and school performance of pupils in grades 6 and 12, in basic skills courses.

Under such a testing method, the Department of Education shall annually require that each district administer a statewide test to all pupils in grades 6 and 12. The department shall determine whether pupils in a given school shall be administered the entire test or whether the pupils shall be administered a portion of the test which will be representative of all the test objectives, goals, or categories of items on the entire test.

(d) Designate the physical performance test to be used during the ensuing school year.

(e) Adopt regulations for the conduct and administration of the testing program.

The State Board of Education shall award contracts to develop achievement testing instruments to be used for the purposes of this section in reading, mathematics, and language according to competitive bidding procedures.

SEC. 5. Section 60604.5 is added to the Education Code, to read:

60604.5. The Department of Education shall develop a plan to analyze the results of the state testing program scores for grades 3, 6, and 12 to identify factors which are related to educational success or failure and shall submit to the Legislature annually a budget to perform such analyses.

SEC. 6. Section 60633 of the Education Code is repealed.

SEC. 7. Section 60640 of the Education Code is amended to read:

60640. The State Board of Education shall require each school district to administer uniform tests to each pupil not later than his

third month of attendance in the first grade. The first-grade entry level test shall obtain a composite estimate for each pupil of skills related to learning and memory, attention, visual perception, and auditory comprehension. The answer sheets shall be transmitted to the Department of Education for scoring. If no published test is deemed suitable, the State Board of Education may combine parts of available tests or develop a new test.

The State Board of Education shall also require each school district to administer uniform tests in reading, mathematics, and language annually to pupils in grade 3. Such tests shall be recommended by the Department of Education and shall be submitted to the State Board of Education for approval and adoption. If no published test is deemed suitable, the Department of Education may combine parts of available tests or develop a new test. Any test so adopted shall be equated to nationally normed tests so that the performance of California pupils may be compared to that of a national sample. The tests which have been approved and adopted by the board shall be printed or purchased and distributed to the various school districts in the state by the Department of Education. The answer sheets shall be transmitted to the Department of Education for scoring.

The State Board of Education shall develop a testing method that will obtain an accurate estimate of statewide performance of pupils in grade 3 in reading, mathematics, and language. Under such a testing method, the Department of Education shall determine whether pupils in a given school shall be administered the entire test or whether the pupils shall be administered a portion of the test which will be representative of all test objectives, goals, or categories of items on the entire test.

The State Board of Education shall determine the form in which the answer sheets for the first-grade entry level test shall be transmitted to the Department of Education for scoring, and the form in which the answer sheets for the uniform tests for grade 3 shall be transmitted to the Department of Education for scoring.

The State Board of Education shall analyze the progress achieved by third grade pupils using the first-grade entry level test results as a basis for identifying comparable pupils.

The State Board of Education shall adopt rules and regulations governing the time, place, and methods for administration of the testing program under this article.

The State Board of Education shall award contracts to develop testing instruments to be used for the purposes of this section for the first-grade entry level test and for the third grade test in reading, mathematics, and language according to competitive bidding procedures.

The reading tests administered pursuant to this article shall be employed to determine each school district's quota of specialist reading teachers, as required by Article 3 (commencing with Section 54140) of Chapter 2 of Part 29 of this division.

Commencing with tests administered in the 1972–73 school year,

school districts shall submit answer sheets and related pupil information on a per school basis.

SEC. 8. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 764

An act to amend Sections 1688, 1691, 1692.1, 1695, and 1751 of the Insurance Code, relating to certificates of convenience.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 1688 of the Insurance Code is amended to read:

1688. To be eligible for a certificate of convenience to act as an industrial debit collection certificate holder, a person must be an applicant for a permanent license to act as a life only agent, disability only agent, or life and disability agent. An industrial debit collection certificate shall be issued only to act in the capacity for which such license is sought.

SEC. 2. Section 1691 of the Insurance Code is amended to read:

1691. (a) Every insurer, or agent or broker in the case of solicitors, shall have an approved training program on file with the commissioner or have filed a blanket authorization to certify to enrollment in an approved course of instruction before appointing any certificate of convenience holder. No training course may be used to qualify an applicant for a certificate of convenience unless it is first approved by the commissioner. Before approving any such course the commissioner shall be satisfied that it meets all the following requirements:

(i) That it covers the fundamentals of insurance, insurance regulation, and instruction in those classes of insurance in which the applicant will be licensed.

(ii) That it contains a system of examinations or progress checks whereby it can be determined whether the person is taking the course in good faith and obtaining information and training. Such examinations or progress checks shall be in writing, be completed by the certificate holder, and be kept on file in the state for a period of two years.

(b) The approval of any such course of study and instruction may

be withdrawn by the commissioner if he finds after notice and hearing that:

(i) Such course as administered does not meet the requirements for its approval; or

(ii) The content of such course is not then adequate to meet the requirements hereinabove set forth.

(c) Upon withdrawal of approval of such course the commissioner shall after notice and hearing forthwith call all holders of certificates of convenience who are enrolled in such course for examination and shall not issue any certificate of convenience to any person enrolled in such course until the course has been revised, resubmitted to, and reapproved by the commissioner.

SEC. 3. Section 1692.1 of the Insurance Code is amended to read:

1692.1. (a) The privilege of an insurer, or agent or broker in the case of a solicitor to certify to the enrollment of applicants in any course of study and instruction shall be automatically suspended without any action by the commissioner whenever more than 66⅔ percent of its holders of certificates of convenience during the calendar year fail to qualify for permanent licenses during a period of six months following issuance of a certificate of convenience to each such holder. Any suspension shall continue until the commissioner is satisfied that the insurer, agent, or broker has taken adequate action to prevent a recurrence of the failure to qualify the requisite percentage of certificate of convenience holders for permanent licenses.

(b) Each insurer, agent, or broker who has an approved training course on file with the commissioner pursuant to Section 1691 or a blanket authorization to certify enrollment in an approved course of instruction, shall keep and maintain complete records on each appointed certificate of convenience holder and shall file annually with the commissioner on or before August 15 a written report which shall contain, by type of certificate specified in Section 1685, all of the following:

(1) The number of certificate of convenience holders appointed during the preceding calendar year.

(2) The number of certificate of convenience holders who qualified for permanent licenses within the specified six-month period.

(3) The percentage of certificate of convenience holders who qualified for permanent licenses within the specified six-month period.

(c) Any such insurer, or agent or broker in the case of solicitors who fails to report on or before August 15 or who files an incomplete report shall automatically be suspended until a complete report is filed in accordance with subdivision (b). All suspensions pursuant to this section shall commence on the final date such report is required to be filed. During any period of suspension of such privilege such insurer, agent or broker is also prohibited from appointing any holder of a certificate of convenience appointed by another insurer,

agent or broker. The commissioner may, after notice and hearing suspend the privilege of any parent, subsidiary, affiliate or controlled insurer, agent or broker to prevent avoidance of such suspension.

(d) At the time of filing the written report required by this section, an insurer, agent, or broker which has failed to qualify the required percentage of certificate of convenience holders for permanent licenses may as a part of the report:

(1) Furnish written evidence of mitigating relevant facts; or

(2) Furnish written evidence of corrective action taken, or a written description of action proposed, which should result in future compliance with this section; or

(3) Request termination of the automatic suspension for specified reasonable cause; or

(4) Request that a hearing be held to determine whether the automatic suspension should be annulled or confirmed.

(e) The commissioner may after notice and hearing stay, annul, reduce, terminate or confirm the time of the automatic suspension otherwise required in this section upon a showing, satisfactory to the commissioner, that there is good cause therefor, and that corrective action has been taken to prevent a recurrence of the failure to qualify the requisite percentage of certificate of convenience holders for permanent licenses. Such preventive measures shall include the establishment of procedures both to assure proper training to enable certificate holders to pass the qualifying license examination and to insure proper selection of prospective certificate holders to the end that a reasonable proportion of those selected will in good faith pursue the course of study and pass the qualifying examination.

(f) Except for subdivisions (b) and (c), this section shall not apply to an insurer or agent or broker in the case of solicitors, during any calendar year in which such insurer, agent or broker appointed 25 or fewer such certificate of convenience holders.

(g) Any hearing under this article shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

(h) The commissioner's power of termination of the certificate of convenience privilege pursuant to Section 1692.1 shall be exercised when 50 percent or more of the holders of certificates of convenience issued during the calendar year beginning January 1, 1978, fail to qualify for permanent licenses. Such power of termination shall be exercised when 25 percent or more of the holders of certificates of convenience issued during the calendar year beginning January 1, 1979, fail to qualify for permanent licenses. Beginning January 1, 1981, the commissioner shall not issue certificates of convenience.

This subdivision shall not apply to certificates of convenience issued pursuant to Section 1685, subdivisions (a), (b), (c), and (e) (except any certificate holder authorized to transact disability insurance).

SEC. 4. Section 1695 of the Insurance Code is amended to read:

1695. A certificate of convenience to act as an industrial debit certificate holder or pending examination expires at one of the following times, whichever occurs first:

(a) Two days after the mailing of notice of failure of the qualifying examination; or

(b) Six months after the issuance of the certificate of convenience.

SEC. 5. Section 1751 of the Insurance Code is amended to read:

1751. The commissioner shall require in advance a fee for filing the following documents:

(a) Application for registration of change in membership of a copartnership licensed as:

(1) Insurance agent, twenty dollars ($20).

(2) Insurance broker, thirty dollars ($30).

(3) Life agent, resident, twenty dollars ($20).

(4) Life agent, nonresident, twenty-four dollars ($24).

(b) Application for endorsement removing from any life agent's, insurance agent's or insurance broker's license issued to an organization the name of any natural person named thereon, three dollars ($3).

(c) First amendment to an application, three dollars ($3); a second and each subsequent amendment to an application, six dollars ($6).

(d) Original application to be given the qualifying examination for a license of a fire and casualty licensee, twelve dollars and fifty cents ($12.50) for each person to be examined.

(e) Original application to be given the qualifying examination for a license of a life licensee, or a license as a variable contract agent, twelve dollars and fifty cents ($12.50) for each person to be examined.

(f) Application for reexamination for any of the licenses mentioned in this section seventeen dollars and fifty cents ($17.50) for each person to be reexamined.

(g) Application which includes a request for a certificate of convenience pursuant to Article 8 of this chapter, twelve dollars and fifty cents ($12.50) in addition to, and not in lieu of, fees otherwise required.

(h) Application or request for approval of true or fictitious name pursuant to Section 1724.5 of this chapter fifteen dollars ($15), except that there shall be no fee when such name is contained in an original application.

(i) "A ratification of appointments of agents" whereby the surviving insurer in a merger or consolidation assumes responsibility for all agents then lawfully appointed for one of the constituent insurers and makes each its agent, sixty-two dollars and fifty cents ($62.50).

(j) An application or request for approval of:

(1) A training course pursuant to Section 1691, except when filed by a degree-conferring college or university, a public educational

institution, or by a private nonprofit educational institution, sixty-two dollars and fifty cents ($62.50).

(2) An arrangement whereby an insurer may qualify certificate of convenience holders pursuant to Section 1691 by means of an approved course given on the insurer's behalf by a school or organization other than itself, thirty-two dollars and fifty cents ($32.50).

(k) A bond, pursuant to Article 5 (commencing with Section 1662) of this chapter or Section 1760.5 or 1765, except when such bond constitutes part of an original application filing, seven dollars and fifty cents ($7.50).

(*l*) An application or request for a copy of, or a duplicate license, issued pursuant to Chapter 5 (commencing with Section 1621), 6 (commencing with Section 1760), 7 (commencing with Section 1800), or 8 (commencing with Section 1831) of this division or Sections 12280 and 12280.2, five dollars ($5).

(m) An application or request for clearance and cancellation notice of a current licensee of record, five dollars ($5).

CHAPTER 765

An act to amend Section 2070 of, and to add Section 11593 to, the Insurance Code, relating to insurance.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 2070 of the Insurance Code is amended to read:

2070. All fire policies on subject matter in California shall be on the standard form, and, except as provided by this article shall not contain additions thereto. No part of the standard form shall be omitted therefrom except that any policy which in addition to coverage against the peril of fire includes substantial coverage against other perils need not comply with the provisions of the standard form of fire insurance policy or Section 2080; provided, that the coverage of such policy with respect to the peril of fire, when viewed in its entirety, is substantially equivalent to or more favorable to the insured than that contained in such standard form fire insurance policy.

SEC. 2. Section 11593 is added to the Insurance Code, to read:

11593. The premium charge for the coverage required by Section 11590 shall not be separately stated from that charged for other coverage under the policy in the insured's copy of the following: premium notice, policy, endorsement or memorandum of insurance.

CHAPTER 766

An act to add Article 4 (commencing with Section 87100) to Chapter 1 of Part 51 of the Education Code, relating to community colleges.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Article 4 (commencing with Section 87100) is added to Chapter 1 of Part 51 of the Education Code, to read:

Article 4. Affirmative Action Hiring

87100. The Legislature finds and declares that:

(a) Generally, California community colleges employ a disproportionately low number of racial and ethnic minority classified and certificated employees and a disproportionately low number of women and members of racial and ethnic minorities in administrative positions.

(b) It is educationally sound for the minority student attending a racially impacted school to have available the positive image provided by minority classified and certificated employees. It is likewise educationally sound for the child from the majority group to have positive experiences with minority people which can be provided, in part, by having minority classified and certificated employees at schools where the enrollment is largely made up of majority group students. It is also educationally important for students to observe that women as well as men can assume responsible and diverse roles in society.

(c) Past employment practices created artificial barriers and past efforts to promote additional action in the recruitment, employment, and promotion of women and minorities have not resulted in a substantial increase in employment opportunities for such persons.

(d) Lessons concerning democratic principles and the richness which racial diversity brings to our national heritage can be best taught by the presence of staffs of mixed races and ethnic groups working toward a common goal.

It is the intent of the Legislature to establish and maintain a policy of equal opportunity in employment for all persons and to prohibit discrimination based on race, sex, color, religion, age, handicap, ancestry, or national origin in every aspect of personnel policy and practice in employment, development, advancement, and treatment of persons employed in the public school system, and to promote the total realization of equal employment opportunity through a continuing affirmative action employment program.

The Legislature recognizes that it is not enough to proclaim that

public employers do not discriminate in employment but that effort must also be made to build a community in which opportunity is equalized. It is the intent of the Legislature to require educational agencies to adopt and implement plans for increasing the numbers of women and minority persons at all levels of responsibility.

87101. For the purposes of this article:

(a) "Affirmative action employment program" means planned activities designed to seek, hire, and promote persons who are underrepresented in the work force compared to their number in the population, including handicapped persons, women, and persons of minority racial and ethnic backgrounds. It is a conscious, deliberate step taken by a hiring authority to assure equal employment opportunity for all staff, both certificated and classified. Such programs require the employer to make additional efforts to recruit, employ, and promote members of groups formerly excluded at the various levels of responsibility who are qualified or may become qualified through appropriate training or experience within a reasonable length of time. Such programs should be designed to remedy the exclusion, whatever its cause. Affirmative action requires imaginative, energetic, and sustained action by each employer to devise recruiting, training, and career advancement opportunities which will result in an equitable representation of women and minorities in relation to all employees of such employer.

(b) "Goals and timetables" means projected new levels of employment of women and minority racial and ethnic groups to be attained on an annual schedule, given the expected turnover in the work force and the availability of persons who are qualified or may become qualified through appropriate training or experience within a reasonable length of time. Goals are not quotas or rigid proportions. They should relate both to the qualitative and quantitative needs of the employer.

(c) "Public education agency" means the Office of the Chancellor and the governing board of each community college district in California.

87102. The governing board of each community college district shall submit, not later than January 1, 1980, to the office of the Chancellor of the California Community Colleges an affirmation of compliance with the provisions of this article. The affirmative action employment program shall have goals and timetables for its implementation. The plans shall be a public record within the meaning of the California Public Records Act.

87103. The office of the Chancellor of the California Community Colleges shall render assistance in developing and implementing affirmative action employment programs to community college districts under his jurisdiction.

87104. The office of the Chancellor of the California Community Colleges, out of funds appropriated for such purposes, (1) shall provide assistance to local community colleges in adopting and maintaining high-quality affirmative action programs; (2) report to

the Legislature, by July 1, 1980, regarding the number of districts which have adopted and are maintaining affirmative action programs, including the effectiveness of such programs in meeting the intent of this article; and (3) develop and disseminate to public community college districts guidelines to assist such agencies in developing and implementing affirmative action employment programs.

87105. The Board of Governors of the California Community Colleges shall adopt all necessary rules and regulations to carry out the intent of this article.

87106. Any activities undertaken pursuant to this article shall be subject to the provisions of Title VII of the Federal Civil Rights Act of 1964, and amendments thereto.

SEC. 2. This act is substantially a codification of regulations adopted by the Board of Governors of the California Community Colleges which require local community college districts to have developed an affirmative action employment program. Since the affirmative action programs mandated by this act are presently required of community college districts, it is the intent of the Legislature not to reimburse local educational agencies for program expenditures required prior to the enactment of this act.

Therefore, notwithstanding Sections 2231 and 2234 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to those sections nor shall there be any appropriation made by this act because there are no new duties, obligations, or responsibilities imposed on local educational agencies by this act.

CHAPTER 767

An act to amend Section 4416 of the Business and Professions Code, relating to pharmacy.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 4416 of the Business and Professions Code is amended to read:

4416. The amount of fees and penalties prescribed by this chapter, except as otherwise provided, is that fixed by the following schedule:

(a) The fee for a permit to conduct a pharmacy shall be fixed by the board at an amount not to exceed seventy-five dollars ($75) for each pharmacy.

(b) The annual fee for renewal of the permit to conduct a pharmacy shall be fixed by the board at an amount not to exceed seventy-five dollars ($75) for each pharmacy.

(c) The fee for any applicant for registration shall be fixed by the board at an amount not to exceed one hundred dollars ($100).

(d) The additional fee for the issuance of a certificate to any licentiate, who is found by the board on examination to be entitled to a certificate, shall be fixed by the board at an amount not to exceed fifty dollars ($50).

(e) The board may, by regulation, provide for the waiver or refund of the additional fee for the issuance of a certificate where the certificate is issued less than 45 days before the next succeeding regular renewal date.

(f) The fee for the reissuance of a certificate shall be fixed by the board at an amount not to exceed thirty dollars ($30).

(g) Except as otherwise provided in this subdivision, the biennial renewal fee for a registered pharmacist may be fixed by the board at an amount not to exceed seventy-five dollars ($75).

(h) The fee for a wholesaler shall be fixed by the board at an amount not to exceed three hundred dollars ($300).

(i) The fee for a hypodermic license and renewal shall be fixed by the board at an amount not to exceed twenty-five dollars ($25).

(j) The penalty for failure to pay any renewal fee may be fixed by the board at an amount not to exceed 50 percent of the renewal fee, but not more than twenty-five dollars ($25).

(k) The fee for the reissuance of any permit, license, or certificate, or renewal thereof, except as provided by subdivision (f), which has been lost or destroyed or which must be reissued because of a change in the information appearing thereon is twenty dollars ($20).

(*l*) The fee for an application for exemption under Section 4050.6 shall be fixed by the board at an amount not to exceed fifty dollars ($50). Such fee shall be paid at the time the application is filed and shall not be refunded. If, after investigation or examination of the person or persons upon the basis of whose qualifications the exemption is sought, the board finds that the applicant is entitled to the exemption, it shall issue to him, upon payment of an additional fee fixed by the board at an amount not to exceed fifty dollars ($50), a certificate of exemption. Such certificate shall be renewed annually on or before the 31st day of December upon payment of a renewal fee fixed by the board at an amount not to exceed fifty dollars ($50).

(m) The fee for registration under Section 4084.5 shall be fixed by the board at an amount not to exceed twenty dollars ($20). The fee for annual renewal of such registration shall not exceed ten dollars ($10).

(n) The fee for an out-of-state drug distributor's license issued pursuant to Section 4084.6 shall be fixed by the board at an amount not to exceed the reasonable costs of the board for the issuance of such license, which in no event shall exceed three hundred dollars ($300). The fee for annual renewal of such license shall not exceed three hundred dollars ($300).

(o) The fee for registration of a laboratory to purchase and possess controlled substances for scientific or testing purposes shall be set by

the board not to exceed twenty-five dollars ($25).

(p) The fee for registration of providers of continuing education shall be set by the board not to exceed fifty dollars ($50).

(q) The fee for evaluation of continuing education courses for accreditation shall be set by the board not to exceed forty dollars ($40) per course hour.

(r) The fee for evaluation of application submitted by graduates of foreign colleges of pharmacy or colleges of pharmacy not recognized by the board shall be set by the board not to exceed one hundred dollars ($100).

CHAPTER 768

An act to amend Sections 5000 and 5204 of, and to add Article 9.5 (commencing with Section 5300) to Chapter 1 of Division 3 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 5000 of the Vehicle Code is amended to read:

5000. (a) License plates issued for trailers, semitrailers, motor-driven cycles, and pole and pipe dollies, and such vehicles as are exempt from the payment of registration fees under this code shall display suitable distinguishing marks or symbols, and the registration numbers assigned to each class of vehicles shall run in a separate numerical series, except that registration numbers assigned to vehicles exempt from the payment of registration fees may run in several separate numerical series.

(b) Vehicles subject to the provisions of Section 9400 shall be issued license plates with suitable distinguishing marks or symbols distinguishing them from other license plates issued.

(c) Vehicles registered pursuant to Article 9.5 (commencing with Section 5300) shall be issued license plates or decals with suitable distinguishing marks or symbols distinguishing them from other license plates issued. The design of such license plates or decals shall be determined by the director.

SEC. 2. Section 5204 of the Vehicle Code is amended to read:

5204. (a) Except as provided by subdivision (b), a tab shall indicate the year number for which issued and a tab shall indicate the month of expiration, which tabs, stickers, or other suitable devices shall be attached to the rear license plate assigned to the vehicle for the last preceding registration year in which license plates were issued, and, when so attached, the license plate with such tabs, stickers, or other devices shall, for the purposes of this code, be

deemed to be the license plate for the ensuing registration year; except that truck tractors shall display such tabs, stickers, or other devices upon the front license plate assigned to such vehicle.

(b) This section shall not apply to fleet vehicles subject to the provisions of Article 9.5 (commencing with Section 5300).

SEC. 3. Article 9.5 (commencing with Section 5300) is added to Chapter 1 of Division 3 of the Vehicle Code, to read:

Article 9.5. Registration of Fleet Vehicles

5300. In order to establish the practical application and assess the fiscal implications of permanent fleet registration, the department shall implement a Permanent Fleet Registration Pilot Program during the period from October 1, 1979, through December 31, 1982.

The department shall submit a report on the progress of the pilot program to the Legislature on or before March 1, 1981. The report shall include, but not be limited to, an analysis of the costs and benefits of permanent fleet registration and shall include recommendations for maximizing the efficiency and effectiveness of the permanent fleet registration program.

5301. Notwithstanding any other provision of this code and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, the registered owner or lessee of a fleet of vehicles consisting of commerical motor vehicles, or commerical trailers or passenger automobiles may, upon payment of appropriate fees, apply to the department for permanent license plates or decals and registration cards.

The pilot program shall consist of nine fleets, in continuing operation as of January 1, 1978, to be determined as follows:

(a) The three largest highway common carrier fleets which apply.

(b) The three largest cargo container fleets which apply.

(c) The three largest fleets which apply.

Fleets shall consist of at least 1,000 vehicles to qualify for this program.

At the discretion of the director, the department may expand the number of fleets included in the pilot program after October 1, 1980.

5302. (a) Vehicles registered in any state other than California shall not be permitted to participate in this program.

(b) The provisions of Section 4604 shall not apply to vehicles registered under the provisions of this article.

(c) The department shall have the authority to conduct an audit of the records of each fleet owner or lessee of the vehicle fleets electing to participate in the program. The department shall be fully reimbursed by the fleet owner or lessee for the costs of conducting such audits.

(d) Motor vehicles registered under the provisions of this article shall display in a conspicuous place on both the right and the left side of each vehicle, the name, trademark, or logo of the company. The display of the name, trademark, or logo shall be in letters in sharp

contrast to the background and shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet.

5303. (a) The applicant for initial issuance of permanent registration or renewal of registration shall file an application in such form as the department shall require.

(b) Upon initial application, the department shall issue a distinguishing license plate or decal which indicates that the vehicle has been registered under the provisions of this article.

(c) Display of the distinguishing license plate or decal and registration card shall constitute prima facie evidence that the vehicle is currently registered.

5304. Renewal fees shall be paid pursuant to a schedule established by the department.

5305. In addition to any other fees due for vehicles registered pursuant to the provisions of this article, the department may charge and collect a service fee of two dollars ($2) per fleet vehicle at the time the initial application is submitted to the department and a service fee of one dollar ($1) at the time of registration renewal of each fleet vehicle.

5306. Upon payment of appropriate fees, the license plate or decal and registration card issued pursuant to this article for the vehicle shall remain valid until the provisions of Section 5307 have been met.

5307. (a) A fleet vehicle registered under the provisions of this article may be deleted from such identified fleet when the fleet operator notifies this department on a form approved by the department and the distinguishing license plate or decal and registration card issued for the vehicle are surrendered to the department.

(b) Failure to comply with provisions of subdivision (a) will require that payment of fees due for the registration of the vehicle shall be the responsibility of the fleet owner as though the vehicle remained part of the fleet.

(c) The fees determined to be due and owing under this article shall be a lien upon all vehicles of the applicant of a type subject to registration under this code, and the provisions of Article 6 (commencing with Section 9800) of Chapter 6 of Division 3 shall apply.

5308. The director shall adopt procedures for initial application, payment of fees, fleet additions or deletions, and for the cancellation of the distinguishing plates or decals and registration card issued to a vehicle of a fleet owner who does not comply with the provisions of this article.

5309. Registration of any identified fleet vehicle is required annually.

5310. The department shall conduct an audit of the permanent fleet registration program during the third year of the program's operation. A report summarizing the department's findings shall be

submitted to the Legislature.

SEC. 4. This act shall become operative on October 1, 1979, and shall remain in effect only until December 31, 1982, and as of that date is repealed unless a later enacted statute, which is chaptered before December 31, 1982, deletes or extends such date.

CHAPTER 769

An act to amend Sections 10494 and 10494.6 of the Insurance Code, relating to benefit and relief associations.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 10494 of the Insurance Code is amended to read:

10494. Such a benefit and relief association shall not provide for payment of a death benefit of more than one thousand five hundred dollars ($1,500) or for disability benefits of more than five hundred dollars ($500) to any one person in any one period of 12 consecutive months and shall not issue to its members a policy or benefit certificate or any other evidence of benefits except that found in the articles of the association or the bylaws thereof. However, a benefit and relief association described in paragraph (1) of subdivision (c) of Section 10493 may provide for a death benefit up to one thousand five hundred dollars ($1,500), disability benefits up to one thousand dollars ($1,000) or insurance protection for medical and hospital expenses up to one thousand five hundred dollars ($1,500), or any combination or all thereof.

SEC. 2. Section 10494.6 of the Insurance Code is amended to read:

10494.6. Any employer who qualifies for a certificate of exemption under Section 10494.5 by virtue of which certificate he maintains a plan for furnishing disability benefits to his employees may, if he elects, make available for the related dependents of his employees, comprising wives, husbands and unmarried dependent children living in the same household, a supplemental plan of disability benefits containing any or all of the following benefits, hospital, surgical and medical; provided, that as to the supplemental plan the Insurance Commissioner finds that all of the following exist:

(a) The supplemental plan shall be separately stated, setting out all of the provisions of coverage.

(b) The plan shall set out the respective contributions of the employer and employees. All contributions of employees received or retained by the employer shall be trust funds and shall be separately accounted for by the employer and may not inure to the benefit of

the employer in any manner whatsoever.

(c) The plan permits the disabled individual a free choice of physician and hospital.

(d) The employer agrees to assume fifty percent (50%) of the cost of maintaining the plan, and he further agrees to guarantee the benefits if the contributions required for the supplementary benefits are not sufficient to pay the cost of same. The funds necessary to discharge the employer's fifty percent (50%) assumption shall be trust funds and shall be separately accounted for by him.

CHAPTER 770

An act to amend Section 24009 of the Government Code, relating to elections.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978]

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

SECTION 1. Section 24009 of the Government Code is amended to read:

24009. (a) Except as provided in subdivision (b), the county officers to be elected by the people are the treasurer, county clerk, auditor, sheriff, tax collector, district attorney, recorder, assessor, public administrator, and coroner.

(b) Any county office which is required to be elective may become an appointive office pursuant to the provisions of this subdivision. In order to change any such office from elective to appointive, a proposal shall be presented to the voters of the county and approved by a majority of the votes cast on the proposition. Any such proposal shall be submitted to the voters by the county board of supervisors or it may be submitted to the voters pursuant to the qualification of an initiative petition as provided in Chapter 2 (commencing with Section 3700) of Division 5 of the Elections Code. Any county office changed from elective to appointive in accordance with the provisions of this subdivision may be changed back from appointive to elective in the same manner.

CHAPTER 771

An act to amend Sections 7026.6 and 7026.7 of, and to add Section 7026.8 to, the Business and Professions Code, relating to contractors.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 7026.6 of the Business and Professions Code is amended to read:

7026.6. Any person who advertises or puts out any sign or card or other device after the effective date of this section which would indicate to the public that he is a contractor, or who causes his name or business namestyle to be included in a classified advertisement or directory after the effective date of this section under a classification for construction or work of improvement covered by this chapter is subject to the provisions of this chapter regardless of whether his operations as a builder are otherwise exempted.

SEC. 2. Section 7026.7 of the Business and Professions Code is amended to read:

7026.7. It is a misdemeanor for any person to advertise for construction or work of improvement covered by this chapter unless such person holds a valid license under the provisions of this chapter in the classification so advertised, except that a licensed building or engineering contractor may advertise as a general contractor. "Advertise" as used in this section includes, but not by way of limitation, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper, magazine, or by airwave transmission, or in any directory under a listing for construction or work of improvement covered by this chapter, with or without any limiting qualifications.

SEC. 3. Section 7026.8 is added to the Business and Professions Code, to read:

7026.8. Notwithstanding any other provision of this chapter, any person not licensed pursuant to this chapter may advertise for construction work or work of improvement covered by this chapter, provided that such person shall state in the advertisement that he or she is not licensed under this chapter.

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

CHAPTER 772

An act to amend Section 6956 of, and to repeal Chapter 8 (commencing with Section 6850) and Chapter 11 (commencing with Section 7500) of Division 3 of, the Business and Professions Code, relating to consumer affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Chapter 8 (commencing with Section 6850) of Division 3 of the Business and Professions Code is repealed.

SEC. 2. Section 6956 of the Business and Professions Code is amended to read:

6956. (a) The director shall fix, charge, and collect the following fees:

(1) An original license fee of not more than three hundred dollars ($300).

(2) A license continuation fee of not more than one hundred eighty dollars ($180).

(3) A duplicate license fee of not more than twenty dollars ($20).

(4) A temporary license fee of not more than fifty dollars ($50).

(5) A delinquency fee of not more than twenty dollars ($20).

(6) An examination fee of not more than one hundred dollars ($100).

(7) A qualification certificate application fee of not more than twenty dollars ($20).

(8) A provisional qualification certificate application fee of not more than twenty dollars ($20).

(9) A qualification certificate continuation fee of not more than twenty dollars ($20).

(10) A reinstatement fee equal to the amount of the annual continuation fee plus a penalty of 50 percent thereof.

(11) A fee not more than forty dollars ($40) for reinstatement of a qualification certificate under Section 6893.

(12) An employee registration fee of not more than ten dollars ($10).

(13) An employee registration continuation fee of not more than ten dollars ($10).

(b) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge; and shall charge and collect a fee of one dollar ($1) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

(c) Notwithstanding the provisions of subdivisions (a) and (b),

from the effective date of the amendments to this section made at the 1977–78 Regular Session of the Legislature until, and including, June 30, 1980, the provisions of this subdivision shall prevail over subdivisions (a) and (b) and the director shall fix, charge, and collect the following fees:

(1) An original license fee of not more than five hundred dollars ($500).

(2) A license continuation fee of not more than three hundred fifteen dollars ($315) for the 1978–79 fiscal year and three hundred sixty dollars ($360) for the 1979–80 fiscal year.

(3) A duplicate license fee of not more than thirty dollars ($30).

(4) A temporary license fee of not more than sixty dollars ($60).

(5) A delinquency fee of not more than fifty dollars ($50), notwithstanding the provisions of Section 163.5.

(6) An examination fee of not more than one hundred dollars ($100).

(7) A qualification certificate application fee of not more than one hundred dollars ($100).

(8) A provisional qualification certificate application fee of not more than one hundred dollars ($100).

(9) A qualification certificate continuation fee of not more than fifty dollars ($50).

(10) A reinstatement fee equal to the amount of the annual continuation fee plus a penalty of 50 percent thereof, notwithstanding the provisions of Section 163.5.

(11) A reinstatement fee equal to the amount of the qualification certificate continuation fee plus a penalty of 50 percent thereof, notwithstanding the provisions of Section 163.5.

(12) An employee registration fee of not more than ten dollars ($10).

(13) An employee registration continuation fee of not more than ten dollars ($10).

(14) The director shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge; and shall charge and collect a fee of three dollars ($3) plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

SEC. 3. Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code is repealed.

SEC. 4. Sections 1 and 3 of this act shall become operative on July 1, 1983, unless a later enacted statute which is chaptered on or before that date deletes or extends such date.

SEC. 4.5. With respect to those provisions in this act which shall be repealed unless the Legislature enacts a bill deleting or extending the date of such repeal, the Legislature shall review the functions and performance of each agency for which a repeal has been enacted and shall conclude such review, considering repeal and reorganization alternatives, no later than one year prior to the

operative date of the repeal.

(a) Each agency for which a repeal has been enacted shall submit to the Legislature a statement of purpose, organization and performance no later than two years prior to the operative date of the repeal. Such statement shall include the following:

(1) The basic purposes for which the agency was established;

(2) The structures within the agency, and the programs administered, which have been established to fulfill these purposes;

(3) An analysis of the agency's performance in fulfilling the purposes for which it was established, accompanied by sufficient data to justify conclusions and a description of the quantitative or qualitative methods by which the performance of the agency is being measured;

(4) Recommendations regarding reorganization or change in program which would improve agency performance.

(b) Upon receipt from the agency, the Legislature shall submit the agency statement to the Legislative Analyst for review. The Legislative Analyst shall evaluate the agency on the basis of the statement and independent research and shall submit an evaluation of the agency's purpose, organization, and performance and an estimate of the impact of reformation of the agency no later than three months after receiving the statement.

(c) Upon receipt of the Legislative Analyst's evaluation, the Legislature shall conduct a review of the agency's purpose, organization, and performance through hearings at which the testimony of the public and agency representatives shall be taken. In such hearings, the agency shall bear the burden of proof in demonstrating a public need for continued existence.

(d) No funds shall be appropriated or otherwise be made available from any source whatsoever to the agency after the operative date of repeal without the express consent of the Legislature.

(e) Nothing in this part shall be construed to prohibit the Legislature from terminating any agency at a date earlier than that provided herein, nor to prohibit the Legislature from considering any other legislation relating to such agency.

(f) The provisions of this act shall not affect the right to institute or prosecute any cause of action by or against an agency terminated pursuant to this act, or for or against any licensee or registrant of any agency terminated pursuant to this act, if the cause of action occurred prior to the date the agency was terminated. Any causes of action pending on the date an agency is terminated, or instituted thereafter, shall be prosecuted or defended in the name of the State of California by the Department of Consumer Affairs.

(g) All other provisions of the law relating to any agency terminated pursuant to this act shall become inoperative upon date of termination.

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:

There is presently a severe shortage of funds available for enforcement of the Collection Agency Act and in order to have such available for such enforcement as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 773

An act to repeal Section 66204 of the Education Code, relating to college admissions.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 66204 of the Education Code is repealed.

CHAPTER 774

An act to amend Sections 5058 and 5076.2 of the Penal Code, and to amend Sections 1711.6, 1751, and 3303 of, and to add Section 3156 to, the Welfare and Institutions Code, relating to administrative regulations.

[Approved by Governor September 13, 1978. Filed with Secretary of State September 14, 1978.]

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

SECTION 1. Section 5058 of the Penal Code is amended to read:

5058. (a) The director may prescribe and amend rules and regulations for the administration of the prisons. Such rules and regulations shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The director shall maintain, publish and make available to the general public, a compendium of the rules and regulations promulgated by the director pursuant to this section.

(c) The following exceptions to the procedures specified in this section shall apply to the Department of Corrections:

(1) The director may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in

conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

(2) The director may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

SEC. 2. Section 5076.2 of the Penal Code is amended to read:

5076.2. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Community Release Board, shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The Community Release Board shall maintain, publish and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The following exception to the procedures specified in this section shall apply to the Community Release Board: The chairman may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

SEC. 3. Section 1711.6 of the Welfare and Institutions Code is amended to read:

1711.6. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Youth Authority Board, shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The board shall maintain, publish and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The following exception to the procedures specified in this section shall apply to the board: The chairman may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

SEC. 4. Section 1751 of the Welfare and Institutions Code is amended to read:

1751. (a) The Authority is authorized to make and enforce all

rules appropriate to the proper accomplishment of its functions. Such rules and regulations shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The Authority shall maintain, publish and make available to the general public, a compendium of the rules and regulations promulgated by the Authority pursuant to this section.

(c) The following exceptions to the procedures specified in this section shall apply to the Department of the Youth Authority:

(1) The Authority may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

(2) The Authority may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

SEC. 5. Section 3156 is added to the Welfare and Institutions Code, to read:

3156. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the authority, shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The authority shall maintain, publish and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The following exceptions to the procedures specified in this section shall apply to the authority: The chairman may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

SEC. 6. Section 3303 of the Welfare and Institutions Code is amended to read:

3303. (a) The Director of Corrections may prescribe and amend rules and regulations for the administration of the California Rehabilitation Center. Such rules and regulations shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government

Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The director shall maintain, publish and make available to the general public, a compendium of the rules and regulations promulgated by the director pursuant to this section.

(c) The following exceptions to the procedures specified in this section shall apply to the rules and regulations made by the director for the California Rehabilitation Center: (1) The director may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them. (2) The director may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

CHAPTER 775

An act to amend Section 3303 of the Government Code, relating to public safety officers.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 3303 of the Government Code is amended to read:

3303. When any public safety officer is under investigation and subjected to interrogation by his commanding officer, or any other member of the employing public safety department, which could lead to punitive action, such interrogation shall be conducted under the following conditions. For the purpose of this chapter, punitive action is defined as any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.

(a) The interrogation shall be conducted at a reasonable hour, preferably at a time when the public safety officer is on duty, or during the normal waking hours for the public safety officer, unless the seriousness of the investigation requires otherwise. If such interrogation does occur during off-duty time of the public safety officer being interrogated, the public safety officer shall be compensated for such off-duty time in accordance with regular department procedures, and the public safety officer shall not be released from employment for any work missed.

(b) The public safety officer under investigation shall be informed prior to such interrogation of the rank, name and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time.

(c) The public safety officer under investigation shall be informed of the nature of the investigation prior to any interrogation.

(d) The interrogating session shall be for a reasonable period taking into consideration gravity and complexity of the issue being investigated. The person under interrogation shall be allowed to attend to his own personal physical necessities.

(e) The public safety officer under interrogation shall not be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogations shall be informed that failure to answer questions directly related to the investigation or interrogation may result in punitive action. No promise of reward shall be made as an inducement to answering any question. The employer shall not cause the public safety officer under interrogation to be subjected to visits by the press or news media without his express consent nor shall his home address or photograph be given to the press or news media without his express consent.

(f) The complete interrogation of a public safety officer may be recorded. If a tape recording is made of the interrogation, the public safety officer shall have access to the tape if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. The public safety officer shall be entitled to a transcribed copy of any notes made by a stenographer or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports which are deemed to be confidential may be entered in the officer's personnel file. The public safety officer being interrogated shall have the right to bring his own recording device and record any and all aspects of the interrogation.

(g) If prior to or during the interrogation of a public safety officer it is deemed that he may be charged with a criminal offense, he shall be immediately informed of his constitutional rights.

(h) Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters which are likely to result in punitive action against any public safety officer, that officer, at his request, shall have the right to be represented by a representative of his choice who may be present at all times during such interrogation. The representative shall not be a person subject to the same investigation. The representative shall not be required to disclose, nor be subject to any punitive action for refusing to disclose, any information received from the officer under investigation for noncriminal matters.

This section shall not apply to any interrogation of a public safety

officer in the normal course of duty, counseling, instruction, or informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or any other public safety officer, nor shall this section apply to an investigation concerned solely and directly with alleged criminal activities.

(i) No public safety officer shall be loaned or temporarily reassigned to a location or duty assignment if a sworn member of his department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.

CHAPTER 776

An act to amend Sections 3513, 3515, 3515.6, 3516.5, 3517.6, 3520.5, 3521, 3523, 3526, 3541, 13920, 13924, 14876, 18001, 18005, 18005.5, 18006, 18007, 18020, 18021, 18021.5, 18021.6, 18021.7 18022, 18023, 18024, 18025, 18025.1, 18026, 18050, 18051, 18051.5, 18100, 18100.5, 18101, 18101.5, 18102, 18102.5, 18103, 18105, 18120, 18121, 18122, 18122.1, 18123, 18124, 18125, 18126, 18127, 18128, 18129, 18135, 18135.5, 18136, 18137, 18137.5, 18138, 18139, 18140, 18141, 18142, 18300, 18301, 18302, 18310, 18705, 18714, 18730, 18731, 18732, 18850, 18850.1, 18851, 18852, 18853, 18853.5, 18854, 18855, 18856, 18857, 18859, 18860, 18861, 19080.5, 19100, 19120, 19251, 19252, 19261, 19300, 19301, 19302, 19303, 19304, 19330, 19330.5, 19331, 19332, 19333, 19334, 19335, 19360, 19360.5, 19361, 19362, 19450, 19451, 19452, 19455, 19460, 19461, 19462, 19463, 19464, 19465, 19502, 19503, 19532, 19533, 19535, 19536, 19536.5, 19537, 19538, 19540, 19541, 19555, 19556, 20750.11, 21400, 21402, 21404, 21405, 22754, 22790, 22813, 22814, 22815, 22816, 22825, and 22825.1 of, and to add Sections 19100.5 and 19120.5 to, the Government Code, relating to state employment relations.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 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, employees of the Legislative Counsel Bureau, employees of the board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations.

(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.

(i) "State employer," or "employer," for the purposes of bargaining or meeting and conferring in good faith, means the Governor or his designated representatives.

If the provisions of this subdivision are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 4.3. Section 3515 of the Government Code is amended to

read:

3515. Except as otherwise provided by the Legislature, state employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. State employees also shall have the right to refuse to join or participate in the activities of employee organizations, except that nothing shall preclude the parties from agreeing to a maintenance of membership provision, as defined in subdivision (h) of Section 3513, pursuant to a memorandum of understanding. In any event, state employees shall have the right to represent themselves individually in their employment relations with the state.

SEC. 4.5. Section 3515.6 of the Government Code is amended to read:

3515.6. All employee organizations shall have the right to have membership dues, initiation fees, insurance premiums, and general assessments deducted pursuant to Sections 1156, 1156.1, and 1156.2 until such time as an employee organization is recognized as the exclusive representative for employees in an appropriate unit, and then such deductions as to any employee in the negotiating unit shall not be permissible except to the exclusive representative.

SEC. 4.7. Section 3516.5 of the Government Code is amended to read:

3516.5. Except in cases of emergency as provided in this section, the employer shall give reasonable written notice to each recognized employee organization affected by any law, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the employer, and shall give such recognized employee organizations the opportunity to meet and confer with the administrative officials or their delegated representatives as may be properly designated by law.

In cases of emergency when the employer determines that a law, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the administrative officials or their delegated representatives as may be properly designated by law shall provide such notice and opportunity to meet and confer in good faith at the earliest practical time following the adoption of such law, rule, resolution, or regulation.

SEC. 5. Section 3517.6 of the Government Code is amended to read:

3517.6. In any case where the provisions of subdivision (h) of Section 3513, or Section 13920, 13924, 14876, 18001, 18005, 18005.5, 18006, 18007, 18020, 18021, 18021.5, 18021.6, 18021.7, 18022, 18023, 18024, 18025, 18025.1, 18026, 18050, 18051, 18051.5, 18100, 18100.5, 18101, 18101.5, 18102, 18102.5, 18103, 18105, 18120, 18121, 18122, 18122.1, 18123, 18124, 18125, 18126, 18127, 18128, 18129, 18135, 18135.5, 18136, 18137, 18137.5, 18138, 18139, 18140, 18141, 18142, 18300, 18301, 18302, 18310, 18705, 18714, 18730, 18731, 18732, 18850, 18850.1, 18851,

18852, 18853, 18853.5, 18854, 18855, 18856, 18857, 18859, 18860, 18861, 19080.5, 19100, 19120, 19251, 19252, 19261, 19300, 19301, 19302, 19303, 19304, 19330, 19330.5, 19331, 19332, 19333, 19334, 19335, 19360, 19360.5, 19361, 19362, 19450, 19451, 19452, 19455, 19460, 19461, 19462, 19463, 19464, 19465, 19502, 19503, 19555, 19556, 20750.11, 21400, 21402, 21404, 21405, 22754, 22790, 22813, 22814, 22815, 22816, 22825, or 22825.1 are in conflict with the provisions of a memorandum of understanding, the memorandum of understanding shall be controlling without further legislative action. In any case where the provisions of Section 19532, 19533, 19535, 19536, 19536.5, 19537, 19538, 19540, or 19541 are in conflict with the provisions of a memorandum of understanding, the terms of the memorandum of understanding shall be controlling unless the State Personnel Board finds those terms to be inconsistent with merit employment principles as provided for by Article VII of the California Constitution. Where such finding is made, the provisions of the Government Code shall prevail until those affected sections of the memorandum of understanding are renegotiated to resolve the inconsistency. If any provision of the memorandum of understanding requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act. If any provision of the memorandum of understanding requires legislative action to permit its implementation by amendment of any section not cited above, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature.

SEC. 5.2. Section 3520.5 of the Government Code is amended to read:

3520.5. (a) The state shall grant exclusive recognition to employee organizations designated or selected pursuant to rules established by the board for employees of the state or an appropriate unit thereof, subject to the right of an employee to represent himself.

(b) The board shall establish reasonable procedures for petitions and for holding elections and determining appropriate units pursuant to subdivision (a).

(c) The board shall also establish procedures whereby recognition of employee organizations formally recognized as exclusive representatives pursuant to a vote of the employees may be revoked by a majority vote of the employees only after a period of not less than 12 months following the date of such recognition.

SEC. 5.3. Section 3521 of the Government Code is amended to read:

3521. (a) In determining an appropriate unit, the board shall be governed by the criteria in subdivision (b). However, the board shall not direct an election in a unit unless one or more of the employee organizations involved in the proceeding is seeking or agrees to an election in such a unit.

(b) In determining an appropriate unit, the board shall take into consideration all of the following criteria:

(1) The internal and occupational community of interest among the employees, including, but not limited to, the extent to which they perform functionally related services or work toward established common goals; the history of employee representation in state government and in similar employment; the extent to which the employees have common skills, working conditions, job duties, or similar educational or training requirements; and the extent to which the employees have common supervision.

(2) The effect that the projected unit will have on the meet and confer relationships, emphasizing the availability and authority of employer representatives to deal effectively with employee organizations representing the unit, and taking into account such factors as work location, the numerical size of the unit, the relationship of the unit to organizational patterns of the state government, and the effect on the existing classification structure or existing classification schematic of dividing a single class or single classification schematic among two or more units.

(3) The effect of the proposed unit on efficient operations of the employer and the compatibility of the unit with the responsibility of state government and its employees to serve the public.

(4) The number of employees and classifications in a proposed unit and its effect on the operations of the employer, on the objectives of providing the employees the right to effective representation, and on the meet and confer relationship.

(5) The impact on the meet and confer relationship created by fragmentation of employees or any proliferation of units among the employees of the employer.

(6) Notwithstanding the foregoing provisions of this section, or any other provision of law, an appropriate group of skilled crafts employees shall have the right to be a separate unit of representation based upon occupation. Skilled crafts employees shall include, but not necessarily be limited to, employment categories such as carpenters, plumbers, electricians, painters, and operating engineers.

(c) There shall be a presumption that professional employees and nonprofessional employees should not be included in the same unit. However, the presumption shall be rebuttable, depending upon what the evidence pertinent to the criteria set forth in subdivision (b) establishes.

SEC. 5.4. Section 3523 of the Government Code is amended to read:

3523. (a) All initial meet and confer proposals of recognized employee organizations shall be presented to the employer at a public meeting, and such proposals thereafter shall be a public record.

All initial meet and confer proposals or counterproposals of the employer shall be presented to the recognized employee organization at a public meeting, and such proposals or counterproposals thereafter shall be a public record.

(b) Except in cases of emergency as provided in subdivision (d), no meeting and conferring shall take place on any proposal subject to subdivision (a) until not less than seven consecutive days have elapsed to enable the public to become informed, and to publicly express itself regarding the proposals, as well as regarding other possible subjects of meeting and conferring and thereafter, the employer shall, in open meeting, hear public comment on all matters related to the meet and confer proposals.

(c) Forty-eight hours after any proposal which includes any substantive subject which has not first been presented as proposals for public reaction pursuant to this section is offered during any meeting and conferring session, such proposals and the position, if any, taken thereon by the representatives of the employer, shall be a public record.

(d) Subdivision (b) shall not apply when the employer determines that, due to an act of God, natural disaster, or other emergency or calamity affecting the state, and which is beyond the control of the employer or recognized employee organization, it must meet and confer and take action upon such a proposal immediately and without sufficient time for the public to become informed and to publicly express itself. In such cases the results of such meeting and conferring shall be made public as soon as reasonably possible.

SEC. 5.5. 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, the Public Employment Relations Board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations, 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. 5.7. 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, the Public Employment Relations Board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations, excepting those persons elected by popular vote or appointed to office by the Governor of this state, and excepting any civil service employee of the state, the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, managerial employees as defined in subdivision (e) of Section 3513, confidential employees as defined in subdivision (f) of Section 3513, and employees of the California Maritime Academy.

SEC. 5.8. 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, except the University of California, Hastings College of the Law, and the California State University and Colleges.

(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, the Public Employment Relations Board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations, 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, employees of the University of California, Hastings College of the Law, and the California State University and Colleges.

SEC. 5.9. 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, except the University of California, Hastings College of the Law, and the California State University and Colleges.

(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, the Public Employment Relations Board, nonclerical employees of the State Personnel Board engaged in technical or analytical personnel functions, and conciliators employed by the State Conciliation Service within the Department of Industrial Relations, excepting those persons elected by popular vote or appointed to office by the Governor of this state, and excepting any civil service employees of the state, the teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction, employees of the University of California, Hastings College of the Law, and the California State University and Colleges, managerial employees as defined in subdivision (e) of Section 3513, confidential employees as defined in subdivision (f) of Section 3513, and employees of the California Maritime Academy.

SEC. 6. Section 3541 of the Government Code is amended to read:

3541. (a) There is in state government the Public Employment Relations Board which shall be independent of any state agency and shall consist of three members. The members of the board shall be appointed by the Governor by and with the advice and consent of the Senate. One of the original members shall be chosen for a term of one year, one for a term of three years, and one for a term of five years. Thereafter terms shall be for a period of five years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Members of the board shall be eligible for reappointment. The Governor shall select one member to serve as chairperson. A member of the board may be removed by the Governor upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the commission, and two members of the board shall at all times constitute a quorum.

(c) Members of the board shall hold no other public office in the state, and shall not receive any other compensation for services rendered.

(d) Each member of the board shall be paid an annual salary of forty-two thousand five hundred dollars ($42,500). In addition to his salary, each member of the board shall be reimbursed for all actual

and necessary expenses incurred by him in the performance of his duties, subject to the rules of the State Board of Control relative to the payment of such expenses to state officers generally.

(e) The chairperson shall appoint an executive director who shall be the chief administrative officer. The executive director shall appoint such other persons as may, from time to time, be deemed necessary for the performance of the board's administrative functions, prescribe their duties, fix their compensation, and provide for reimbursement of their expenses in the amounts made available therefor by appropriation. The executive director shall be a person familiar with employer-employee relations. The executive director shall be subject to removal at the pleasure of the chairperson. The board shall employ a general counsel to assist it in the performance of its functions under this chapter.

(f) The executive director and general counsel serving the board on December 31, 1977, shall become employees of the Public Employment Relations Board and shall continue to serve at the discretion of the board. A person so employed may, independently of the Attorney General, represent the board in any litigation or other matter pending in a court of law to which the board is a party or in which it is otherwise interested.

(g) The Governor shall appoint one legal adviser for each member of the board upon the recommendation of such board member. Each such appointee shall serve at the pleasure of the recommending board member and shall receive a salary as shall be fixed by the board with the approval of the Department of Finance.

(h) Attorneys serving the board on May 19, 1978, shall not be appointed as legal advisers to board members pursuant to subdivision (g) until such time as they have attained permanent civil service status.

(i) When the positions exempt from civil service which are authorized by this act are created, the Department of Finance shall delete the corresponding civil service positions in the board's 1978–79 budget.

SEC. 6.5. Section 13920 of the Government Code is amended to read:

13920. By a majority vote, the board shall adopt general rules and regulations:

(a) Limiting the amount, time, and place of expenses and allowances to be paid to officers, agents, and employees of the state while traveling on official state business. The rules and regulations shall provide for reasonable reimbursement to an officer, agent or employee of the state for expenses incurred by him to repair a privately owned vehicle which was damaged through no fault of said officer, agent or employee; provided that the damage occurred while the vehicle was used on official state business with the permission or authorization of an employing agency.

(b) Governing such matters as are specifically committed to its jurisdiction.

(c) Governing the presentation and audit of claims against the state for which an appropriation has been made or for which a state fund is available.

(d) Governing the computation of pay in the case of any officer or employee on a monthly basis salary who is entitled to less than a full month's pay.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 7. Section 13924 of the Government Code is amended to read:

13924. (a) The board shall determine the fair and reasonable value of maintenance, living quarters, housing, lodging, board, meals, food, household supplies, fuel, laundry, domestic servants and other services furnished by the state as an employer to its employees.

The value so determined shall constitute the charges to be made to state employees for any such maintenance or other services furnished by the state, unless the employee is entitled thereto as compensation for his services or as actual and necessary expenses incurred in the performance of the state's business. Whenever a state employee is entitled to such maintenance or other services as part or full compensation for services rendered, the value thereof for retirement purposes, as defined by Section 20022 of this code, and for salary or wage fixing purposes, shall also be determined in accordance with the values established by the board hereunder. The Board of Control, by rule, shall provide for reasonable opportunity to be heard by departments or employees affected by this section.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 8. Section 14876 of the Government Code is amended to read:

14876. (a) Pressmen, typographers, linotypers, compositors, bookbinders, lithographers, engravers, apprentices and assistants and all other employees of the Office of State Printing employed in allied work shall be paid on an hourly wage basis. The basic wage of such employees shall be the prevailing hourly wage paid to persons identified by the State Personnel Board to be in similar and comparable employment by private printers in the major metropolitan areas in California. The State Personnel Board shall accept and give validity to certified copies of agreed upon contracts

submitted by either the employer, the employer group, or the employee organization.

The State Personnel Board shall survey only major employers where there are agreed upon contracts. Where any such contract contains any provision or provisions which do not reflect the actual practice of the employer, the State Personnel Board shall disregard such provision or provisions.

If the State Personnel Board finds that salary relationships between surveyed classes do not accurately reflect relationships in duties and responsibilities of employees of the Office of State Printing, the board shall adjust such wage rates on an equitable basis notwithstanding the survey findings.

As used in this section, prevailing wages and prevailing benefits means wages and benefits arrived at through negotiation between an employer or employer organization, and an employee organization which is the bona fide representative of the employer's employees and certified as such by the Director of Industrial Relations. In order to be so certified, the employee organization shall be free from employer influence and domination.

(b) In addition to such wages, and the rights and privileges afforded state employees under the provisions of the State Civil Service Act, and other statutes, there shall be paid to each such employee of the Office of State Printing, either directly or to a health and welfare fund on his or her behalf, an amount equal to the prevailing individual contributions paid to health and welfare plans for employees in similar and comparable employment by private printers in the major metropolitan areas. Where such contracts do not disclose the dollar value of health and welfare benefits, the state shall provide the same or substantially the same level of benefits as provided for in such agreed upon contracts. Any adjustments made pursuant to subdivisions (a) and (b) of this section shall be effective as of March 1, 1977, and each March 1, thereafter.

(c) As an alternative to subdivision (b), persons employed and retired from employment in the Office of State Printing may elect within 90 days of the effective date of the amendments to this section enacted at the 1977–78 Regular Session of the Legislature to be covered under the State Employees' Medical and Hospital Care Act pursuant to Section 22754.2.

A person first employed to any position described in subdivision (a) after the effective date of the amendments to this section enacted at the 1977–78 Regular Session of the Legislature may elect to become an "employee" as defined in Section 22754.2 within 90 days of commencing such employment.

Any person who is a member of a health and welfare plan described in subdivision (b) who loses eligibility for participation in such plan, or if the plan of which the person is a member ceases to exist, such person may elect to become an "employee" as defined in Section 22754.2 within 90 days of the date such eligibility is lost or the plan ceases to exist.

(d) In no instance shall the wages and the health and welfare contributions paid by the state to the persons covered under this section be less than the dollar amount paid as of the effective date of this section.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 9. Section 18001 of the Government Code is amended to read:

18001. (a) Unless otherwise provided by law, the salaries of state officers shall be paid monthly out of the General Fund.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 10. Section 18005 of the Government Code is amended to read:

18005. (a) Upon separation from service without fault on his part, a person is entitled to a lump sum payment as of the time of separation for any unused or accumulated vacation or for any time off to which he is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the appointing power or by rules of the State Personnel Board. Such sum shall be computed by projecting the accumulated time on a calendar basis so that the lump sum will equal the amount which the employee would have been paid had he taken the time off but not separated from the service.

(b) Persons separated from service through fault of their own are entitled to a lump sum payment for such compensating time off for overtime work, and in addition, such portion, if any, of unused vacation as the State Personnel Board may determine. The computation of such sum shall be based on actual accumulated time without projection as provided in (a).

(c) Lump sum payment for vacation shall not be made to a person who separates from a position for the purpose of accepting another position in the state service except:

(1) Upon movement to a position in which vacation credits are neither accrued nor used or (2) upon reassignment of an employee of the Trustees of the California State Colleges, subsequent to January 1, 1965, from a position other than an academic year position, to an academic year position. However, a lump sum payment shall not be made to a person who returns to a position in the same class

and agency within 15 working days of the date of his resignation.

(d) Except for payment authorized or excluded under subdivision (c) an employee who returns to state service during the period through which his lump sum payment was computed may refund the amount of lump sum payment which exceeds his break in service and have the balance of credits restored as though he had remained in state service and taken the time off.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 11. Section 18005.5 of the Government Code is amended to read:

18005.5. (a) Any time off to which an employee is entitled by reason of overtime worked prior to June 9, 1948, may be compensated by a lump sum payment in the manner provided in Section 18005 at any time prior to the separation of the employee from service or upon such separation. Payment shall be at the rate established for the position as of the date of payment or the date of separation as the case may be.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 12. Section 18006 of the Government Code is amended to read:

18006. (a) Notwithstanding the provisions of Section 11030, whenever a state officer or employee is required by the appointing power because of a change in assignment, promotion or other reason related to his duties to change his place of residence, such officer, agent or employee shall receive his actual and necessary moving, traveling, lodging and meal expenses, incurred by him both before and after and by reason of such change of residence. The maximum allowances for such expenses shall be as follows: the costs of packing, transporting, and unpacking 11,000 pounds of household effects, traveling, lodging, and meal expenses for 60 days while locating a permanent residence, storage of household effects for 60 days, and additional miscellaneous allowances not in excess of two hundred dollars ($200). The maximum allowances may be exceeded in those particular instances where the Director of General Services determines in advance that the change of residence will result in unusual and unavoidable hardship for the officer or employee, and in such cases the Director of General Services shall determine the

maximum allowances to be received by such officer or employee.

(b) If such change of residence reasonably requires the sale of residence or the settlement of an unexpired lease, such officer or employee may be reimbursed for any of the following expenses:

(1) The settlement of the unexpired lease to a maximum of one year. Upon the date of surrender of the premises by the employee who is the lessee, the rights and obligations of the parties to the lease shall be as determined by Section 1951.2 of the Civil Code.

The state shall be absolved of responsibility for an unexpired lease if the Board of Control determines the employee knew or reasonably should have known that a transfer involving physical move was imminent before entering into the lease agreement.

(2) In the event of residence sale, reimbursement for brokerage and other related selling fees or charges, as determined by regulations of the Board of Control, adopted pursuant to the Administrative Procedure Act (commencing with Section 11420) customarily charged for like services in the locality where the residence is located.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 13. Section 18007 of the Government Code is amended to read:

18007. (a) For the purpose of facilitating the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants, the Board of Control may authorize payment of all or a part of the travel expense of applicants who are called for interview and all or a part of the travel and moving expense of persons who change their place of residence to accept employment with the state. In the case of applicants for employment by the Trustees of the California State University and Colleges, such payments shall be authorized only upon the certification of the trustees that the expenditure is necessary in order to recruit qualified persons needed by the California State University and Colleges. In the case of all other applicants, such payments shall be authorized only upon the certification of the appointing power and the State Personnel Board that the expenditure is necessary in order to recruit qualified persons needed by the state.

If, for reasons that do not meet the approval of the state department concerned, the employee or applicant for employment does not accept or continue such employment for a period of two years, he shall reimburse the state department for such moving and travel expenses for the full or proportionate amount.

For the purposes of this section satisfactory reasons for not completing two years of employment shall be death, prolonged

illness, disability, unacceptability of the applicant or employee to the state department, and similar eventualities beyond the control of the applicant or employee.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 14. Section 18020 of the Government Code is amended to read:

18020. (a) It is the policy of the state that the workweek of the state employee shall be 40 hours, and the workday of state employees eight hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different state agencies. It is the policy of the state to avoid the necessity for overtime work whenever possible. This policy does not restrict the extension of regular working-hour schedules on an overtime basis in those activities and agencies where such is necessary to carry on the state business properly during a manpower shortage.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 15. Section 18021 of the Government Code is amended to read:

18021. (a) For each class or position for which a monthly or annual salary range is established by the State Personnel Board or by the Department of Finance, the board shall establish and adjust workweek groups and shall assign each class or position to a workweek group. The State Personnel Board, after considering the needs of the state service and prevailing overtime compensation practices, may establish workweek groups of different lengths or of the same length but requiring different methods of recognizing or providing compensation for overtime. The board may also provide for the payment of overtime in designated classes for work performed after the normal scheduled workday or normal scheduled workweek.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective

unless approved by the Legislature in the annual Budget Act.

SEC. 16. Section 18021.5 of the Government Code is amended to read:

18021.5. (a) The State Personnel Board shall provide the extent to which, and establish the method by which, ordered overtime or overtime in times of critical emergency is compensated. The board may provide for cash compensation at a rate not to exceed 1½ times the regular rate of pay, and the rate may vary within a class depending upon the conditions of work, or the board may provide for compensating time off at a rate not to exceed 1½ hours of time off for each hour of overtime worked. The provisions made under this section shall be based on the practices of private industry and other public employment, the needs of state service, and internal relationships.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 17. Section 18021.6 of the Government Code is amended to read:

18021.6. (a) Notwithstanding any other provision of this chapter, the State Personnel Board is authorized to provide for overtime payments as prescribed by the Federal Fair Labor Standards Act to state employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 18. Section 18021.7 of the Government Code is amended to read:

18021.7. (a) It is the policy of the state that the normal workweek of permanent employees in fire suppression classes of the Division of Forestry shall not exceed 84 hours a week. Work in excess of the designated normal workweek may be compensated for in cash or compensating time off in accordance with the regulations of the State Personnel Board.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 19. Section 18022 of the Government Code is amended to read:

18022. (a) Every state agency in which there are employees not subject to state civil service shall submit to the State Personnel Board all information necessary for determination of the workweek for each employee. For each class or position for which a monthly or annual salary range is established by the Trustees of the California State University and Colleges, the trustees shall establish and adjust workweek groups and shall assign each class or position to a workweek group.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 20. Section 18023 of the Government Code is amended to read:

18023. (a) The granting of compensating time off in lieu of cash compensation is not prohibited where compensating time off can be granted within twelve calendar months following the month in which the overtime was worked and without impairing the services rendered by the employing state agency.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 21. Section 18024 of the Government Code is amended to read:

18024. (a) The State Personnel Board shall adopt rules governing hours of work and overtime compensation and the keeping of records related thereto, including time and attendance records. Each appointing power shall administer and enforce such rules.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 22. Section 18025 of the Government Code is amended to read:

18025. (a) All employees shall be entitled to the following holidays: the first day of January, the 12th day of February, the third Monday in February, the last Monday in May, the fourth day of July,

the first Monday in September, the ninth day of September, the second Monday in October, the 11th day of November, the 25th day of December, the day chosen by an employee pursuant to the provisions of Section 18025.1, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays herein mentioned, and who does work on any of said holidays, shall be entitled to be paid compensation or given compensating time off for such work within the meaning of this article. For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, or compensating time off, shall be considered as time worked by the employee.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 23. Section 18025.1 of the Government Code is amended to read:

18025.1. (a) Every employee shall be entitled to one personal holiday per calendar year. The employer may require the employee to provide five working days' notice in advance of the personal holiday. The State Personnel Board may provide by rule for the granting of such holiday for employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 24. Section 18026 of the Government Code is amended to read:

18026. (a) The State Personnel Board may provide by rule for compensation to employees who are required to report back to work after completion of the normal workday, workweek or when otherwise off duty. In determining the rate and method of compensation, the board shall take into consideration the needs of state service and the practices prevailing in private business and other public employment.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to

Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 25. Section 18050 of the Government Code is amended to read:

18050. (a) Following completion of six months of continuous service, for each completed calendar month of service, except as provided in Section 18051.5, each state officer and employee who is employed full time shall receive credit for vacation with pay in accordance with the following schedule:

1 month to 3 years	5/6 days per month
37 months to 10 years	1¼ days per month
121 months to 15 years	1 5/12 days per month
181 months to 24 years	1 7/12 days per month
289 months and over	1⅔ days per month

The computation of credit for the month of January, 1964 and each month thereafter shall be based upon the schedule provided by this section, provided that the rate of vacation credit allowed shall not be reduced for any officer or employee employed prior to January 1, 1964. The time when vacation shall be taken shall be determined by the appointing power of the officer or employee.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 26. Section 18051 of the Government Code is amended to read:

18051. (a) The State Personnel Board shall provide by rule for the regulation and accumulation of vacations for civil service employees and may provide for vacations for such employees who are employed less than full time. The State Personnel Board shall prescribe the methods by which employees leaving the employment of one state agency and entering the employment of another state agency may be compensated for, transfer, or otherwise receive proper credit for their accumlated vacation privileges.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 27. Section 18051.5 of the Government Code is amended to read:

18051.5. (a) It shall be within the discretion of the State Personnel Board to define the effect of an absence from the payroll of 10 working days or less in any calendar month upon credit for vacation.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 28. Section 18100 of the Government Code is amended to read:

18100. (a) Following completion of one month of continuous service, except as otherwise provided in Section 18102.5 of the Government Code, each state officer and employee who is employed full time shall be allowed one day of credit for sick leave with pay. Thereafter, for each additional calendar month of service, except as provided in Section 18100.5, one day of credit for sick leave with pay shall be allowed. Each state officer or employee is entitled to such leave with pay, on the submission of satisfactory proof of the necessity for sick leave as provided by rule of the State Personnel Board. For purposes of computing sick leave, each employee shall be considered to work not more than five days each week. The State Personnel Board shall provide by rule for the regulation and method of accumulation of sick leave for civil service employees, and may provide sick leave for those who work less than full time. Subject to board rule sick leave may be granted to employees for the purpose of physical examinations.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 29. Section 18100.5 of the Government Code is amended to read:

18100.5. (a) It shall be within the discretion of the State Personnel Board to define the effect of an absence from the payroll of 10 working days or less in any calendar month upon credit for sick leave.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the

expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 30. Section 18101 of the Government Code is amended to read:

18101. (a) Sick leave may be accumulated, and no additional sick leave with pay beyond that accumulated shall be granted, except as provided in Section 18102.5 of the Government Code.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 31. Section 18101.5 of the Government Code is amended to read:

18101.5. (a) The State Personnel Board may provide by rule for crediting to the sick leave account of an employee formerly employed in a state position exempt from civil service any unused sick leave standing to the employee's credit at the time of separation from such a position; provided, the employee entered other state service not more than six months after separating from his exempt employment; and provided, such credit may not exceed the amount it would have been if such employment had been in the state civil service.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 32. Section 18102 of the Government Code is amended to read:

18102. (a) A state officer or employee who is or may be entitled to temporary disability indemnity under Division 4 or Division 4.5 of the Labor Code shall receive any accumulated sick leave, or accumulated compensable overtime, or accumulated vacation for such absence. The appointing power shall decrease the charge of sick leave, or compensable overtime, or vacation in the amount of temporary disability payment received so that the state officer or employee shall not receive payment in excess of full salary or wage.

If a state officer or employee does not wish to use his accumulated sick leave, or accumulated compensable overtime, or accumulated vacation, he shall notify his appointing power within 15 days after the injury is reported to the appointing power. After the 15 days his accumulations shall be used until the date he notifies the appointing power in writing that he no longer wishes to use the accumulations. When computing sick leave, or overtime, or vacation under this

section the employee shall be given credit for any holidays that occur during the period of absence hereunder.

He is nevertheless entitled to medical, surgical, and hospital treatment as provided in the Labor Code. When his accumulated sick leave, or overtime, or vacation, or all, are exhausted, he is still entitled to receive disability indemnity.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 33. Section 18102.5 of the Government Code is amended to read:

18102.5. (a) Notwithstanding any other provision of the law to the contrary, a state officer or employee who is entitled to temporary disability indemnity under Division 4 or Division 4.5 of the Labor Code as a result of an industrial accident occurring during a period of employment for which he is not earning sick leave credit shall have sick leave credit of one day for each completed month of service during the time that he is not earning sick leave credit. If the employee is disabled because of an industrial injury arising out of said employment during said period the employee may elect to draw sick leave credit during such period of disability, such credit not to exceed one day of sick leave for each completed month of service that he is not earning sick leave credit and not to exceed a total of six days.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 34. Section 18103 of the Government Code is amended to read:

18103. (a) The board may provide by rule for sick leave without pay for those employees who have used all sick leave with pay to which they are entitled.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 35. Section 18105 of the Government Code is amended to read:

18105. (a) The appointing power of any officer or employee not a member of the civil service shall administer the sick leave authorized by this part for such officers or employees in accordance with the rules of the State Personnel Board. For each class or position for which a monthly or annual salary range is established by the Trustees of the California State University and Colleges, the trustees shall establish and adjust rules for the administration of sick leave.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 36. Section 18120 of the Government Code is amended to read:

18120. (a) This chapter applies to state officers and employees who are members of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after the effective date of this chapter.

This chapter does not apply to state officers and employees who are included in the provisions of Article 6 (commencing with Section 4800) of Chapter 2 of Part 2 of Division 4 of the Labor Code.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 36.5. Section 18120 of the Government Code is amended to read:

18120. (a) This chapter applies to state officers and employees who are members of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after the effective date of this chapter and to state officers and employees, whether or not members of such systems, who are employees of the Legislature and are not members of the civil service.

This chapter does not apply to state officers and employees who are included in the provisions of Article 6 (commencing with Section 4800) of Chapter 2 of Part 2 of Division 4 of the Labor Code.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 37. Section 18121 of the Government Code is amended to read:

18121. As used in this chapter:

(a) "Industrial disability leave" means temporary disability as defined in Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code and includes any period in which the disability is permanent and stationary and the disabled employee is undergoing vocational rehabilitation.

(b) "Full pay" means the gross base salary earnable by the employee and subject to retirement contribution if he had not vacated his position.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 38. Section 18122 of the Government Code is amended to read:

18122. (a) When a state officer or employee is temporarily disabled by illness or injury arising out of and in the course of state employment, he shall become entitled, regardless of his period of service, to receive industrial disability leave and payments, in lieu of worker's compensation temporary disability payments and payments under Section 18102, for a period not exceeding 52 weeks within two years from the first day of disability. Such payments shall be in the amount of the employees full pay less withholding based on his exemptions in effect on the date of his disability for federal income taxes, state income taxes, and social security taxes not to exceed 22 working days of disability subject to Section 18126. Thereafter, the payment shall be two-thirds of full pay. Payments will be additionally adjusted to offset disability benefits, excluding those disability benefits payable from the State Teachers' Retirement System, the employee may receive from other employer-subsidized programs, except that no adjustment will be made for benefits to which the employee's family is entitled up to a maximum of three-quarters of full pay. Contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall be deducted in the amount based on full pay. Discretionary deductions of the employee including those for coverage under a state health benefits plan in which the employee is enrolled shall continue to be deducted unless canceled by the employee. State employer contribution to the Public Employees' Retirement System and state employer normal retirement contributions to the State Teachers' Retirement System shall be made on the basis of full pay and state contribution pursuant to Sections 22825.1 and 22826 of this code because of the employee's enrollment in a health benefits plan shall continue.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 39. Section 18122.1 of the Government Code is amended to read:

18122.1. (a) A state officer or employee who is receiving industrial disability leave benefits, shall continue to receive all employee benefits which he would have received had he not incurred disability.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 40. Section 18123 of the Government Code is amended to read:

18123. (a) The disabled employee shall not receive temporary disability indemnity or sick leave with pay for any period for which he receives industrial disability leave; however, he may elect to waive the provisions of this chapter and to receive disability indemnity pursuant to Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code and to payments under Section 18102 in lieu of the benefits provided in this chapter. If the amount of the employee's benefits payable under this chapter is less than the amount he would receive under Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code, the employee shall be deemed to have rejected the benefits of this chapter and shall be paid benefits pursuant to Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 41. Section 18124 of the Government Code is amended to read:

18124. (a) Division 4.7 (commencing with Section 6200) of the Labor Code shall not apply to employees to which this chapter applies.

(b) If the provisions of this section are in conflict with the

provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 42. Section 18125 of the Government Code is amended to read:

18125. (a) If the employee continues to be temporarily disabled after termination of benefits under this chapter, he shall be entitled to the benefits provided by Divisions 4 (commencing with Section 3201) and 4.5 (commencing with Section 6100) of the Labor Code and to payments under Section 18102.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 43. Section 18126 of the Government Code is amended to read:

18126. (a) If an illness or injury causes temporary disability, the employee shall be placed on industrial disability leave on the fourth calendar day after the injured employee leaves work as a result of the illness or injury, except that in case the injury causes disability of more than 14 days or necessitates hospitalization, the employee shall be placed on industrial disability leave from the first day he leaves work or is hospitalized as a result of the injury.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 44. Section 18127 of the Government Code is amended to read:

18127. (a) Payments shall be contingent on the complete medical certification of the illness or injury including diagnosis and any prognosis of recovery. Further, payments shall be contingent on the employee's agreement to cooperate and participate in a reasonable and appropriate vocational rehabilitation plan when furnished by the state subject to appropriate medical approval as determined by the State Personnel Board or, for employees of the California State University and Colleges, as determined by the Trustees of the California State University and Colleges.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to

Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 45. Section 18128 of the Government Code is amended to read:

18128. (a) The State Personnel Board shall adopt any rules and regulations necessary for the administration of this chapter. The Trustees of the California State University and Colleges shall adopt any rules and regulations necessary for the administration of this chapter for employees of the California State University and Colleges.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 45.5. Section 18128 of the Government Code is amended to read:

18128. (a) The State Personnel Board shall adopt any rules and regulations necessary for the administration of this chapter. The Trustees of the California State University and Colleges shall adopt any rules and regulations necessary for the administration of this chapter for employee of the California State University and Colleges.

The appointing power of any officer or employee not a member of the civil service shall adopt any rules and regulations necessary for the administration of this chapter for such officers or employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 46. Section 18129 of the Government Code is amended to read:

18129. (a) The provisions of this chapter shall be effective upon the adoption of applicable rules and regulations, but not later than January 1, 1975.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 47. Section 18135 of the Government Code is amended to read:

18135. As used in this chapter:

(a) "Employee" means a permanent or probationary full-time state officer or employee who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after the effective date of this chapter.

(b) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of his disability.

(c) "Disability" or "disabled" includes both mental or physical illness and mental or physical injury, and to the extent specified in Section 18135.5, pregnancy. An employee is deemed disabled on any day in which, because of his physical or mental condition, he is unable to perform his regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this chapter, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Department" means the Employment Development Department.

(f) "Director" means the Director of Employment Development.

(g) "Appeals board" means the California Unemployment Insurance Appeals Board.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 47.5. Section 18135 of the Government Code is amended to read:

18135. As used in this chapter:

(a) "Employee" means a permanent or probationary full-time state officer or employee who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after the effective date of this chapter and a full-time state officer or employee, whether or not a member of such systems, who is an employee of the Legislature and is not a member of the civil service.

(b) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of his disability.

(c) "Disability" or "disabled" includes both mental or physical

illness and mental or physical injury, and to the extent specified in Section 18135.5, pregnancy. An employee is deemed disabled on any day in which, because of his physical or mental condition, he is unable to perform his regular or customary work.

(d) "Disability benefit period", with respect to any individual means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this chapter, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Department" means the Employment Development Department.

(f) "Director" means the Director of Employment Development.

(g) "Appeals board" means the California Unemployment Insurance Appeals Board.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 48. Section 18135.5 of the Government Code is amended to read:

18135.5. Benefits relating to pregnancy shall be paid under this chapter only in accordance with the following:

(a) Disability benefits shall be paid upon a doctor's certification that the claimant is disabled because of an abnormal and involuntary complication of pregnancy, including, but not limited to: puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

(b) Disability benefits shall be paid upon a doctor's certification that a condition possibly arising out of pregnancy would disable the claimant without regard to the pregnancy, including, but not limited to: anemia, diabetes, embolism, heart disease, hypertension, phlebitis, phlebothrombosis, pyelonephritis, thrombophlebitis, vaginitis, varicose veins, and venous thrombosis.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 49. Section 18136 of the Government Code is amended to read:

18136. (a) When an employee is disabled, whether temporarily or permanently, he shall become entitled, regardless of his period of

service and subject to the provisions of this chapter, to receive nonindustrial disability benefits, and payments of one-half his full pay, but not to exceed one hundred twenty-five dollars ($125) per week, payable monthly for a period not exceeding 26 weeks for any one disability benefit period, but in no case shall benefits be payable for any day on and after death or separation or retirement from state service.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 50. Section 18137 of the Government Code is amended to read:

18137. A disabled employee is eligible to receive nonindustrial disability benefits under this chapter equal to one-seventh of his weekly benefit amount specified in Section 18136 for each full day during which he is unemployed due to a disability only if the director finds that:

(a) He has made a claim for disability benefits as required by authorized regulations.

(b) He has been disabled for a waiting period of seven consecutive days during each disability benefit period with respect to which waiting period no benefits under this chapter are payable except for confinement in a hospital or nursing home for at least one day.

(c) He has exhausted all such leave to which he was entitled under Chapter 3 (commencing with Section 18100) of this part.

(d) Except for an individual described in Section 2709 of the Unemployment Insurance Code, he has submitted to such reasonable examinations as the director may require for the purpose of determining his mental or physical disability.

(e) He has filed a certificate described in Section 2708 or 2709 of the Unemployment Insurance Code.

(f) Except as otherwise provided, he meets, in all other respects, the eligibility requirements imposed on individuals by Part 2 (commencing with Section 2601) of Division 1 of the Unemployment Insurance Code for receipt of unemployment compensation disability benefits.

In case of any conflict between the provisions of Part 2 (commencing with Section 2601) of the Unemployment Insurance Code and the provisions of this chapter, the provisions of this chapter shall prevail.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a

memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 51. Section 18137.5 of the Government Code is amended to read:

18137.5. (a) A disabled employee shall be eligible to receive nonindustrial disability benefits under this chapter without being required to use any vacation leave accrued under Chapter 2 (commencing with Section 18052) of Part 1 of Division 5 of Title 2 of the Government Code, unless the employee, in his or her sole discretion, elects to use such vacation leave in lieu of receiving benefits under this chapter, in which case benefits under this chapter shall not commence until the employee has exhausted such accrued vacation leave.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 52. Section 18138 of the Government Code is amended to read:

18138. (a) An employee is not eligible for disability benefits under this chapter with respect to any period for which the director finds that he has received or is entitled to receive unemployment compensation benefits under Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code or under an unemployment compensation act of any other site or of the federal government.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 53. Section 18139 of the Government Code is amended to read:

18139. (a) Except as provided in this section, an individual is not eligible for disability benefits under this chapter for any day of unemployment and disability for which he has received, or is entitled to receive "other benefits" in the form of cash payments.

(b) "Other benefits" as used in this section means:

(1) Temporary disability indemnity under a workers' compensation law of this state or of any other state or of the federal government or under Chapter 3.5 (commencing with Section 18120) of this part.

(2) Temporary disability benefits under any employer's liability

law of this state or of any other state or of the federal government.

(c) If such "other benefits" are less than the amount an individual would otherwise receive as disability benefits under this chapter, he shall be entitled to receive, for such day, if otherwise eligible, disability benefits under this chapter reduced by the amount of such "other benefits." If after receipt of, or determination of entitlement to receive, such other benefits, a claim for disability benefits under this chapter is filed during the same continuous period of disability, because of a disability for which a claim for such other benefits was made, the maximum amount of disability benefits payable under this chapter during the disability benefit period thereby established shall be reduced by the amount of such "other benefits" which the claimant has received or has been determined to be entitled to receive.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 54. Section 18140 of the Government Code is amended to read:

18140. (a) Discretionary deductions of the employee, including those for coverage under a state health benefits plan in which the employee is enrolled, shall be deducted from the disability benefits under this chapter unless canceled by the employee. If an employee deduction under a state health benefits plan is continued, the state employer contribution shall also continue.

An employee shall not receive service credit under the Public Employees' Retirement System or the State Teachers' Retirement System during the period of receipt of disability benefits under this chapter and contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall not be deducted. State employer contributions shall also not be made to either system during such period.

An employee shall not accrue sick leave or vacation credit or service credit for any other purpose during the period of receipt of disability benefits under this chapter.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 55. Section 18141 of the Government Code is amended to read:

18141. (a) Filing, determination, and payment of disability

benefit claims under this chapter shall be made in accordance with the procedures prescribed by Article 4 (commencing with Section 2701) of Chapter 2 of Part 2 of Division 1 of the Unemployment Insurance Code.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 56. Section 18142 of the Government Code is amended to read:

18142. (a) The State Personnel Board shall adopt any rules and regulations necessary for the administration of this chapter. The Trustees of the California State University and Colleges shall adopt any rules and regulations necessary for the administration of this chapter for employees of the California State University and Colleges.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 56.5. Section 18142 of the Government Code is amended to read:

18142. (a) The State Personnel Board shall adopt any rules and regulations necessary for the administration of this chapter. The Trustees of the California State University and Colleges shall adopt any rules and regulations necessary for the administration of this chapter for employees of the California State University and Colleges.

The appointing power of any officer or employee not a member of the civil service shall adopt any rules and regulations necessary for the administration of this chapter for such officers or employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 57. Section 18300 of the Government Code is amended to read:

18300. (a) As used in this chapter the term "fireman of the state" or "fireman" shall be deemed to include a member of a fire department or fire service of the state, including the University of

California, whether such members are volunteer, partly paid, or fully paid, excepting those whose principal duties are clerical, such as stenographers, telephone operators and other officeworkers. Such firemen shall be regularly employed or in the case of a volunteer shall be regularly enrolled as such.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 58. Section 18301 of the Government Code is amended to read:

18301. (a) Whenever any fireman of the state dies or is disabled from performing his duties as a fireman by reason of his proceeding to or engaging in a fire-suppression or rescue operation, or the protection or preservation of life or property, anywhere in this state, including the jurisdiction in which he is employed, but is not at the time acting under the immediate direction of his employer, he or his dependents, as the case may be, shall be accorded by his employer all of the same benefits of the Workmen's Compensation Law, which he or they would have received had that fireman been acting under the immediate direction of his employer. Any injury, disability or death incurred under the circumstances described in this section shall be deemed to have arisen out of and been sustained in the course of employment for purposes of workmen's compensation and all other benefits.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 59. Section 18302 of the Government Code is amended to read:

18302. Nothing in this chapter shall be deemed to:

(a) Require the extension of any benefits to a fireman who at the time of his injury, death, or disability is acting for compensation from one other than the state.

(b) Require the extension of any benefits to a fireman employed by the state where by departmental regulation whether now in force or hereafter enacted or promulgated, the activity giving rise to the injury, disability or death, is expressly prohibited.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a

memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 60. Section 18310 of the Government Code is amended to read:

18310. (a) The Department of General Services, with the approval of the State Board of Control, may establish for officers and employees a deferred compensation plan. Participation in such plan shall be by written agreement between such officers and employees and the state which shall provide for deferral of a portion of such officers' or employees' wages. Officers and employees may authorize deductions to be made from their wages for the purpose of participating in such deferred compensation plan.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 61. Section 18705 of the Government Code is amended to read:

18705. (a) In order to secure substantial justice and equality among employees in the state civil service, the board may provide by rule for days, hours and conditions of work, taking into consideration the varying needs and requirements of the different state agencies and the prevailing practices for comparable services in other public employment and in private business.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 62. Section 18714 of the Government Code is amended to read:

18714. (a) Nothing in this part shall preclude the board from providing by rule for a system of adjusting employee grievances which shall be administered within the departments before recourse to any remedy provided in this part.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 63. Section 18730 of the Government Code is amended to

read:

18730. (a) The board may establish a clerical pool in any locality where the demand for temporary clerical help warrants it. Such pool shall be established by the employment of sufficient clerical employees by the board to fill the needs of various appointing powers for temporary help from time to time.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 64. Section 18731 of the Government Code is amended to read:

18731. (a) Upon a request from any appointing power for temporary help which can be filled from those employed by the board in the clerical pool, the board shall assign such persons as are needed.

Upon such assignment the appointing power may be charged pursuant to Section 11253 or Sections 11256 to 11263, inclusive, for the cost of the services.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 65. Section 18732 of the Government Code is amended to read:

18732. (a) For all purposes of this part such persons are employees of the board and not of the appointing power to which they are assigned. The board shall make all necessary rules to carry out the purposes of this article. The procedure authorized by this article for procuring temporary clerical help is an alternative to other procedures for that purpose authorized by this part or board rule and nothing in this article, nor in the rules made hereunder, prevents an appointing power from following such other procedures.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 66. Section 18850 of the Government Code is amended to read:

18850. (a) The board shall establish and adjust salary ranges for

each class of position in the state civil service. The salary range shall be based on the principle that like salaries shall be paid for comparable duties and responsibilities. In establishing or changing such ranges consideration shall be given to the prevailing rates for comparable service in other public employment and in private business. The board shall make no adjustments which require expenditures in excess of existing appropriations which may be used for salary increase purposes. The board may make a change in salary range retroactive to the date of application for such change.

(b) Notwithstanding any other provision of law, the board shall not establish, adjust, or recommend a salary range for any employees in an appropriate unit where an employee organization has been chosen as the exclusive representative pursuant to Section 3520.5.

(c) On or before January 10 of each year, the board shall submit to the parties meeting and conferring pursuant to Section 3517 and to the Legislature, a report containing the board's findings relating to the salaries of employees in comparable occupations in private industry and other governmental agencies.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 67. Section 18850.1 of the Government Code, as added by Chapter 723 of the Statutes of 1974, is amended to read:

18850.1. (a) Notwithstanding any other provision of law to the contrary, the board shall, commencing with the 1975–76 fiscal year, base recommendations for the salaries of highway patrolmen on the estimated average salaries as of July 1 of the year in which the recommendations are made for each corresponding rank for the Los Angeles Police Department, the Los Angeles Sheriff's office, the San Diego Police Department, the Oakland Police Department, and the San Francisco Police Department.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 68. Section 18851 of the Government Code is amended to read:

18851. (a) Reasonable opportunity to be heard shall be provided by the board to any employee affected by a change in the salary range for the class of his position.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to

Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 69. Section 18852 of the Government Code is amended to read:

18852. (a) Salary ranges shall consist of minimum and maximum salary limits. The board shall provide for intermediate steps within such limits to govern the extent of the salary adjustment which an employee may receive at any one time; provided, that in classes and positions with unusual conditions or hours of work or where necessary to meet prevailing rates and practices for comparable services in other public employment and in private business the board may establish more than one salary range or rate or method of compensation within a class.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 70. Section 18853 of the Government Code is amended to read:

18853. (a) The minimum and maximum salary limits for laborers, workmen, and mechanics employed on an hourly or per diem basis need not be uniform throughout the state, but the appointing power shall ascertain and report to the board, as to each such position, the general prevailing rate of such wages in the various localities of the state.

In fixing such minimum and maximum salary limits within the various localities of the state, the board shall take into account the prevailing rates of wages in the localities in which the employee is to work and other relevant factors, and shall not fix the minimum salary limits below the general prevailing rate so ascertained and reported for the various localities.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 71. Section 18853.5 of the Government Code is amended to read:

18853.5. (a) The board may authorize payments into a private fund to provide health and welfare benefits to nonpermanent employees in classes compensated in accordance with the provisions

of Section 18853 where the board finds as to any such position that:

(1) Such payments by employers are the prevailing practice in comparable employment in the locality of the work and the payments are for the purpose of providing to employees specified benefits such as, but not limited to, hospital, medical, surgical and life insurance; sick leave, vacation allowance, pensions, supplementary unemployment and disability compensation, and other similar or related health and welfare benefits, or any combination thereof.

(2) Participation in the benefits provided by such funds is not limited to state employees.

(3) The provisions of the plans which provide the benefits meet the standards established by the board.

(b) Payments made by the state to any such fund on behalf of any employee shall be in lieu of benefits such as vacation allowance, sick leave, and retirement which are now or may hereafter be granted directly by the state in accordance with law.

(c) The board is empowered to determine the equitable application of this section to insure that the employees receive benefits comparable to, but not in excess of those provided in comparable private employment.

(d) The payments authorized by this section shall be a proper charge against any funds available for the support of the employing agency.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 72. Section 18854 of the Government Code is amended to read:

18854. (a) After completion of the first year in a position, each employee shall receive a merit salary adjustment equivalent to one of such intermediate steps during each year when he meets such standards of efficiency as the board by rule shall prescribe.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 73. Section 18855 of the Government Code is amended to read:

18855. (a) When the compensation of an employee is established at a fixed amount per unit of work with a maximum limit for his total annual or monthly compensation as an alternative method of compensation for the salary fixed for the class, the board shall

provide for annual increases in the maximum limit equal in amount and payable under the same conditions as for other employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 74. Section 18856 of the Government Code is amended to read:

18856. (a) Automatic salary adjustments shall be made for employees in the state civil service in accordance with this chapter and board rule adopted pursuant hereto, notwithstanding the power now or hereafter conferred on any officer to fix or approve the fixing of salaries, unless there is not sufficient money available for the purpose in the appropriation from which such salary shall be paid and the Director of Finance shall so certify.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 75. Section 18857 of the Government Code is amended to read:

18857. (a) The right of an employee to automatic salary adjustments is cumulative for a period not to exceed two years and he shall not, in the event of such an insufficiency of appropriation, lose his right to such adjustments for the intermediate steps to which he may be entitled for such period.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 76. Section 18859 of the Government Code is amended to read:

18859. (a) The board may authorize payment at any step above the minimum salary limit to classes or positions in order to meet recruiting problems, to obtain a person who has extraordinary qualifications, to correct salary inequities resulting from actions by the board, or to give credit for prior state service in connection with appointments, promotions, reinstatements, transfers, reallocations, or demotions. Other salary adjustments within the salary range for the class may be made upon the application of the appointing power

and with the approval of the Director of Finance. Adjustments within the salary range authorized by this section may be either permanent or temporary and may be made retroactive to the date of application for such change.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 77. Section 18860 of the Government Code is amended to read:

18860. (a) Employees in a class shall receive a salary within the limits established for that class; provided, that when a position has been allocated to a lower class or the salary range or rate of pay of the class is reduced, the board may authorize the payment of a rate above the maximum of the class; and provided further, that when an employee is moved to a position in a lower class because of reductions in force or other management-initiated changes, the board may, when recommended by the appointing power, authorize the payment of a rate above the maximum of the class for such time as the board may designate to the employee whose service has been fully satisfactory, who has completed a minimum of 10 years of state service, and who meets other eligibility standards established by the board. "State service," for the purpose of this section, may include up to one year during which the employee was off the state payroll while laid off, or on leave of absence for the purpose of lessening the effect of impending layoff or demotion. It is the responsibility of the employee to request credit for such time from the State Personnel Board. Such service shall not be credited for retirement purposes.

The board may, upon recommendation of the appointing power, apply the provisions of this section to employees who, prior to the effective date of the amendments to this section made at the 1971 Regular Session of the Legislature, moved to a position in a lower class because of reductions in force or other management-initiated changes, provided such employees have more than 30 years state service prior to the effective date of such amendments and were so demoted on July 1, 1968.

During such time as an employee's salary remains above the maximum rate of pay for his class, he shall not receive further salary increases.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 78. Section 18861 of the Government Code is amended to read:

18861. (a) The board shall develop objective criteria for determining the application of the state safety category of membership in the Public Employees' Retirement System to positions in the state civil service and shall then determine which classes of positions meet all or part of the elements of the criteria and shall list the positions in order based upon the degree in which their duties meet the criteria. The Public Employees' Retirement System and employing agencies shall assist and cooperate with the board in preparation of the report.

The board shall transmit a report thereon to the Legislature at the commencement of each session of the Legislature. The board shall initially give immediate priority to a study of the employees of the Departments of Corrections and Youth Authority and transmit a report thereon to the Legislature on or before January 1, 1975.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 79. Section 19080.5 of the Government Code is amended to read:

19080.5. (a) Notwithstanding Section 19170, a limited term appointment for a period not to exceed two years may be made to professional education classifications established for use by the Department of Education to facilitate the professional development of experienced professional educators. Any individual may not receive more than one such appointment within a five-year period. The number of such appointments at any point in time shall not exceed 10 percent of the professional education staff employed by the Department of Education. The request for certification shall state the duration of the appointment. The provisions of this section shall not apply to any person employed by the Department of Education in a civil service position on the effective date of this section.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 80. Section 19100 of the Government Code is amended to read:

19100. For persons employed on an intermittent or irregular time base, the vacation and sick leave privileges, salary, and other

conditions of employment governed by this part shall be subject to board rule.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 81. Section 19100.5 is added to the Government Code, to read:

19100.5. Whenever the appointing power requires the appointment of a person to a position requiring the performance of work on an intermittent or irregular time basis, the request for certification shall state the probable amount of working time to be required in the position. For persons employed on an intermittent or irregular time base, the status, tenure, and methods of separation governed by this part shall be subject to board rule.

SEC. 82. Section 19120 of the Government Code is amended to read:

19120. Service under emergency appointment shall be credited for purposes of vacation, sick leave and salary adjustment only if and as provided by board rule.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 83. Section 19120.5 is added to the Government Code, to read:

19120.5. The appointing power, to prevent the stoppage of public business when an actual emergency arises, or because the work will be completed within 30 working days, may make emergency appointments without utilizing persons on employment lists and, if necessary, without regard to existing classes. The method of selection and the qualification standards for an emergency employee shall be determined by the appointing power. The frequency of appointment and length of employment of an individual under emergency appointments shall be restricted by the board by rule so as to prevent the use of emergency appointments to circumvent employment lists.

Service under emergency appointment shall be credited for purposes of layoff only if and as provided by board rule.

SEC. 84. Section 19251 of the Government Code is amended to read:

19251. A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent,

incompatible, in conflict with, or inimical to his duties as a state officer or employee or with the duties, functions or responsibilities of his appointing power or the agency by which he is employed.

Each appointing power shall determine, subject to approval of the board, those activities which, for employees under his jurisdiction, are inconsistent, incompatible or in conflict with their duties as state officers or employees. Consideration shall be given to employment, activity or enterprise which: (a) involves the use for private gain or advantage of state time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of one's state office or employment or, (b) involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the state for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his state employment or as a part of his duties as a state officer or employee or, (c) involves the performance of an act in other than his capacity as a state officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by such officer or employee or the agency by which he is employed, or, (d) involves such time demands as would render performance of his duties as a state officer or employee less efficient.

Each state officer and employee shall during his hours of duty as a state officer or employee and subject to such other laws, rules or regulations as pertain thereto, devote his full time, attention and efforts to his state office or employment.

The board may adopt rules governing the application of this section. Such rules may include provision for notice to employees prior to the determination of proscribed activities and for appeal by employees from such a determination and from its application to an employee.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 85. Section 19252 of the Government Code is amended to read:

19252. (a) Upon giving two days' notice to his immediate superior, any state employee otherwise qualified shall be permitted to take any state civil service examination during working hours, if the examination is scheduled during such period, or to attend a meeting of the board at which is scheduled for consideration a matter specifically affecting his position concerning which he has requested to be heard, without deduction of pay or other penalty. Employment interviews for eligibles on employment lists shall be considered part of the examination process under this part.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 86. Section 19261 of the Government Code is amended to read:

19261. (a) The board may establish standards of health and safety in state agencies and may develop a comprehensive health and safety program designed to improve the efficiency and raise the morale of state employees.

Nothing in this section or in the standards established thereunder shall discriminate against treatment by prayer or spiritual means nor require physical examination of any employee who files with the board an affidavit setting forth that he depends exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination or organization and that he is to the best of his knowledge and belief in good health and that he claims exemption on such grounds, except that when there is probable cause to believe that such employee is not physically able to perform the duties of his employment, the board may require a physical examination of the employee sufficient to indicate whether or not he is able to perform the duties of his employment.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 87. Section 19300 of the Government Code is amended to read:

19300. (a) After consultation with appointing powers and other supervising officials the board shall assist and encourage state agencies to establish standards of performance for each class of position and shall provide a system of performance ratings. Such standards shall insofar as practicable be established on the basis of the quantity and quality of work which the average person thoroughly trained and industriously engaged can turn out in a day.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 88. Section 19301 of the Government Code is amended to

read:

19301. (a) The system of performance reports shall be designed to permit as accurately and fairly as is reasonably possible, the evaluation by his appointing power of each employee's performance of his duties. The evaluation shall be set forth in a performance report, the form for which shall be prescribed or approved by the board. The board may investigate administration of the system and enforce adherence to appropriate standards.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 89. Section 19302 of the Government Code is amended to read:

19302. (a) Appointing powers shall prepare performance reports and keep them on file as prescribed by board rule.

The rules shall provide that employees be shown the performance report covering their own service and are privileged to discuss it with the appointing power before it is filed. The extent to which such ratings or performance reports shall be open to inspection by the public shall be prescribed by board rule.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 1317.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 90. Section 19303 of the Government Code is amended to read:

19303. (a) Performance reports shall be considered, in the manner prescribed by board rule, in determining salary increases and decreases, the order of layoffs, the advisability of transfers, demotions, and dismissals, and in promotional examinations.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 91. Section 19304 of the Government Code is amended to read:

19304. (a) The board may establish rules under which records of unsatisfactory service may lead to reduction in class and compensation, and providing for the manner in which persons falling

below the standards of efficiency fixed by its rules may be removed from their positions by the board, substantially as in the case of removals for cause. The board shall report such unsatisfactory records to the appointing power.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 92. Section 19330 of the Government Code is amended to read:

19330. (a) Subject to board rule an appointing power may grant a leave of absence without pay, to any employee under his jurisdiction for a period not exceeding one year. A leave so granted assures to the employee the right to return to his former position upon expiration of the leave.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 93. Section 19330.5 of the Government Code is amended to read:

19330.5. (a) The appointing power may grant to an employee under his jurisdiction who has permanent civil service status or a probationer who immediately preceding his appointment to his position held permanent civil service status in the same or some other class a leave of absence without pay for not to exceed two years for service in a technical cooperation program as a temporary employee of another governmental agency, a nonprofit organization, or a recognized college or university upon the request of such agency. Upon termination of such service, and for three months thereafter, such employee shall have the right to be restored to his former position.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 94. Section 19331 of the Government Code is amended to read:

19331. (a) Leaves of absence granted for jury duty may be with or without pay.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 95. Section 19332 of the Government Code is amended to read:

19332. Any period of time during which an employee is required to be absent from his position by reason of an injury or disease for which he is entitled to receive temporary disability compensation under the provisions of Division 4 or 4.5 of the Labor Code is not a break in his continuous service for the purpose of his right to salary adjustments, sick leave, vacation, or seniority.

If an employee is unable to return to work at the time or during the period he is entitled to permanent disability compensation under Division 4 or 4.5 of the Labor Code, he shall be paid any sick leave balance, vacation balance, or accumulated compensable overtime. Such payment shall be computed by projecting the accumulated time on a calendar basis as though the employee was taking time off. If during the period of projection the employee is able to return to work, he shall be returned to his former position.

If a permanent or probationary employee is still not able to return to his former position and continues to receive permanent disability compensation, the appointing power shall take at least one of the following actions:

(a) Demote or transfer the employee to a position in a comparable or lower class in the same agency if he is able to perform such duties;

(b) Request the board to assist in placing the employee in another position in state service;

(c) Grant a leave of absence for the period during which the employee receives permanent disability compensation or is being retrained through rehabilitation;

(d) Encourage the employee to accept disability or service retirement; or

(e) Terminate under the provisions of Government Code Section 19253.5.

If the employee is demoted or transferred he shall receive the maximum of the salary range provided such salary is not greater than the salary he received on the date his accumulated time was exhausted.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the

Legislature in the annual Budget Act.

SEC. 96. Section 19333 of the Government Code is amended to read:

19333. (a) The board may permit the Commandant of the Veterans' Home of California to authorize members of the medical staff and medical technicians, to include X-ray, clinical laboratory, and dental laboratory technicians, of the Veterans' Home of California to attend medical and scientific meetings and medical and refresher courses, for a period not to exceed thirty days in any one calendar year, in recognized schools or colleges held in California. Any member so attending such schooling shall bear his own expenses but there shall be no interruption of normal salary or pay.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 97. Section 19334 of the Government Code is amended to read:

19334. (a) An appointing power shall grant a leave of absence without pay for the purposes of pregnancy, childbirth or the recovery therefrom for a period as determined by the employee not exceeding one year to any permanent female employee under the jurisdiction of the appointing power. When the employee has notified the appointing power as to the period of the leave of absence required, any change in the length of the period of leave shall not be effective unless approved by the appointing power.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 98. Section 19335 of the Government Code is amended to read:

19335. (a) For civil service employees employed in positions requiring teaching certification qualifications appointing powers may grant educational leave to attend study sessions at accredited schools, colleges or programs recommended by a trade advisory council for the purpose of receiving further instruction in pedagogy, vocational education, mental health or related fields. Such educational leave shall be granted with pay and credited to the employee by accumulation at the rate of 1¼ days for each month worked. Employees on educational leave shall maintain their merit salary adjustment date and shall receive credit for vacation, sick leave, educational leave or any other benefit which would normally

accrue during said work period. The time when educational leave shall be taken shall be determined by the appointing power of the employee. The State Personnel Board shall provide by rule for the regulation, accumulation and transfer of educational leave and shall prescribe the methods by which employees leaving the employment of one state agency and entering the employment of another state agency may receive proper credit for their accumulated educational leave privileges.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 99. Section 19360 of the Government Code is amended to read:

19360. An appointing power may transfer any employee under his jurisdiction: (a) to another position in the same class; or (b) to another position in a different class designated as appropriate by the board; or (c) any employee from one location to another whether in the same position, or in a different position as specified above in (a) or (b). When a transfer under this section reasonably requires an employee to change his place of residence, the appointing power shall give the employee, unless the employee waives this right, a written notice of transfer 60 days in advance of the effective date of the transfer. Unless the employee waives this right, the appointing power shall provide to the employee 60 days prior to the effective date of the transfer a written notice setting forth in clear and concise language the reasons why the employee is being transferred.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 100. Section 19360.5 of the Government Code is amended to read:

19360.5. (a) When there are two or more employees in a class and an involuntary transfer is required to a position in the same class, or an appropriate class as designated by the board, in a location which reasonably requires an employee to change his place of residence, the board may determine the methods by which employees in the class or classes involved are to be selected for transfer. Such methods may include seniority and other considerations.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be

controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 101. Section 19361 of the Government Code is amended to read:

19361. (a) If a transfer is protested to the board by an employee as made for the purpose of harassing or disciplining him, the appointing power may require the employee to transfer pending approval or disapproval of the transfer by the board. If the board disapproves the transfer, the employee shall be returned to his former position, shall be paid the regular travel allowance for the period of time he was away from his original headquarters, and his moving costs both from and back to the original headquarters shall be paid in accordance with Board of Control rules.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 102. Section 19362 of the Government Code is amended to read:

19362. (a) At the time it is filed with the board a copy of the protest shall be filed with the appointing power. Such a protest shall be made within 30 days of the time the employee is notified of the transfer.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 103. Section 19450 of the Government Code is amended to read:

19450. (a) The board shall devise plans for and cooperate with appointing powers and other supervising officials in the conduct of employee training programs so that the quality of service rendered by persons in the state civil service may be continually improved.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 104. Section 19451 of the Government Code is amended to

read:

19451. For the purpose of meeting the needs of the state service for continuing employee educational development and the upgrading of employee skills, the board may prescribe: (a) conditions under which employees may be assigned to take out-service training; and (b) conditions under which employees may be reimbursed for tuition fees and other necessary expenses in connection with out-service training authorized by the appointing power to meet the needs of the service. The conditions prescribed by the board shall include but not be limited to the requirements that such training shall be of direct value to the state, be relevant to the employee's career development in state service, and be limited to providing knowledges or skills that cannot be provided through available in-service training. The board shall further prescribe the conditions under which an employee may be required to reimburse the state for the costs of such training in the event he fails to remain in state service for a reasonable time after receiving the training. The board shall report annually to the Governor and to each house of the Legislature concerning activities under this section.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 105. Section 19452 of the Government Code is amended to read:

19452. (a) To such extent as practicable and within available resources for this purpose, the appointing power shall arrange for such counseling and training of employees as may be reasonably needed to prepare them for placement in other state civil service positions when their positions have been or are about to be changed substantially or eliminated by automation, technological changes, or other management-initiated changes and the board shall devise plans for and cooperate with appointing powers and other supervising officials in the administration of counseling, training, and placement programs for employees so affected.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 106. Section 19455 of the Government Code is amended to read:

19455. (a) The board and the Department of Rehabilitation shall jointly formulate procedures for the selection and orderly referral of

disabled state employees who can be benefited by rehabilitation services and might be retrained for other appropriate positions within the state service. The Department of Rehabilitation shall cooperate in devising training programs for the disabled employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 107. Section 19460 of the Government Code is amended to read:

19460. As used in this article:

(a) "Board" means the State Board of Control.

(b) "Uniform" means outer garments, excluding shoes, which are required to be worn exclusively while carrying out the duties and responsibilities of the position and which are different from the design or fashion of the general population. This definition includes items that serve to identify the person, agency, functions performed, rank, or time in service.

(c) "Work clothes" means attire that is worn over, or in place of, regular clothing and is necessary to protect the employee's clothing from damage or stains which would be present in the normal performance of his duties, for example, aprons, lab smocks, shop coats, or coveralls; or is necessary for the required sanitary conditions, for example, agriculture inspectors, surgery personnel, or food service.

(d) "Safety equipment" means equipment or attire worn over, in place of, or in addition to, regular clothing, which is necessary to protect the employees' health and welfare, for example, helmets, goggles, safety harness, and fireman "turnout gear."

(e) "Police protective equipment" means equipment or attire worn by law enforcement personnel for the purpose of protecting themselves or the public from overt actions of others or to assist in the carrying out of related duties, for example, handgun, baton, billy, handcuffs, flashlight, whistle, leather belt, holster and cases or attachments.

(f) "State employees" means employees of the state and its agencies, but does not include employees of the University of California.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 108. Section 19461 of the Government Code is amended to

read:

19461. (a) State employees shall be responsible for the purchase of uniforms required as a condition of employment. The state shall provide for an allowance not to exceed two hundred fifty dollars ($250) per year to state employees for the replacement of uniforms.

When such employees are not required to wear uniforms on a full-time basis, the state allowance shall not exceed one hundred fifty dollars ($150) per year.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 109. Section 19462 of the Government Code is amended to read:

19462. Each state employee, including employees having probationary status, employed in a position which is permanent and full time, or employed in a position which is less than full time for the equivalent of one year, shall receive the allowance for uniforms provided for in Section 19461, if:

(a) The uniform is clearly necessary for ready visual identification by the public for law enforcement, public safety, or other closely related purposes; and

(b) The employee is required by his appointing power to wear the uniform for the regular performance of his duties; and

(c) The uniform is authorized for wear only in an official capacity.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 110. Section 19463 of the Government Code is amended to read:

19463. To implement the provisions of Sections 19461 and 19462, the board shall:

(a) Establish a procedure to determine what articles are to be included in calculating the amount of the uniform allowance.

(b) Determine the average annual replacement cost for each type of uniform based on departmental standards and taking into consideration normal uniform life. The allowance shall be the average annual replacement cost or two hundred fifty dollars ($250), whichever is less.

(c) Annually review uniform allowances and adjust them when necessary.

(d) Determine procedure for and frequency of payment.

(e) Determine when new employees become eligible.

(f) Determine the need for changes in uniforms based on departmental requests.

(g) Determine what degree of need for identification is necessary to support a uniform requirement.

(h) Establish procedures and make determinations as required.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 111. Section 19464 of the Government Code is amended to read:

19464. Subject to the availability of funds appropriated specifically for that purpose, each state employee shall be furnished work clothes if:

(a) The work clothes are required for purposes of sanitation or cleanliness; and

(b) The work clothes are required by the appointing power; and

(c) The work clothes are of a standard size instead of a measured size.

Work clothes provided pursuant to this section will be maintained and owned by the state. Items lost or damaged due to the negligence of the employee, shall be replaced by the employee at his expense.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 112. Section 19465 of the Government Code is amended to read:

19465. (a) The state shall furnish the initial issuance of all safety equipment and police protective equipment required by the employing state agency. All safety equipment and police protective equipment provided pursuant to this section shall remain the property of the state. Items lost or damaged due to the negligence of the employee, shall be replaced by the employee at his expense.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 113. Section 19502 of the Government Code is amended to

read:

19502. (a) Resignations from the state civil service are subject to board rules. A resignation, except as provided in this section, does not jeopardize any rights and privileges of the employee except those pertaining to the position from which he resigns. A written resignation may expressly waive all or any rights or privileges provided for by this act, including but not limited to, accumulated vacation, and in such event the records of the board shall be made to conform therewith. No resignation shall be set aside on the ground that it was given or obtained pursuant to or by reason of mistake, fraud, duress, undue influence or that for any other reason it was not the free, voluntary and binding act of the person resigning, unless a petition to set it aside is filed with the board within 30 days after the last date upon which services to the state are rendered or the date the resignation is tendered to the appointing power, whichever is later. In the event a resignation is set aside pursuant to this section, the person resigning shall be reinstated to his former position and paid his salary for the period he was removed from state service as the result of such resignation. From any such salary due there shall be deducted compensation that the employee earned, or might reasonably have earned, during any period commencing more than six months after the initial date of resignation.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 114. Section 19503 of the Government Code is amended to read:

19503. (a) Absence without leave, whether voluntary or involuntary, for five consecutive working days is an automatic resignation from state service, as of the last date on which the employee worked.

A permanent or probationary employee may within 90 days of the effective date of such separation, file a written request with the board for reinstatement; provided, that if the appointing power has notified the employee of his automatic resignation, any request for reinstatement must be made in writing and filed within 15 days of the service of notice of separation. Service of notice shall be made as provided in Section 18575 and is complete on mailing. Reinstatement may be granted only if the employee makes a satisfactory explanation to the board as to the cause of his absence and his failure to obtain leave therefor, and the board finds that he is ready, able, and willing to resume the discharge of the duties of his position or, if not, that he has obtained the consent of his appointing power to a leave of absence to commence upon reinstatement.

An employee so reinstated shall not be paid salary for the period

of his absence or separation or for any portion thereof.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 115. Section 19532 of the Government Code is amended to read:

19532. (a) With the approval of the board, only the employees of a designated geographical, organizational or functional subdivision of a state agency need be considered for layoff, and reemployment lists shall be established for such subdivision. Such lists take priority over the departmental and other reemployment or employment lists.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 116. Section 19533 of the Government Code is amended to read:

19533. Layoff shall be made in accordance with the relative seniority of the employees in the class of layoff. Except as otherwise provided in this part, in determining seniority scores, one point shall be allowed for each complete month of full-time state service in the class of layoff or demotion and in classes that, on the computation date have substantially the same or a higher maximum salary. One-half point shall be allowed for each complete month of full-time state service in all other classes. Board rules shall establish: (a) the extent to which seniority credits may be granted for less than full-time service; (b) the seniority credit to be granted for service in a class that has been abolished, combined, divided, or otherwise altered under the authority of Section 18802; (c) the basis for determining the sequence of layoff whenever the class and subdivision of layoff includes employees whose service is less than full time; and (d) such other matters as are necessary or advisable to the operation of the provisions of this chapter.

For professional, scientific, administrative, management, and executive classes the board shall prescribe standards and methods by rule whereby employee efficiency shall be combined with seniority in determining the order of layoff and the order of names on reemployment lists. Such standards and methods may vary for different classes, and shall take into consideration the needs of state service and practice in private industry and other public employment.

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If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 117. Section 19535 of the Government Code is amended to read:

19535. In lieu of being laid off an employee may elect demotion to: (a) any class with substantially the same or a lower maximum salary in which he had served under permanent or probationary status, or (b) a class in the same line of work as the class of layoff, but of lesser responsibility, if such a class is designated by the board. Whenever such a demotion requires a layoff in the elected class, the seniority score for the demoted employee shall be recomputed in that class. The appointing power shall inform the employee in the notice of layoff of the classes to which he has the right to demote. To be considered for demotion in lieu of layoff an employee must notify his appointing power in writing of his election not later than five calendar days after receiving notice of layoff.

Demotions in lieu of layoff, and layoffs resulting therefrom, shall be governed by the provisions of this article and shall be made within the subdivisions approved by the board for this purpose. Such subdivisions need not be the same as those used to determine the area of layoff under Section 19532.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 118. Section 19536 of the Government Code is amended to read:

19536. (a) Any employee replaced by such demotion has the same option of demotion afforded by Section 19535 as if his position had been abolished or discontinued.

Except as authorized by the board under the provisions of Section 18860, any employee demoted pursuant to this article shall receive the maximum of the salary range of the class to which he is demoted; provided, that such salary is not greater than the salary he received at the time of demotion.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective

unless approved by the Legislature in the annual Budget Act.

SEC. 119. Section 19536.5 of the Government Code is amended to read:

19536.5. (a) Any officer or employee, directly or indirectly, entitled to or having permanent status under the provisions of Article XXIV of the Constitution or the State Civil Service Act, who is displaced by one having a right to return shall be accorded the same rights to elect demotion in lieu of layoff as though he had had permanent status at all times in any previous position.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 120. Section 19537 of the Government Code is amended to read:

19537. (a) The names of employees to be laid off or demoted shall be placed upon the reemployment list for the subdivision, if such a subdivision was designated, upon the departmental reemployment list and upon the general reemployment list, for the class from which the employees were laid off or demoted. The board may also place such names upon the general reemployment list for such other appropriate classes as the board determines.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 121. Section 19538 of the Government Code is amended to read:

19538. (a) An employee who is certified to a position in a class after layoff, or demotion in lieu of layoff, shall receive not less than the same step in the salary range as he received in the position in that class prior to such layoff or demotion.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 122. Section 19540 of the Government Code is amended to read:

19540. (a) An employee compensated on a monthly basis shall be notified that he is to be laid off 30 days prior to the effective date of

layoff and not more than 60 days after the date of the seniority computation. The notice of layoff shall be in writing and shall contain the reason or reasons for the layoff. An employee to be laid off may elect to accept such layoff prior to the effective date thereof.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 123. Section 19541 of the Government Code is amended to read:

19541. (a) An employee may appeal to the board within 30 days after receiving notice of layoff on the ground that the required procedure has not been complied with or that the layoff has not been made in good faith or was otherwise improper. Within 30 days after such an appeal, the board shall hold such hearing or investigation as it deems necessary.

On its own motion the board may also conduct such a hearing or investigation within 30 days after receiving a notice of layoff.

In rendering a decision on a layoff, the board may order the reinstatement of the employee with or without pay if it appears that the required procedure was not followed or that the layoff was not made in good faith or was otherwise improper.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 124. Section 19555 of the Government Code is amended to read:

19555. (a) It is the policy of the state that when an employee is to be separated from state service because the tasks he was assigned are to be eliminated or substantially changed due to management-initiated changes, including but not limited to automation or other technological changes, steps should be taken on an interdepartmental basis to assist such employee in locating, preparing to qualify for, and being placed in other positions in the state civil service. This provision shall not be construed to restrict the authority of the executive branch or the Legislature to effect economies or make organizational or other changes to increase efficiency in state government.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such

provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 125. Section 19556 of the Government Code is amended to read:

19556. (a) The board may temporarily restrict the choice of methods of appointment available to an appointing power if such restriction is deemed necessary in the placement in other state civil service positions of employees whose positions have been or are about to be changed substantially or eliminated by such management-initiated changes.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 126. Section 20750.11 of the Government Code is amended to read:

20750.11. (a) In addition to any and all other contributions to the Public Employees' Retirement Fund, the state shall contribute 0.13 percent of the compensation paid state members, other than school members, for insurance benefits under Article 7 (commencing with Section 21400) of Chapter 9 of this part and during a period of insurance such contribution shall be credited to the Insurance Benefits Account. The board shall, pursuant to actuarial valuation of the fund in accordance with this part, adjust such rate effective with the beginning of a fiscal year as is determined to be necessary to fund the portion of the insurance benefit prescribed in subdivision (a) of Section 21405. In the event the period of insurance is not continued, the state shall pay to such account any deficiency in the account as of the end of the fiscal year.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 127. Section 21400 of the Government Code is amended to read:

21400. (a) The purpose of this article is to provide group term life insurance benefits for members of this system who are employees of the State of California or the university. Notwithstanding any other provision of this part, this article shall not apply to a school member, or any other local member.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to

Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 128. Section 21402 of the Government Code is amended to read:

21402. (a) The board shall transfer annually on July 1 during any period of insurance from accumulated state contributions on account of current service to the Insurance Benefits Account the amount estimated to be necessary for payment during that fiscal year, of the portion of the insurance benefit prescribed in subdivision (b) of Section 21405 plus any deficiency in the transfer for the previous fiscal year for such purpose.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 129. Section 21404 of the Government Code is amended to read:

21404. The insurance benefit shall be paid upon death of an insured member of this system to the beneficiary entitled to receive the basic death benefit if all of the following conditions concur:

(a) Death occurs either:

(1) While in such state service; or

(2) While absent from such state service on military service or on approved leave of absence; or

(3) Within four months of discontinuance of such state service; or

(4) While physically or mentally incapacitated for performance of duty continuously from discontinuance of such state service.

(b) Death occurs while a member and before the effective date of retirement or if an optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of the beneficiary has not been elected and an allowance under Section 21263, 21263.2 or 21263.4 is not payable, after the effective date and before approval of the retirement.

(c) Death occurs during a period of insurance.

(d) Death occurs under circumstances other than those described in subdivision (a) (5) of Section 21360.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 129.5. Section 21404 of the Government Code is amended to read:

21404. The insurance benefit shall be paid upon death of an insured member of this system to the beneficiary entitled to receive the basic death benefit if all of the following conditions concur:

(a) Death occurs either:

(1) While in such state service; or

(2) While absent from such state service on military service or on approved leave of absence; or

(3) Within four months of discontinuance of such state service; or

(4) While physically or mentally incapacitated for performance of duty continuously from discontinuance of such state service.

(b) If either:

(1) Death occurs while a member and before the effective date of retirement; or

(2) If an optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of the beneficiary has not been elected and if an allowance under Section 21263, 21263.2, 21263.4, or 21263.5 is not payable, and death occurs on or after the effective date of retirement and before the mailing of a retirement allowance warrant.

(c) Death occurs during a period of insurance.

(d) Death occurs under circumstances other than those described in subdivision (a) (5) of Section 21360.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 130. Section 21405 of the Government Code is amended to read:

21405. The insurance benefit shall be the sum of the following amounts:

(a) Five thousand dollars ($5,000); and

(b) An amount equal to 50 percent of the annual compensation earnable by the deceased member during the 12 months immediately preceding his death, or if a member also has state service in an employment in which employees are ineligible to be insured members, a proportionate part of such amount in the ratio of eligible service to total service.

No amount shall be paid under this subdivision (b) if the member is eligible for service retirement.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds,

the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 131. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms.

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of basic hospital and medical care and for major medical or other comprehensive benefit plans.

(e) "Annuitant" means:

(1) Any person who has retired while an employee and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in subdivision (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 of this code or similar provisions of any other state retirement

system.

(f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) "Employee organization" means an association or other organization of employees in which membership is open to employees or annuitants of the state, and which is not organized solely or principally for the purpose of obtaining prepaid hospital and medical care.

(h) "Contracting agency" means any contracting agency as defined in Section 20010, and any school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(i) "Employer" means the state and any contracting agency employing an employee.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 131.5. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms.

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the

Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of basic hospital and medical care and for major medical or other comprehensive benefit plans.

(e) "Annuitant" means:

(1) Any person who has retired while an employee and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in subdivision (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 of this code or similar provisions of any other state retirement system.

(f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) "Employee organization" means an association or other organization of employees in which membership is open to employees or annuitants of the state, and which is not organized solely or principally for the purpose of obtaining prepaid hospital and medical care.

(h) "Contracting agency" means any contracting agency as defined in Section 20010, and any school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(i) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds,

the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 132. Section 22790 of the Government Code is amended to read:

22790. (a) The board may contract with carriers for basic health benefit plans, comprehensive benefit plans, and, for employees and annuitants who are also covered under basic plans, major medical plans or approve basic health benefit plans offered by employee organizations, provided that the carriers have operated successfully in the prepaid hospital and medical care field prior to the contracting for or approval thereof. Such plans shall include hospital benefits, surgical benefits, in-hospital medical benefits, outpatient benefits, obstetrical benefits, and may include other benefits including, but not limited to, benefits offered by a bona fide church, sect, denomination or organization whose principles include healing entirely by prayer or spiritual means. The board may contract with health maintenance organizations approved under Title XIII of the federal Public Health Services Act. The board shall approve any basic health benefit plan in existence on January 1, 1962, which meets the requirements of this part and the minimum standards and other rules and requirements prescribed by the board, and for which payroll deductions were authorized under Section 1156 of this code.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 133. Section 22813 of the Government Code is amended to read:

22813. (a) A transfer of enrollment from one health benefits plan to another such plan may be made by an employee or annuitant at such times and under such conditions as may be prescribed by regulations of the board. In the case of a comprehensive group-practice prepayment plan in which services are provided by a limited panel of physicians associated with the plan, it is recognized that it may be impossible or impractical to maintain acceptable physician-patient relationships with particular employees or annuitants or members of their families. In any such case the plan may submit the question of ability to maintain adequate physician-patient relationships for consideration under the grievance procedure provided pursuant to Section 22793, and in the event such grievance procedure shall result in a determination that such relationship cannot reasonably be maintained, then the plan shall have the right to provide such annuitant or employee with coverage by contract with a service benefits plan or an indemnity carrier. Such coverage shall provide benefits substantially equivalent to the benefits available to annuitants or employees under the best

coverage offered by a service benefits plan or an indemnity benefit plan under this act at a prepayment rate not in excess of the rate charged by the comprehensive group-practice prepayment plan for the coverage otherwise available to such annuitant or employee.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 134. Section 22814 of the Government Code is amended to read:

22814. (a) An employee enrolled in a health benefits plan who is removed or suspended without pay and later reinstated or restored to duty on the ground that such removal or suspension was unjustified, unwarranted or illegal shall not be deprived of coverage or benefits for the interim, but any contributions otherwise payable by the employer which were actually paid by him shall be restored to the same extent and effect as though such removal or suspension had not taken place, and any other equitable adjustments necessary and proper under the circumstances shall be made in premiums, subscription charges, contributions and claims.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 135. Section 22815 of the Government Code is amended to read:

22815. (a) If an employee or annuitant is dissatisfied with any action or failure to act which has occurred in connection with his coverage or the coverage of his family members under this part, he shall have the right of appeal to the board and shall be accorded an opportunity for a fair hearing. The hearings shall be conducted, insofar as practicable, pursuant to the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of this code.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 136. Section 22816 of the Government Code is amended to read:

22816. (a) An employee enrolled in a health benefits plan under

this part who is granted a leave of absence without pay under the State Civil Service Act and the rules of the State Personnel Board, or other comparable leave, shall be entitled to have his coverage and the coverage of any family members continued for the duration of the leave of absence upon his application, but only upon assuming payment of the contributions otherwise required of the employer on account of his enrollment.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 137. Section 22825 of the Government Code is amended to read:

22825. (a) The employer and each employee or annuitant shall contribute a portion of the cost of providing for each employee and annuitant the benefit coverage afforded under any health benefit plan which the board has approved or for which it has executed a contract pursuant to this part, and in which the employee or annuitant may be enrolled.

The employer's contribution for each employee or annuitant shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan or plans, or, if less, sixteen dollars ($16) per month. There shall be only one such contribution with respect to all annuitants receiving allowances as survivors of the same employee or annuitant. The employer's contribution to the health benefits plan or plans to each employee shall commence on the first day of the calendar month next following the completion of six months of employment by the employer; provided, the employment has not been interrupted by a break of more than one month. An absence for military service shall not be considered a break.

The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him under the plan or plans less the portion thereof to be contributed by the employer.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 138. Section 22825.1 of the Government Code is amended to read:

22825.1. (a) Notwithstanding any other provision of this article, the employer's contribution, 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 survivor of such person, shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan or plans or, if less, thirty-two dollars ($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, fifty-three dollars ($53) or, for an employee or annuitant so enrolled for self and two or more family members, sixty-six dollars ($66). The annual total compensation report by the State Personnel Board shall recommend adjustments of the dollar amounts herein based on the principle that the employer's contribution for each employee or annuitant shall be an amount equal to 85 percent of the weighted average of the premiums required for basic and related major medical plans with respect to employees or annuitants enrolled for self alone plus 60 percent of the weighted average of the additional premiums required for enrollment of family members in basic and major medical plans as applicable for the level of benefits offered by (1) the statewide service plan contracted by the state; (2) the statewide indemnity plan contracted by the state; (3) the two prepaid comprehensive medical-hospital plans with the largest number of enrollments contracted by the state, as determined by the board, whichever is less. There shall be only one such contribution with respect to all annuitants receiving allowances as survivors of the same employee or annuitant.

The employer's contribution under this section for each employee shall commence on the effective date of his enrollment.

The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him under the plan or plans less the portion thereof to be contributed by the employer.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 139. Section 22825.1 of the Government Code is amended to read:

22825.1. (a) Notwithstanding any other provision of this article, the employer's contribution, 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 survivor of such person, shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan or plans or, if less, thirty-two dollars ($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, fifty-five dollars ($55) or, for an employee or annuitant so enrolled for self and two or more family members, sixty-eight dollars ($68). The annual total compensation report by the State Personnel Board shall recommend adjustments of the dollar amounts herein based on the principle that the employer's contribution for each employee or annuitant shall be an amount equal to 85 percent of the weighted average of the premiums required for basic and related major medical plans with respect to employees or annuitants enrolled for self alone plus 60 percent of the weighted average of the additional premiums required for enrollment of family members in basic and major medical plans as applicable for the level of benefits offered by (1) the statewide service plan contracted by the state; (2) the statewide indemnity plan contracted by the state; (3) the two prepaid comprehensive medical-hospital plans with the largest number of enrollments contracted by the state, as determined by the board, whichever is less. There shall be only one such contribution with respect to all annuitants receiving allowances as survivors of the same employee or annuitant.

The employer's contribution under this section for each employee shall commence on the effective date of his enrollment.

The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him under the plan or plans less the portion thereof to be contributed by the employer.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 142. It is the intent of the Legislature that if this bill and Senate Bill No. 1943 or Assembly Bill No. 1091, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 3526 of the Government Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Senate Bill No. 1943 are both chaptered and become effective January 1, 1979, both bills amend Section 3526 of the Government Code, but Assembly Bill No. 1091 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1943, the amendments proposed by both bills shall be given effect and incorporated in Section 3526 in the form set forth in Section 5.7 of this act. Therefore, if this bill and Senate Bill No. 1943 are both chaptered and become effective January 1, 1979, both bills amend Section 3526, this bill is chaptered after Senate Bill No. 1943, and Assembly Bill No. 1091 is not chaptered or as chaptered does not amend that section, Section 5.7 of this act shall be operative and Sections 5.5, 5.8, and 5.9 of this act shall not become operative.

(2) If this bill and Assembly Bill No. 1091 are both chaptered and

become effective January 1, 1979, both bills amend Section 3526 of the Government Code, but Senate Bill No. 1943 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 1091, that Section 3526 of the Government Code, as amended by Section 5.5 of this act, shall remain operative until the operative date of Assembly Bill No. 1091, and that on the operative date of Assembly Bill No. 1091, Section 3526 of the Government Code, as amended by Section 5.5 of this act, be further amended in the form set forth in Section 5.8 of this act to incorporate the changes in Section 3526 proposed by Assembly Bill No. 1091. Therefore, if this bill and Assembly Bill No. 1091 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 3526, this bill is chaptered after Assembly Bill No. 1091, and Senate Bill No. 1943 is not chaptered or as chaptered does not amend that section, Section 5.8 of this act shall become operative on the operative date of Assembly Bill No. 1091, and Sections 5.7 and 5.9 of this act shall not become operative.

(3) If this bill and Senate Bill No. 1943 and Assembly Bill No. 1091 are all chaptered and become effective January 1, 1979, all three bills amend Section 3526 of the Government Code, and this bill is chaptered after Senate Bill No. 1943 and Assembly Bill No. 1091, that Section 3526 of the Government Code, as amended by Section 5.7 of this act, incorporating the changes in Section 3526 proposed by Senate Bill No. 1943 and this bill, shall remain operative only until the operative date of Assembly Bill No. 1091, and that on the operative date of Assembly Bill No. 1091, Section 3526 of the Government Code, as amended by Section 5.7 of this act, be further amended in the form set forth in Section 5.9 of this act to incorporate the changes in Section 3526 proposed by Assembly Bill No. 1091. Therefore, if this bill and Senate Bill No. 1943 and Assembly Bill No. 1091 are all chaptered and become effective January 1, 1979, all three bills amend Section 3526 of the Government Code, and this bill is chaptered after Senate Bill No. 1943 and Assembly Bill No. 1091, Section 5.9 of this act shall become operative on the operative date of Assembly Bill No. 1091, and Sections 5.5 and 5.8 of this act shall not become operative.

SEC. 143. It is the intent of the Legislature, if this bill and Assembly Bill No. 3136 are both chaptered and become effective January 1, 1979, both bills amend Section 18120 of the Government Code, and this bill is chaptered after Assembly Bill No. 3136, that the amendments to Section 18120 proposed by both bills be given effect and incorporated in Section 18120 in the form set forth in Section 36.5 of this act. Therefore, Section 36.5 of this act shall become operative only if this bill and Assembly Bill No. 3136 are both chaptered and become effective January 1, 1979, both amend Section 18120, and this bill is chaptered after Assembly Bill No. 3136, in which case Section 36 of this act shall not become operative.

SEC. 144. It is the intent of the Legislature, if this bill and Assembly Bill No. 3136 are both chaptered and become effective January 1, 1979, both bills amend Section 18128 of the Government

Code, and this bill is chaptered after Assembly Bill No. 3136, that the amendments to Section 18128 proposed by both bills be given effect and incorporated in Section 18128 in the form set forth in Section 45.5 of this act. Therefore, Section 45.5 of this act shall become operative only if this bill and Assembly Bill No. 3136 are both chaptered and become effective January 1, 1979, both amend Section 18128, and this bill is chaptered after Assembly Bill No. 3136, in which case Section 45 of this act shall not become operative.

SEC. 145. It is the intent of the Legislature, if this bill and Assembly Bill No. 3136 are both chaptered and become effective January 1, 1979, both bills amend Section 18135 of the Government Code, and this bill is chaptered after Assembly Bill No. 3136, that the amendments to Section 18135 proposed by both bills be given effect and incorporated in Section 18135 in the form set forth in Section 47.5 of this act. Therefore, Section 47.5 of this act shall become operative only if this bill and Assembly Bill No. 3136 are both chaptered and become effective January 1, 1979, both amend Section 18135, and this bill is chaptered after Assembly Bill No. 3136, in which case Section 47 of this act shall not become operative.

SEC. 146. It is the intent of the Legislature, if this bill and Assembly Bill No. 3136 are both chaptered and become effective January 1, 1979, both bills amend Section 18142 of the Government Code, and this bill is chaptered after Assembly Bill No. 3136, that the amendments to Section 18142 proposed by both bills be given effect and incorporated in Section 18142 in the form set forth in Section 56.5 of this act. Therefore, Section 56.5 of this act shall become operative only if this bill and Assembly Bill No. 3136 are both chaptered and become effective January 1, 1979, both amend Section 18142, and this bill is chaptered after Assembly Bill No. 3136, in which case Section 56 of this act shall not become operative.

SEC. 147. It is the intent of the Legislature, if this bill and Assembly Bill No. 2595 are both chaptered and become effective January 1, 1979, both bills amend Section 21404 of the Government Code, and this bill is chaptered after Assembly Bill No. 2595, that the amendments to Section 21404 proposed by both bills be given effect and incorporated in Section 21404 in the form set forth in Section 129.5 of this act. Therefore, Section 129.5 of this act shall become operative only if this bill and Assembly Bill No. 2595 are both chaptered and become effective January 1, 1979, both amend Section 21404, and this bill is chaptered after Assembly Bill No. 2595, in which case Section 129 of this act shall not become operative.

SEC. 148. It is the intent of the Legislature, if this bill and Assembly Bill No. 2468 are both chaptered and become effective January 1, 1979, both bills amend Section 22754 of the Government Code, and this bill is chaptered after Assembly Bill No. 2468, that the amendments to Section 22754 proposed by both bills be given effect and incorporated in Section 22754 in the form set forth in Section 131.5 of this act. Therefore, Section 131.5 of this act shall become operative only if this bill and Assembly Bill No. 2468 are both

chaptered and become effective January 1, 1979, both amend Section 22754, this bill is chaptered after Assembly Bill No. 2468, in which case Section 131 of this act shall not become operative.

SEC. 149. It is the intent of the Legislature, if this bill and Assembly bill No. 1605 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 22825.1 of the Government Code, and this bill is chaptered after Assembly Bill No. 1605, that Section 22825.1 of the Government Code, as amended by Section 1 of Assembly Bill No. 1605, be further amended on the effective date of this act in the form set forth in Section 139 of this act to incorporate the changes in Section 22825.1 proposed by this bill. Therefore, if this bill and Assembly Bill No. 1605 are both chaptered and become effective on or before January 1, 1979, and Assembly Bill No. 1605 is chaptered before this bill and amends Section 22825.1, Section 139 of this act shall become operative on the effective date of this act and Section 138 of this act shall not become operative.

CHAPTER 777

An act to add Section 1834.7 to the Civil Code, relating to animals.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 1834.7 is added to the Civil Code, to read:

1834.7. In any pound or animal regulation department of a public or private agency where animals are turned over to a research facility, a sign (measuring a minimum of 28 x 21 cm—11 x 8½ inches—with lettering of a minimum of 3.2 cm high and 1.2 cm wide—1¼ x ½ inch—(91 point)) stating:

"Animals Turned Into This Shelter May Be Used For Research Purposes"

shall be posted in such a place that it will be clearly visible to a majority of persons when turning animals over to the shelter.

(c) For purposes of this section, "animal research facility" includes: any laboratory, firm, association, corporation, copartnership, and educational institution.

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 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 778

An act to amend Section 15811 of, and to add Sections 12101.5, 14006.5, 15810.5, 17006.5, 22051.5, and 24051.5 to the Financial Code, to amend Section 1156.2 of the Government Code, and to add Section 1343.5 to the Health and Safety Code, relating to the Commissioner of Corporations.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 12101.5 is added to the Financial Code, to read:

12101.5. In any proceeding under this law, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

SEC. 2. Section 14006.5 is added to the Financial Code, to read:

14006.5. In any proceeding under this law, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

SEC. 3. Section 15810.5 is added to the Financial Code, to read:

15810.5. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or bar from any position of employment or management of any credit union, any officer, director, or employee of, or person performing similar functions for, a credit union, if the commissioner finds that such censure, suspension or bar is in the public interest, that such person has committed a violation of this division or rule of the commissioner, and that such violation was either willful or caused, or will probably cause, material damage to the credit union or any member thereof.

SEC. 4. Section 15811 of the Financial Code is amended to read:

15811. If the commissioner finds, after a hearing, unless waived in writing by the licensee, that a credit union has impaired capital or is operating in an unsafe or unsound manner, or has failed to comply with Section 14805.6, he may take possession of the business and assets of the credit union and maintain possession until such time as he shall permit it to continue business, or its affairs are finally liquidated.

If such credit union submits a satisfactory plan to restore any impairment of capital and to proceed with business in a sound, businesslike manner, the commissioner may permit such credit union to resume possession of the business and assets and operate as a credit union under such conditions as may be imposed by the commissioner in the public interest.

SEC. 5. Section 17006.5 is added to the Financial Code, to read:

17006.5. In any proceeding under this law, the burden of proving

an exemption or an exception from a definition is upon the person claiming it.

SEC. 6. Section 22051.5 is added to the Financial Code, to read:

22051.5. In any proceeding under this law, the burden of proving an exemption is upon the person claiming it.

SEC. 7. Section 24051.5 is added to the Financial Code, to read:

24051.5. In any proceeding under this law, the burden of proving an exemption is upon the person claiming it.

SEC. 8. Section 1156.2 of the Government Code is amended to read:

1156.2. The Board of Control shall approve deductions under subdivision (f) of Section 1156 and such approval shall remain in effect provided that such deductions meet the following standards:

(a) The sponsoring employee organization meets the definition of subdivision (a) of Section 3513.

(b) The program is available only to members of the sponsoring employee organization.

(c) Within one year the program has 500 or more participating state employees and participation to that extent continues.

(d) The program is not restricted to a geographic area of the state.

(e) Any insurance program has been approved as being legal and meets all of the regulations promulgated by the Insurance Commissioner.

(f) Any health care service plan has been licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(g) The provisions of subdivision (c) shall not apply to premiums on any insurance policy or payment for any other benefit program which insurance or benefit program is furnished the member as a result of a collective-bargaining agreement.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 9. Section 1343.5 is added to the Health and Safety Code, to read:

1343.5. In any proceeding under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

CHAPTER 779

An act to add Section 90007 to the Government Code, relating to the Political Reform Act of 1974, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 90007 of is added to the Government Code, to read:

90007. (a) The commission shall adopt auditing guidelines and standards which shall govern audits and field investigations conducted under Section 90001. The guidelines and standards shall be formulated to accomplish the following purposes:

(1) The audits should encourage compliance and detect violations of this title;

(2) The audits should be conducted with maximum efficiency in a cost-effective manner; and

(3) The audits should be as unobtrusive as possible consistent with the foregoing purposes.

(b) In adopting its guidelines and standards the commission shall consider relevant guidelines and standards of the American Institute of Certified Public Accountants to the extent such guidelines and standards are applicable and consistent with the purposes set forth in this section.

SEC. 2. It is the intent of the Legislature that the Fair Political Practices Commission shall complete its initial implementation of Section 90007, including but not limited to consideration of sampling techniques, confirmation letters to contributors and vendors, and timing of audits and field investigations, by January 31, 1979.

SEC. 3. The sum of one million eight hundred eight thousand nine hundred sixty dollars ($1,808,960) is hereby appropriated from the General Fund to be allocated according to the following schedule:

(a) Forty thousand dollars ($40,000) is hereby appropriated to the Fair Political Practices Commission for the fiscal year ending June 30, 1979, and

(b) One million seven hundred sixty-eight thousand nine hundred sixty dollars ($1,768,960) is hereby appropriated to the Franchise Tax Board for the fiscal year ending June 30, 1979.

The above sums are appropriated in order that the provisions of Chapter 10 (commencing with Section 90000) of Title 9 of the Government Code may be implemented.

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. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 Franchise Tax Board to perform its auditing duties under the Political Reform Act of 1974 for the 1978–79 fiscal year, this act must take effect immediately.

CHAPTER 780

An act to amend Sections 17501 and 17530.4 of, and to add Sections 19057.5 and 26080.7 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 17501 of the Revenue and Taxation Code is amended to read:

17501. A trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this article—

(a) If contributions are made to the trust by such employer, or employees, or both, or by another employer who is entitled to deduct his contributions under Section 17516(b) (relating to deduction for contributions to profit-sharing and stock bonus plans), for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan;

(b) If under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries;

(c) If the plan of which such trust is a part satisfies the requirements of Section 410 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to minimum participation standards); and

(d) If the contributions or the benefits provided under the plan do not discriminate in favor of employees who are (1) officers, (2) shareholders, or (3) highly compensated. For purposes of this subdivision, there shall be excluded from consideration employees described in Section 410(b) (2) (A) and (C) of the Internal Revenue

Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406).

(e) A classification shall not be considered discriminatory within the meaning of subdivision (d) or Section 410(b) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (without regard to paragraph (1) (A) thereof) merely because it excludes employees the whole of whose remuneration constitutes "wages" under Section 3121(a) (1) of the Internal Revenue Code (relating to the Federal Insurance Contribution Act) or merely because it is limited to salaried or clerical employees. Neither shall a plan be considered discriminatory within the meaning of such provisions merely because the contributions or benefits of or on behalf of the employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, or merely because the contributions or benefits based on that part of an employee's remuneration which is excluded from "wages" by Section 3121(a) (1) of the Internal Revenue Code, or of the California Unemployment Insurance Act differ from the contributions or benefits based on employee's remuneration not so excluded, or differ because of any retirement benefits created under state or federal law.

For purposes of this subdivision and subdivision (j), the total compensation of an individual who is an employee within the meaning of Section 17502.2(a) means such individual's earned income (as defined in Section 17502.2(b)), and the basic or regular rate of compensation of such an individual shall be determined, under regulations prescribed by the Franchise Tax Board, with respect to that portion of his earned income which bears the same ratio to his earned income as the basic or regular compensation of the employees under the plan bears to the total compensation of such employees. For purposes of determining whether two or more plans of an employer satisfy the requirements of subdivision (d) when considered as a single plan, if the amount of contributions on behalf of the employees allowed as a deduction under Sections 17513 to 17525.1, inclusive, for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate. For the purposes of determining whether two or more plans of an employer satisfy the requirements of subdivision (d) when considered as a single plan, if the employees' right to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Franchise Tax Board to take account of the differences in such rates, the plans shall not be considered discriminatory merely because of

the difference in such rates.

(f) A plan shall be considered as meeting the requirements of subdivision (c) during the whole of any taxable year of the plan if on one day in each quarter it satisfied such requirements.

(g) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part satisfies the requirements of Section 411 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to minimum vesting standards).

(h) A trust forming part of a pension plan shall not constitute a qualified trust under this article unless the plan provides that forfeitures must not be applied to increase the benefits any employee would otherwise receive under the plan.

(i) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2(a), a trust forming part of such plan shall not constitute a qualified trust under this article unless, under the plan, the entire interest of each employee—

(1) Either will be distributed to him not later than his taxable year in which he attains the age of 70½ years, or, in the case of an employee other than an owner-employee (as defined in Section 17502.2(c)), in which he retires, whichever is the later, or

(2) Will be distributed, commencing not later than such taxable year, (A) in accordance with regulations prescribed by the Franchise Tax Board, over the life of such employee or over the lives of such employee and his spouse, or (B) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and his spouse.

A trust shall not be disqualified under this subdivision by reason of distributions under a designation, prior to the date of the enactment of this subdivision, by any employee under the plan of which such trust is a part, of a method of distribution which does not meet the terms of the preceding sentence.

(j) In the case of a plan which provides contributions or benefits for employees some or all of whom are owner-employees (as defined in Section 17502.2(c))—

(1) Subdivision (c), the first and second sentences of subdivision (e), and Section 410 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) shall not apply, but—

(A) Such plan shall not be considered discriminatory within the meaning of subdivision (d) merely because the contributions or benefits of or on behalf of employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, and

(B) Such plan shall not be considered discriminatory within the meaning of subdivision (d) solely because under the plan contributions described in Section 17502.4 which are in excess of

the amounts which may be deducted under Sections 17513 to 17525.1, inclusive, for the taxable year may be made on behalf of any owner-employee;

and

(2) A trust forming a part of such plan shall constitute a qualified trust under this section only if the requirements in Section 17502.3 are also met.

(k) (1) A trust shall not constitute a qualified trust under this section if the plan of which such trust is a part provides for the payment of benefits in the form of an annuity unless such plan provides for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity.

(2) Notwithstanding the provisions of paragraph (1), in the case of a plan which provides for the payment of benefits before the normal retirement age (as defined in Section 411(a)(8) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406)), the plan is not required to provide for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity during the period beginning on the date on which the employee enters into the plan as a participant and ending on the later of—

(A) The date the employee reaches the earliest retirement age under the plan, or

(B) The first day of the 120th month beginning before the date on which the employee reaches normal retirement age.

(3) A plan described in paragraph (2) does not meet the requirements of paragraph (1) unless, under the plan, a participant has a reasonable period during which he may elect the qualified joint and annuity form with respect to the period beginning on the date on which the period described in paragraph (2) ends and ending on the date on which he reaches normal retirement age (as defined in Section 411(a)(8) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406)) if he continues his employment during that period. A plan does not meet the requirements of this paragraph unless, in the case of such an election, the payments under the survivor annuity are not less than the payments which would have been made under the joint annuity to which the participant would have been entitled if he made an election described in this paragraph immediately prior to his retirement and if his retirement had occurred on the day before his death and within the period within which an election can be made.

(4) A plan shall not be treated as not satisfying the requirements of this subdivision solely because the spouse of the participant is not entitled to receive a survivor annuity (whether or not an election described in paragraph (3) has been made under paragraph (3)) unless the participant and his spouse have been married throughout the one-year period ending on the date of such participant's death.

(5) A plan shall not be treated as satisfying the requirements of

this subdivision unless, under the plan, each participant has a reasonable period (as prescribed by the regulations of the Franchise Tax Board) before the annuity starting date during which he may elect in writing (after having received a written explanation of the terms and conditions of the joint and survivor annuity and the effect of an election under this paragraph) not to take such joint and survivor annuity.

(6) A plan shall not be treated as not satisfying the requirements of this subdivision solely because under the plan there is a provision that any election described in paragraph (3) or (5), and any revocation of any such election, does not become effective (or ceases to be effective) if the participant dies within a period (not in excess of two years) beginning on the date of such election or revocation, as the case may be. The preceding sentence does not apply unless the plan provision described in the preceding sentence also provides that such an election or revocation will be given effect in any case in which—

(A) The participant dies from accidental causes,

(B) A failure to give effect to the election or revocation would deprive the participant's survivor of a survivor annuity, and

(C) Such election or revocation is made before such accident occurred.

(7) For purposes of this subdivision—

(A) The term "annuity starting date" means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or by reason of disability),

(B) The term "earliest retirement age" means the earliest date on which, under the plan, the participant could elect to receive retirement benefits, and

(C) The term "qualified joint and survivor annuity" means an annuity for the life of the participant with a survivor annuity for the life of his spouse which is not less than one-half of, or greater than, the amount of the annuity payable during the joint lives of the participant and his spouse and which is the actuarial equivalent of a single life annuity for the life of the participant.

For purposes of this subdivision, a plan may take into account in any equitable manner (as determined by the Franchise Tax Board) any increased costs resulting from providing joint and survivor annuity benefits.

(8) This subdivision shall apply only if—

(A) The annuity starting date did not occur before the effective date of this subdivision, and

(B) The participant was an active participant in the plan on or after such effective date.

(*l*) A trust shall not constitute a qualified trust under this article unless the plan of which such trust is a part provides that in the case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan after the date of the enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406), each

participant in the plan would (if the plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the plan had then terminated). This subdivision shall apply in the case of a multiemployer plan only to the extent determined by the Pension Benefit Guaranty Corporation.

(m) A trust shall not constitute a qualified trust under this article unless the plan of which such trust is a part provides that benefits provided under the plan may not be assigned or alienated. For purposes of the preceding sentence, there shall not be taken into account any voluntary and revocable assignment of not to exceed 10 percent of any benefit payment made by any participant who is receiving benefits under the plan unless the assignment or alienation is made for puposes of defraying plan administration costs. For purposes of this subdivision a loan made to a participant or beneficiary shall not be treated as an assignment or alienation if such loan is secured by the participant's accrued nonforfeitable benefit and is exempt from the tax imposed by Section 4975 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to tax on prohibited transactions) by reason of Section 4975(d)(1) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406). This paragraph shall take effect on January 1, 1976, and shall not apply to assignments which were irrevocable on the date of the enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406).

(n) A trust shall not constitute a qualified trust under this article unless the plan of which such trust is a part provides that, unless the participant otherwise elects, the payment of benefits under the plan to the participant will begin not later than the 60th day after the latest of the close of the plan year in which—

(1) The date on which the participant attains the earlier of age 65 or the normal retirement age specified under the plan,

(2) Occurs the 10th anniversary of the year in which the participant commenced participation in the plan, or

(3) The participant terminates his service with the employer. In the case of a plan which provides for the payment of an early retirement benefit, a trust forming a part of such plan shall not constitute a qualified trust under this article unless a participant who satisfied the service requirements for such early retirement benefit, but separated from the service (with any nonforfeitable right to an accrued benefit) before satisfying the age requirement for such early retirement benefit, is entitled upon satisfaction of such age requirement to receive a benefit not less than the benefit to which he would be entitled at the normal retirement age, actuarially reduced under regulations prescribed by the Franchise Tax Board.

(o) A trust shall not constitute a qualified trust under this article unless under the plan of which such trust is a part—

(1) In the case of a participant or beneficiary who is receiving benefits under such plan, or

(2) In the case of a participant who is separated from the service and who has nonforfeitable rights to benefits,

such benefits are not decreased by reason of any increase in the benefit levels payable under Title II of the Social Security Act or any increase in the wage base under such Title II, if such increase takes place after the date of the enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406) or (if later) the earlier of the date of first receipt of such benefits or the date of such separation, as the case may be.

(p) A trust shall not constitute a qualified trust under this article if the plan of which such trust is a part provides for benefits or contributions which exceed the limitations of Section 415 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) and the Tax Reform Act of 1976 (P.L. 94-455).

(q) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2, only if the annual compensation of each employee taken into account under the plan does not exceed the first one hundred thousand dollars ($100,000) of such compensation.

(r) In the case of a trust which is part of a plan providing a defined benefit for employees some or all of whom are employees within the meaning of Section 17502.2, only if such plan satisfies the requirements of Section 17502.9.

(s) A trust shall not constitute a qualified trust under this article if under the plan of which such trust is a part any part of a participant's accrued benefit derived from employer contributions (whether or not otherwise nonforfeitable), is forfeitable solely because of withdrawal by such participant of any amount attributable to the benefit derived from contributions made by such participant. The preceding sentence shall not apply to the accrued benefit of any participant unless, at the time of such withdrawal, such participant has a nonforfeitable right to at least 50 percent of such accrued benefit (as determined under Section 411 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406)). The first sentence of this paragraph shall not apply to the extent that an accrued benefit is permitted to be forfeited in accordance with Section 411(a)(3)(D)(iii) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to proportional forfeitures of benefits accrued before enactment of the Employee Retirement Income Security Act of 1974 (P.L. 93-406), in the event of withdrawal of certain mandatory contributions).

Subdivisions (k), (*l*), (m), (n), (o), and (s) shall apply only in the

case of a plan to which Section 411 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to minimum vesting standards) applies without regard to subsection (e) (2) of such section.

SEC. 2. Section 17530.4 of the Revenue and Taxation Code is amended to read:

17530.4. (a) (1) A trust which is a part of a pension, profit-sharing, or stock bonus plan shall not constitute a qualified trust under Section 17501, if—

(A) In the case of a defined benefit plan, the plan provides for the payment of benefits with respect to a participant which exceed the limitation of subdivision (b),

(B) In the case of a defined contribution plan, contributions and other additions under the plan with respect to any participant for any taxable year exceed the limitation of subdivision (c), except in the case of such a plan where contributions are also made pursuant to and in conformance with the special limitation for employee stock ownership plans under Section 415(c)(6) of the Internal Revenue Code of 1954 (P.L. 94-455), in which case:

(i) The amount deductible under Section 17516 is subject to the limitations provided in subdivision (c) of this section, and

(ii) The net income attributable to the nondeductible portion shall not be included in the gross income of the employee for the taxable year or for succeeding taxable years until distributed pursuant to a provision of the plan or by operation of law, or

(C) In any case in which an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by the employer, the trust has been disqualified under subdivision (g).

(2) Except as provided in paragraph (3), in the case of—

(A) An employee annuity plan described in Section 17511,

(B) An annuity contract described in Section 17512,

(C) An individual retirement account described in Section 17530(a),

(D) An individual retirement annuity described in Section 17530(b),

(E) A plan described in Section 17526, or

(F) A retirement bond described in Section 17530.1, such contract, annuity plan, account, annuity, plan, or bond shall not be considered to be described in Section 17511, 17512, 17526, 17530(a), 17530(b) or 17530.1, as the case may be, unless it satisfies the requirements of subparagraph (A) or subparagraph (B) of paragraph (1), whichever is appropriate, and has not been disqualified under subdivision (g). In the case of an annuity contract described in Section 17512, the preceding sentence shall apply only to the portion of the annuity contract which exceeds the limitation of subdivision (b) or the limitation of subdivision (c), whichever is appropriate, and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in Section 17512.

(3) Paragraph (2) shall not apply for any year to an account,

annuity, or bond described in Section 17530(a), 17530(b), or 17530.1, respectively, established for the benefit of the spouse of the individual contributing to such account, or for such annuity or bond, if a deduction is allowed under Section 17241 to such individual with respect to such contribution for such year.

(b) (1) Benefits with respect to a participant exceed the limitation of this subdivision if, when expressed as an annual benefit (within the meaning of paragraph (2)), such annual benefit is greater than the lesser of—

(A) Seventy-five thousand dollars ($75,000), or

(B) One hundred percent of the participant's average compensation for his high three years.

(2) (A) For purposes of paragraph (1), the term "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions (as defined in Sections 17503, 17511, 17530, and 17530.1) are made.

(B) If the benefit under the plan is payable in any form other than the form described in subparagraph (A), or if the employees contribute to the plan or make rollover contributions (as defined in Sections 17503, 17511, 17530, and 17530.1), the determinations as to whether the limitation described in paragraph (1) has been satisfied shall be made, in accordance with regulations prescribed by the Franchise Tax Board, by adjusting such benefit so that it is equivalent to the benefit described in subparagraph (A). For purposes of this subparagraph, any ancillary benefit which is not directly related to retirement income benefits shall not be taken into account; and that portion of any joint and survivor annuity which constitutes a qualified joint and survivor annuity (as defined in Section 17501) shall not be taken into account.

(C) If the retirement income benefit under the plan begins before age 55, the determination as to whether the limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Franchise Tax Board, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 55.

(3) For purposes of paragraph (1), a participant's high three years shall be the period of consecutive calendar years (not more than three) during which the participant both was an active participant in the plan and had the greatest aggregate compensation from the employer. In the case of an employee within the meaning of Section 17502.2, the preceding sentence shall be applied by substituting for "compensation from the employer" the following: "the participant's earned income (within the meaning of Section 17502.2 but determined without regard to any exclusion under Section 911 of the Internal Revenue Code of 1954)."

(4) Notwithstanding the preceding provisions of this subdivision, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitation of this

subdivision, if—

(A) The retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed ten thousand dollars ($10,000) for the plan year, or for any prior plan year, and

(B) The employer has not at any time maintained a defined contribution plan in which the participant participated.

(5) In the case of an employee who has less than 10 years of service with the employer, the limitation referred to in paragraph (1), and the limitation referred to in paragraph (4), shall be the limitation determined under such paragraph (without regard to this paragraph), multiplied by a fraction, the numerator of which is the number of years (or part thereof) of service with the employer and the denominator of which is 10.

(6) The computation of—

(A) Benefits under a defined contribution plan, for purposes of Section 17501(d),

(B) Contributions made on behalf of a participant in a defined benefit plan, for purposes of Section 17501(d), and

(C) Contributions and benefits provided for a participant in a plan described in Section 414(k) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), for purposes of this section shall not be made on a basis inconsistent with regulations prescribed by the Franchise Tax Board.

(c) (1) Contributions and other additions with respect to a participant exceed the limitation of this subdivision, if, when expressed as an annual addition (within the meaning of paragraph (2)) to the participant's account, such annual addition is greater than the lesser of—

(A) Twenty-five thousand dollars ($25,000), or

(B) Twenty-five percent of the participant's compensation.

(2) For purposes of paragraph (1), the term "annual addition" means the sum for any year of—

(A) Employer contributions,

(B) The lesser of—

(i) The amount of the employee contributions in excess of 6 percent of his compensation, or

(ii) One-half of the employee contributions, and

(C) Forfeitures.

For the purposes of this paragraph, employee contributions under subparagraph (B) are determined without regard to any rollover contributions (as defined in Sections 17503, 17511, 17530, and 17530.1).

(3) For purposes of paragraph (1), the term "participant's compensation" means the compensation of the participant from the employer for the year. In the case of an employee within the meaning of Section 17502.2, the preceding sentence shall be applied by substituting for "compensation of the participant from the

employer" the following: "the participant's earned income (within the meaning of Section 17502.2 but determined without regard to any exclusion under Section 911 of the Internal Revenue Code of 1954)."

(4) (A) In the case of amounts contributed for an annuity contract described in Section 17512 for the year in which occurs a participant's separation from the service with an educational institution, a hospital, or a home health service agency, at the election of the participant there is substituted for the amount specified in paragraph (1) (B) the amount of the exclusion allowance which would be determined under Section 17512 (without regard to this section) for the participant's taxable year in which such separation occurs if the participant's years of service were computed only by taking into account his service for the employer during the period of years (not exceeding 10) ending on the date of such separation.

(B) In the case of amounts contributed for an annuity contract described in Section 17512 for any year in the case of a participant who is an employee of an educational institution, a hospital, or a home health service agency, at the election of the participant there is substituted for the amount specified in paragraph (1) (B) the least of—

(i) Twenty-five percent of the participant's includible compensation (as defined in Section 17512) plus four thousand dollars ($4,000),

(ii) The amount of the exclusion allowance determined for the year under Section 17512, or

(iii) Fifteen thousand dollars ($15,000).

(C) In the case of amounts contributed for an annuity contract described in Section 17512 for any year for a participant who is an employee of an educational institution, a hospital, or a home health service agency, at the election of the participant the provisions of Section 17512(a) (2) shall not apply.

(D) (i) The provisions of this paragraph apply only if the participant elects its application at the time and in the manner provided under regulations prescribed by the Franchise Tax Board. Not more than one election may be made under subparagraph (A) by any participant. A participant who elects to have the provisions of subparagraph (A), (B), or (C) of this paragraph apply to him may not elect to have any other subparagraph of this paragraph apply to him. Any election made under this paragraph is irrevocable.

(ii) For purposes of this paragraph the term "educational institution" means an educational institution as defined in Section 151(e) (4) of the Internal Revenue Code of 1954.

(iii) For purposes of this paragraph the term "home health service agency" means an organization described in subsection 501(c) (3) of the Internal Revenue Code of 1954 which is exempt from tax under Section 501(a) of the Internal Revenue Code of 1954 and which has been determined by the Secretary of Health, Education, and Welfare

to be a home health agency (as defined in Section 1861(o) of the Social Security Act).

(5) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of Section 17502.2(a), the amount determined under paragraph (1)(B) with respect to any participant shall not be less than the amount deductible under Section 17524 with respect to any individual who is an employee within the meaning of Section 17502.2(a).

(6) Paragraph (1)(B) shall not apply to a contribution described in Section 17502.4 which is made on behalf of a participant for a year to a plan which benefits an owner-employee (within the meaning of Section 17502.2(c)), if—

(A) The annual addition determined under this section with respect to the participant for such year consists solely of such contribution, and

(B) The participant is not an active participant at any time during such year in a defined benefit plan maintained by the employer.

For purposes of this section and Section 17502.4, in the case of a plan which provides contributions or benefits for employees who are not owner-employees, such plan will not be treated as failing to satisfy Section 17501(d) merely because contributions made on behalf of employees who are not owner-employees are not permitted to exceed the limitations of paragraph (1)(B).

(d) (1) The Franchise Tax Board shall adjust annually—

(A) The amount in subdivision (b)(1)(A),

(B) The amount in subdivision (c)(1)(A), and

(C) In the case of a participant who is separated from service, the amount taken into account under subdivision (b)(1)(B), for increases in the cost of living in accordance with regulations prescribed by the Franchise Tax Board. Such regulations shall provide for adjustment procedures which are similar to the procedures used to adjust primary insurance amounts under Section 215(i)(2)(A) of the Social Security Act.

(2) The base period taken into account—

(A) For purposes of subparagraphs (A) and (B) of paragraph (1) is the calendar quarter beginning October 1, 1974, and

(B) For purposes of subparagraph (C) of paragraph (1) is the last calendar quarter of the calendar year before the calendar year in which the participant is separated from service.

(e) (1) In any case in which an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by the same employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any year may not exceed 1.4.

(2) For purposes of this subdivision, the defined benefit plan fraction for any year is a fraction—

(A) The numerator of which is the projected annual benefit of the participant under the plan (determined as of the close of the year),

and

(B) The denominator of which is the projected annual benefit of the participant under the plan (determined as of the close of the year) if the plan provided the maximum benefit allowable under subsection (b).

(3) Defined contribution plan fraction. For purposes of this subdivision, the defined contribution plan fraction for any year is a fraction—

(A) The numerator of which is the sum of the annual additions to the participant's account as of the close of the year, and

(B) The denominator of which is the sum of the maximum amount of annual additions to such account which could have been made under subdivision (c) for such year and for each prior year of service with the employer.

(4) In applying paragraph (3) with respect to years beginning before January 1, 1976—

(A) The aggregate amount taken into account under paragraph (3) (A) may not exceed the aggregate amount taken into account under paragraph (3) (B), and

(B) The amount taken into account under subdivision (c) (2) (B) (i) for any year concerned is an amount equal to—

(i) The excess of the aggregate amount of employee contributions for all years beginning before January 1, 1976, during which the employee was an active participant of the plan, over 10 percent of the employee's aggregate compensation for all such years, multiplied by

(ii) A fraction the numerator of which is 1 and the denominator of which is the number of years beginning before January 1, 1976, during which the employee was an active participant in the plan. Employee contributions made on or after October 2, 1973, shall be taken into account under subparagraph (B) of the preceding sentence only to the extent that the amount of such contributions does not exceed the maximum amount of contributions permissible under the plan as in effect on October 2, 1973.

(5) For purposes of this subdivision, any annuity contract described in Section 17512 (except in the case of a participant who has elected under subdivision (c) (4) (D) to have the provisions of subdivision (c) (4) (C) apply), any individual retirement account described in Section 17530(a), any individual retirement annuity described in Section 17530(b), and any retirement bond described in Section 17530.1, for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subdivision (b) or (c) of Section 414 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (as modified by subdivision (h)). In the case of any annuity contract described in Section 17512, the amount of the contribution disqualified by reason of subdivision (g) shall reduce the exclusion allowance as provided in Section 17512.

(f) (1) For purposes of applying the limitations of subdivisions (b), (c), and (e)—

(A) All defined benefit plans (whether or not terminated) of an employer are to be treated as one defined benefit plan, and

(B) All defined contribution plans (whether or not terminated) of an employer are to be treated as one defined contribution plan.

(2) If the employer has more than one defined benefit plan—

(A) Subdivision (b) (1) (B) shall be applied separately with respect to each such plan, but

(B) In applying (b) (1) (B) to the aggregate of such defined benefit plans for purposes of this subdivision, the high three years of compensation taken into account shall be the period of consecutive calendar years (not more than three) during which the individual had the greatest aggregate compensation from the employer.

(g) The Franchise Tax Board, in applying the provisions of this section to benefits or contributions under more than one plan maintained by the same employer, and to any trusts, contracts, accounts, or bonds referred to in subdivision (a) (2), with respect to which the participant has the control required under Section 414(b) or (c) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406), as modified by subdivision (h), shall, under regulations prescribed by the Franchise Tax Board, disqualify one or more trusts, plans, contracts, accounts, or bonds, or any combination thereof until such benefits or contributions do not exceed the limitations contained in this section. In addition to taking into account such other factors as may be necessary to carry out the purposes of subdivisions (e) and (f), the regulations prescribed under this paragraph shall provide that no plan which has been terminated shall be disqualified until all other trusts, plans, contracts, accounts, or bonds have been disqualified.

(h) For purposes of applying subdivisions (b) and (c) of Section 414 of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) to this section, the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Section 1563(a) (1) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406).

(i) Where for the period before January 1, 1976, or (if later) the first day of the first plan year of the plan, the records necessary for the application of this section are not available, the Franchise Tax Board may by regulations prescribe alternative methods for determining the amounts to be taken into account for such period.

(j) The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section, including, but not limited to, regulations defining the term "year" for purposes of any provision of this section.

(k) For purposes of this article, the term "defined contribution plan" or "defined benefit plan" means a defined contribution plan

(within the meaning of Section 414(i) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406)) or a defined benefit plan (within the meaning of Section 414(j) of the Internal Revenue Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406)), whichever applies, which is—

(A) A plan described in Section 17501 which includes a trust which is exempt from tax under Section 17631,

(B) An annuity plan described in Section 17511,

(C) A qualified bond purchase plan described in Section 17526,

(D) An annuity contract described in Section 17512,

(E) An individual retirement account described in Section 17530(a),

(F) An individual retirement annuity described in Section 17530(b), or

(G) An individual retirement bond described in Section 17530.1.

SEC. 3. Section 19057.5 is added to the Revenue and Taxation Code, to read:

19057.5. No interest shall be allowed or paid with respect to a claim for credit or refund based upon an overpayment which is the result of federal law, including treaties, which reduces taxes for taxable years prior to the enactment date of the federal law or the approval date of the treaty.

SEC. 4. Section 26080.7 is added to the Revenue and Taxation Code, to read:

26080.7. No interest shall be allowed or paid with respect to a claim for credit or refund based upon an overpayment which is the result of federal law, including treaties, which reduces taxes for income years prior to the enactment date of the federal law or the approval date of the treaty.

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, Sections 1 and 2 of this act shall be applied in the computation of taxes for taxable years beginning on January 1, 1976, and thereafter and Section 3 of this act shall apply to refunds or credits after January 1, 1978.

CHAPTER 781

An act to amend Sections 18120, 18128, 18135, and 18142 of the Government Code, relating to state employees.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 18120 of the Government Code is amended to read:

18120. This chapter applies to state officers and employees who are members of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after the effective date of this chapter and to state officers and employees, whether or not members of such systems, who are employees of the Legislature and are not members of the civil service.

This chapter does not apply to state officers and employees who are included in the provisions of Article 6 (commencing with Section 4800) of Chapter 2 of Part 2 of Division 4 of the Labor Code.

SEC. 2. Section 18128 of the Government Code is amended to read:

18128. The State Personnel Board shall adopt any rules and regulations necessary for the administration of this chapter. The Trustees of the California State University and Colleges shall adopt any rules and regulations necessary for the administration of this chapter for employees of the California State University and Colleges.

The appointing power of any officer or employee not a member of the civil service shall adopt any rules and regulations necessary for the administration of this chapter for such officers or employees.

SEC. 3. Section 18135 of the Government Code is amended to read:

18135. As used in this chapter:

(a) "Employee" means a permanent or probationary full-time state officer or employee who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after the effective date of this chapter. Commencing January 1, 1979, it also means a full-time state officer or employee, whether or not a member of one of those retirement systems, who is an employee of the Legislature and is not a member of the civil service.

(b) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of his disability.

(c) "Disability" or "disabled" includes both mental or physical illness and mental or physical injury, and to the extent specified in Section 18135.5, pregnancy. An employee is deemed disabled on any day in which, because of his physical or mental condition, he is unable to perform his regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this chapter, two consecutive periods of disability due to the same or related cause

or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Department" means the Employment Development Department.

(f) "Director" means the Director of Employment Development.

(g) "Appeals board" means the California Unemployment Insurance Appeals Board.

SEC. 4. Section 18142 of the Government Code is amended to read:

18142. The State Personnel Board shall adopt any rules and regulations necessary for the administration of this chapter. The Trustees of the California State University and Colleges shall adopt any rules and regulations necessary for the administration of this chapter for employees of the California State University and Colleges.

The appointing power of any officer or employee of the Legislature, who is not a member of the civil service, shall adopt any rules and regulations necessary for the administration of this chapter for such officers or employees.

SEC. 5. The Legislature is aware that there is litigation pending concerning the applicability of subdivision (a) of Section 18135 of the Government Code to certain employees exempt from civil service and declares its intention that the provisions of this act shall not be interpreted as changing the applicability of such provision of Section 18135, other than with regard to legislative employees, as specified, and considers a judicial interpretation of such provision with regard to other employees exempt from civil service to be appropriate.

CHAPTER 782

An act relating to the state park system, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. The sum of two million five hundred thousand dollars ($2,500,000) is hereby appropriated from the Collier Park Preservation Fund to the Department of Parks and Recreation for acquisition of Malibu Beach and adjoining pier for the state park system; provided, that no funds may be encumbered by the State Public Works Board until the State Lands Commission certifies that the seller of any interest in Malibu Beach and Malibu Pier has fulfilled all obligations due the state for the utilization of the tide and submerged lands adjacent to Malibu Beach. Such obligations include,

but are not limited to, payment of current and accrued rent and transfer of the pier to the state in a condition of good sound repair satisfactory to the State Lands Commission at the time of transfer of title thereto. The seller shall have prepared, at his own expense, a structural safety report on the Malibu Pier which is satisfactory to the State Lands Commission and shall be liable for the improvements necessary to bring the Malibu Pier into a condition of good sound repair. Thereafter, with respect to improvements that were not subject to the requirements of the State Lands Commission regarding transfer of the Malibu Pier in a condition of good sound repair and with respect to further rehabilitation or replacement of all or part of the pier and related facilities, the Wildlife Conservation Board shall make any such improvements or perform any such rehabilitation or replacement work it deems necessary for the public health, safety, or welfare. The Wildlife Conservation Board shall cooperate with the County of Los Angeles in discharging its responsibilities pursuant to this section.

SEC. 2. None of the funds appropriated by this act may be encumbered for 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. In addition, none of the funds appropriated by this act may be encumbered by the State Public Works Board unless and until the Department of Parks and Recreation enters into an agreement with the County of Los Angeles, pursuant to Section 5007 of the Public Resources Code, for the care, maintenance, and control of all of the lands to be acquired with funds appropriated by this act.

SEC. 3. The acquisitions authorized by this act shall be made pursuant to the Property Acquisition Law (commencing with Section 15850 of the Government Code).

SEC. 4. The Legislature finds and declares as follows:

Malibu Beach is one of the most popular and heavily used beaches anywhere. The owner of approximately 650 feet of beach adjacent to the Malibu Pier has offered to sell to the state this beach property and adjacent pier at what he believes is significantly below fair market value, thereby making a partial gift to the state.

The Malibu Pier is an historical landmark and is the only pier owned by a willing seller between Pt. Hueneme and Santa Monica, a stretch of about 50 miles of beach that adjoins the most heavily populated portion of the state.

Members of the public are currently welcome on this property as customers of the business operation.

This is the last large piece of undeveloped beach property in this

portion of Malibu.

The Malibu unincorporated area is comprised of 27 miles of beach coastline; 21 miles of the beach lands are privately owned and only six miles are publicly owned.

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:

Inasmuch as this act provides for the acquisition of 650 feet of exceptionally valuable beach frontage and other lands that are greatly needed for the state park system, it is necessary that this act take effect immediately.

CHAPTER 783

An act to amend Section 1260 of the Education Code, and to add Section 26914 to the Government Code, relating to county educational agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 1260 of the Education Code is amended to read:

1260. The county superintendent of schools, with the approval of the county board of education, may:

(a) Conduct studies through research and investigation as are determined by the county board to be required in connection with the future management, conditions, needs, and financial support of the schools within the county; or join with one or more school district or community college district governing boards in the conduct of such studies.

(b) Install and maintain exhibits of educational programs and activities of the school districts and community college districts within the county at any county fair or at any agricultural district fair.

(c) Inform and make known to the citizens of the county, the educational programs and activities of the school districts or community college districts within his jurisdiction.

(d) Subscribe for membership in any society, association, or organization which has for its purpose the promotion and advancement of public or private education, subject to the same restrictions as are imposed by Section 35173 and Section 72631 on governing boards of school districts or community college districts respecting such subscriptions.

(e) Provide inservice programs and coordinative services for any

school or community college district governing board or governing board association in the territory under the jurisdiction of the county superintendent of schools.

SEC. 2. For the purposes of paragraph (1) of subdivision (b) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, the estimated revenue limit shall include programs operated pursuant to Section 2500.1 of the Education Code.

For the purposes of paragraph (2) of subdivision (b) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, revenues received in the 1977–78 fiscal year shall include those revenues which would have been received pursuant to Sections 2506.7, 42649, and 85265.5 of the Education Code, had the prescribed tax rates actually been levied and if the county board of education would have been authorized to levy the tax in fiscal year 1978–79 under the law in effect on June 5, 1978.

In any county in which the county superintendent of schools became fiscally independent on or after June 30, 1977, the amount determined pursuant to paragraph (2) of subdivision (b) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, shall be increased by the amount which would have been raised if the county superintendent had in fact derived revenue from the unsecured roll in the 1977–78 fiscal year based on the county superintendent's tax rate on the secured roll in that year.

SEC. 3. Section 26914 is added to the Government Code, to read:

26914. Notwithstanding the provisions of Section 26912, in any county in which the county superintendent of schools became fiscally independent on or after June 30, 1977, the apportionment of the revenue derived from the unsecured roll by applying the county ad valorem tax rate provided pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code shall be made as if the county superintendent of schools had in fact derived revenue from the unsecured roll in the 1977–78 fiscal year based on the county superintendent's tax rate on the secured roll in that year. The factors determined pursuant to subdivision (b) of Section 26912 shall be adjusted accordingly and there shall be added to the total amount of property tax revenue received by the county superintendent of schools in the 1977–78 fiscal year an amount equal to the amount of such revenue from the unsecured roll.

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 various provisions of this act which are designed to further revise formulas for calculating state school financial aid in accordance with the mandates of Proposition 13 may be effective for the 1978–79 fiscal year, it is essential that this act take effect immediately.

CHAPTER 784

An act to amend Section 14040 of, to add Sections 14003, 14040.1, 14040.2, and 14040.3 to, and to add Article 3.5 (commencing with Section 14050) and Article 3.6 (commencing with Section 14055) to Chapter 1 of Division 7.5 of, the Water Code, and to repeal Chapter 785 of the Statutes of 1977, relating to liquid waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 14003 is added to the Water Code, to read:

14003. "Hazardous waste disposal site" means a disposal site as defined in Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

SEC. 1.5. Section 14040 of the Water Code is amended to read:

14040. (a) Each regional board shall approve sites suitable for the disposal of different kinds of liquid wastes, consistent with the classifications that shall be adopted by the state board, and may adopt regulations for disposal of liquid waste at such approved sites that it deems are necessary for the protection of the quality of the waters of the state.

(b) Every owner or operator of a liquid waste disposal site, or hazardous waste disposal site, shall, within 180 days after receiving notice from the appropriate regional board, submit a report to that regional board which addresses the following:

(1) The physical characteristics of the disposal site, including location, geography, climate, site construction, and hydrogeology.

(2) The mechanisms employed to control leachate and runoff from the disposal site.

(3) An estimate of the remaining useful site life.

(4) A discussion and evaluation of alternative methods of site closure and subsequent maintenance, and a recommendation regarding the most practicable method of closure and maintenance which will pose no adverse threat to the environment.

(5) The estimated cost for alternative methods of site closure and for subsequent maintenance of the site, and a detailed financial plan which adequately provides for the financing of the recommended method of site closure and maintenance.

(6) Such other relevant information which the regional board may request.

If any information required by a report has been previously furnished to any state agency, such information may be incorporated by reference.

A regional board shall require such a report only when it

determines that the report, indicating methods of closure and subsequent maintenance, is necessary to prevent an adverse threat to the environment.

(c) Before determining the acceptability of a report, the regional board shall consult with the State Solid Waste Management Board and the State Department of Health Services as to whether the recommended method of site closure and subsequent maintenance will pose an adverse threat to the environment.

(d) Upon submission of an acceptable report, and annually thereafter, the regional board shall require the owner or operator to provide assurances that moneys are available in an amount estimated by the regional board to be sufficient to ensure the closure and subsequent maintenance of the disposal site in a manner that will pose no adverse threat to the environment.

SEC. 2. Section 14040.1 is added to the Water Code, to read:

14040.1. If the owner or operator fails to submit a report acceptable to the regional board or otherwise fails to comply with the requirements of Section 14040, the regional board may order that the owner or operator of a liquid waste disposal site, or hazardous waste disposal site, comply with one of the following provisions:

(a) Post a bond, in favor of the state, guaranteeing payment to the state of an amount estimated by the regional board to be sufficient to ensure the closure and subsequent maintenance of the disposal site in a manner that will pose no adverse threat to the environment. Such bond may be waived or released when the regional board finds that there is sufficient security to otherwise ensure compliance with this section.

(b) Establish and maintain a monetary reserve fund in an amount estimated by the regional board to be sufficient to ensure the closure and subsequent maintenance of the disposal site in a manner that will pose no adverse threat to the environment.

(c) Comply with other procedures that the regional board determines will ensure that monies are available in an amount estimated by the regional board to be sufficient to ensure the closure and subsequent maintenance of the disposal site in a manner that will pose no adverse threat to the environment.

SEC. 3. Section 14040.2 is added to the Water Code, to read:

14040.2. (a) Any fund established pursuant to subdivision (b) of Section 14040.1 shall be used solely for expenses of closure and subsequent maintenance of the site, except that the regional board may authorize an owner or operator of a liquid waste disposal site, or hazardous waste disposal site, to make use of the fund in a manner set forth by regulation, when the owner or operator requests use of the fund for an emergency purpose consistent with this chapter. The fund shall be reestablished to the amount held prior to emergency use of the fund, within six months from the date that monies are withdrawn, or within a time specified by the regional board.

(b) The appropriate regional board shall be notified in writing of any change in the owner or other person responsible for site closure

and subsequent maintenance of a liquid waste disposal site, or hazardous waste disposal site. This notification shall include adequate assurance that the new owner or operator will close and maintain the disposal site in a manner that will pose no adverse threat to the environment. If a fund has been established pursuant to subdivision (b) of Section 14040.1 for closure and subsequent maintenance of a disposal site, any new owner or operator must establish a similar fund or have the original fund transferred to him.

SEC. 4. Section 14040.3 is added to the Water Code, to read:

14040.3. Regional water quality control boards may issue waste discharge requirements or other orders pursuant to the provisions of Division 7 (commencing with Section 13000) which incorporate the requirements set forth in Section 14040 or 14040.1.

SEC. 5. Article 3.5 (commencing with Section 14050) is added to Chapter 1 of Division 7.5 of the Water Code, to read:

Article 3.5. State Board Review

14050. (a) To ensure statewide uniformity, the state board shall formulate, adopt, and revise general procedures for use by the regional boards in making determinations pursuant to Article 3 (commencing with Section 14040) of this chapter.

(b) Any action or failure to act by a regional board under this division may be reviewed by the state board pursuant to Article 2 (commencing with Section 13320) of Chapter 5 of Division 7, and is subject to the provisions of Division 7 (commencing with Section 13000) insofar as they may be applicable, including, but not limited to, Chapter 5 (commencing with Section 13300) of such division.

SEC. 5.5. Article 3.6 (commencing with Section 14055) is added to Chapter 1 of Division 7.5 of the Water Code, to read:

Article 3.6. Site Closure and Maintenance Revolving Account

14055. Charges collected under the provisions of this article shall be deposited in the Site Closure and Maintenance Revolving Account, which account is hereby created in the State Water Quality Control Fund. As used in this article, "account" means the Site Closure and Maintenance Revolving Account. All moneys paid into the account are appropriated without regard to fiscal years, for expenditure by the state board in accordance with the provisions of this article.

14055.1. The charges directed to be levied by this article are necessary to provide a means to insure the adequate closure and subsequent maintenance of liquid waste disposal sites or hazardous waste disposal sites which pose an adverse threat to the environment and for which adequate closure and subsequent maintenance are not provided by other provisions of this chapter. The Legislature hereby finds and declares that without adequate closure of liquid and hazardous waste disposal sites which have served their useful lives,

conditions of public nuisance could exist. The Legislature further finds that prevention of such conditions cannot be effectively provided for pursuant to other regulatory authority exercised under this division since continuing discharges are not usually involved and since owners or operators of such sites may not be readily required to abate the conditions since the sites are often of minimal value after serving their useful lives. The Legislature further finds and declares that it is imperative in order to prevent conditions of pollution and nuisance, that expenditures of funds to assure adequate closure and subsequent maintenance of sites be made, that such expenditures are for a public purpose, and that the cost of carrying out such closures maintenance be charged to the state's owners and operators of liquid and hazardous waste disposal sites to the extent that other provisions of this chapter do not apply.

14055.2. (a) The proceeds of the charges levied, assessed, and collected pursuant to this article upon the properties of every person operating or owning an interest in any liquid waste disposal site or hazardous waste disposal site shall be used exclusively for the closure and maintenance of those sites that pose an adverse threat to the environment in which adequate closure and subsequent maintenance are not provided by other provisions of this chapter and for the state board and regional board costs incurred in administering the provisions of this chapter.

(b) Owners and operators of liquid waste disposal sites or hazardous waste disposal sites shall be charged assessments sufficient to assure that the account is maintained at the level not to exceed five hundred thousand dollars ($500,000), plus any amounts recovered through lien foreclosure proceedings in accordance with Section 14055.7, provided that total assessments shall not exceed two hundred fifty thousand dollars ($250,000) in any one given year. Such charges shall be computed at rates determined by the state board based on classification of the sites and the amount of liquid or hazardous waste disposed of at the sites during the preceding calendar year. The charge levied upon each site shall be apportioned among the persons owning or operating the site in fractional amounts proportionate to their respective fractional interests in such site, but the whole of such charge shall be payable by the operator.

14055.4. (a) The state board shall, from time to time, review the status of the account to determine whether the amount of money therein is adequate to carry out the provisions of this chapter. Charges shall be levied only to the extent necessary to ensure that adequate money is available in the account.

(b) The State Treasurer, when requested by the state board and approved by the Director of Finance, shall transfer moneys in the nature of a loan from the State Water Quality Control Fund to the account created pursuant to Section 14055, which shall be repayable from the account to the State Water Quality Control Fund.

14055.5. Between the first of March and the 15th of June in each year, the state board shall assess and levy the charges as provided in

this article. The assessment shall be made against the person operating the site subject to the assessment on the first Monday in March, except that where the actual operation of any site has changed hands during the period for which the charge is imposed, the charge shall be apportioned to each operator upon the amount of waste disposed of at the site during the period.

14055.6. The charges levied and assessed under this article are due and payable on the first of July in each year. One-half thereof shall be delinquent if not paid on or before August 15th of each year, and if paid thereafter, 15 percent shall be added to the amount thereof. Unless paid on or before the first of February, next thereafter, an additional 5 percent shall be added to the amount thereof.

The remaining one-half of the charges shall be delinquent if not paid on or before the first of February next succeeding the day upon which they became due and payable. If not paid prior thereto, 5 percent shall be added to the amount thereof.

14055.7. The assessments and charges levied under this article and expenditures from the account to close or maintain a site (to the extent and in the amount expenditures exceed charges collected) shall constitute a lien upon the site so posted upon the recordation of a notice of lien, particularly describing the property on which the assessments and charges have not been paid or on which closure or maintenance took place, the amount of such lien, and naming the owner of record of such property, in the office of the county recorder, of the county in which the property is located. Such lien shall be immediately recorded after expenditures have been made or after the first of February next succeeding the day upon which assessments and charges become due and payable. Upon such recordation, the lien shall have the same force, effect, and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution except that it shall attach only to the property so posted and described in such notice of lien. It shall continue for 10 years from the time of the recording of such notice unless sooner released or otherwise discharged. Such lien may be foreclosed by an action brought by the state board on behalf of the regional board, for a money judgment. Money recovered by a judgment in favor of the state board shall be returned to the account.

14055.8. Expenditures shall be made only after a determination by a regional board, the State Solid Waste Management Board, or the Department of Health Services that a site poses an adverse threat to the environment and only after the owner or operator has been given notice to the proposed expenditure and an opportunity to object thereto. All expenditures shall be made by the state board, subject to the approval of the Director of Finance.

SEC. 5.6. Chapter 785 of the Statutes of 1977 is repealed.

SEC. 6. The sum of three hundred seventy thousand dollars ($370,000) is hereby appropriated from the General Fund to the Site Closure and Maintenance Revolving Account.

All funds appropriated by this section shall be expended solely for the purpose of abating threatened conditions of nuisance and pollution caused by the Stringfellow Quarry Class I Hazardous Waste Disposal Site. However, any sum which has been appropriated pursuant to this section, but which is not expended for abatement shall remain in the Site Closure and Maintenance Revolving Account and shall be expended solely for the purpose of maintaining and monitoring the site to prevent future recurrence of the condition of threatened nuisance or pollution.

SEC. 7. The State Water Resources Control Board may perform any act necessary to implement the provisions of this act.

SEC. 8. The Legislature hereby finds and declares that a general statute, within the meaning of Section 16 of Article IV of the Constitution, cannot be made applicable to the unique problems that this act is intended to remedy, and that, therefore, this special statute is necessary.

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:

The State of California has a responsibility to abate the threatened conditions of pollution and nuisance caused by the Stringfellow Quarry Class I Hazardous Waste Disposal Site as soon as possible in order to protect the health and safety of the people. Therefore, it is necessary that this act take effect immediately.

CHAPTER 785

An act to amend Section 20330 of, and to add Sections 20930.85 and 20930.86 to, the Government Code, relating to retirement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978 Filed with Secretary of State September 18, 1978.]

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

SECTION 1. It is the intent of the Legislature that individuals employed pursuant to the Comprehensive Employment and Training Act of 1973, Public Law 93-203, as amended, be provided with the opportunity to obtain retirement credit for the time they were employed under this federal program when they become regular public employees. It is the further intent of the Legislature by this act to assist in the employment and training of the unemployed and to increase the number of dollars available to provide employment of individuals under this federal legislation and to increase the disposable income of those individuals who are so employed. Since alternative programs to provide employees serving

in job classes providing eligibility for patrol or safety membership with equivalent disability benefits as required under federal regulations would be more costly than Public Employees' Retirement System membership, and since the federal government therefore allows the utilization of Comprehensive Employment and Training Act funds for payment of retirement benefits of these employees, it is the intent of the Legislature by this act to exempt such employees from the exclusion provided for in this act.

SEC. 2. Section 20330 of the Government Code, as amended by Chapter 385 of the Statutes of 1978, 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.

(f) Persons employed as participants in a program of, and whose wages are paid in whole or in part by federal funds in accordance with, the Comprehensive Employment and Training Act of 1973, Public Law 93-203, as amended.

This subdivision does not apply with respect to persons employed in job classes which provide eligibility for patrol or safety membership, or to the career staff employees of an employer.

SEC. 3. Section 20930.85 is added to the Government Code, to read:

20930.85. "Public service" for purposes of this article also means employment under a program sponsored by, and financed at least in part by, the Comprehensive Employment and Training Act of 1973, as amended.

If federal funds are available to pay the employer's contributions required under this section, employees who transition within 31 days from a position in which they are excluded from membership pursuant to subdivision (f) of Section 20330 into a position with an employer in which membership is not excluded shall receive credit for that excluded service and the following requirements shall be met:

(a) Pursuant to board regulations, the member shall remit to the Public Employees' Retirement System the contributions, without interest, the member would have made had the member not been excluded.

(b) The employer for which the excluded service was performed shall remit to the Public Employees' Retirement System the

contributions, without interest, that would have been made had the member not been excluded.

(c) Such service credit shall be a charge against the employer for which the excluded service was performed.

SEC. 4. Section 20930.86 is added to the Government Code, to read:

20930.86. "Public service" for purposes of this article also means employment under a program sponsored by, and financed at least in part by, the Comprehensive Employment and Training Act of 1973, as amended, which was not credited under Section 20930.85.

Notwithstanding any other provision of law, a member electing to receive credit for public service under this section shall contribute in a lump sum, or by installment payments over such period and subject to such minimum payments as may be prescribed by regulation, an amount equal to the contributions which both the employee and the employer would have been required to make had the employee been a member during such period of service, assuming the rate of compensation in effect at the beginning of the employee's first period of service in membership subsequent to such service, and contribution rates applicable to such public service on the date of election, plus interest on such contributions from the first date of membership subsequent to such service until the date of completion of payments at the annual interest rate in effect on the date of election.

Benefits arising from service credited to a member under this section shall become a liability of the employer for which such service was rendered.

SEC. 5. This act shall become operative October 1, 1978, except with respect to participants whose pay period includes that date, in which case, it shall become operative on the first day of the next following pay period with respect to such participants, or the first day of the month or pay period following the date when federal funds received under the federal act cannot actually be used for payment of employer contributions, whichever is later. The legislative analyst, upon request of more than five cities, shall make a ministerial determination as to whether it is, as a practical matter, possible for local agencies to use federal funds for payment of employer contributions for employees hired pursuant to the federal act.

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

In order that federal funds available for emergency job assistance be used to create the greatest number of jobs, this act must take effect immediately.

CHAPTER 786

An act to amend Sections 20017.79 and 22013.8 of, to add Section 20017.792 to, and to repeal Sections 20017.771, 20803.9, and 22013.9 of, the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 20017.771 of the Government Code is repealed.

SEC. 2. Section 20017.79 of the Government Code is amended to read:

20017.79. "State safety member" shall also include officers and employees of the Adult Authority, Department of Corrections or the Department of the Youth Authority in the following classifications:

Classification Code	Classification
0617	Farm manager
0648	Crops farmer
0679	Dairy manager
0682	Dairy supervisor
0683	Assistant Dairy Operator
2303	Supervisor of Correctional Education Programs
2370	Supervisor of Vocational Instruction
2384	Supervisor of Commercial Diver Training
2311	Youth Authority Teacher
2429	Vocational Instructor (Fire Science) (Correctional Facility)
2433	Vocational Instructor (Heavy Equipment Repair) (Correctional Facility)
1575	Prison Canteen Manager I
1576	Prison Canteen Manager II
7158	Production Manager III, Correctional Industries
7157	Production Manager II, Correctional Industries
7156	Production Manager I, Correctional Industries
7154	Industrial Maintenance Superintendent

7170	Detergent Plant Superintendent
7172	Wood Products Factory Superintendent
7175	Assistant Wood Products Factory Superintendent
7178	Wood Products Factory Supervisor
7179	Upholstery Supervisor
7190	Metal Products Factory Superintendent
7189	Assistant Metal Products Factory Superintendent
7191	Metal Products Factory Supervisor
7192	Tool and Die Making Supervisor
7195	Textile Products Factory Superintendent
7196	Bedding Factory Superintendent
7198	Textile Products Factory Supervisor
7201	Tobacco Factory Superintendent
7205	Shoe Factory Superintendent
7206	Shoe Factory Supervisor (Lasting through Packing)
7207	Shoe Factory Supervisor (Cutting and Fitting)
7209	Knitting Mill Superintendent
7210	Knitting Mill Supervisor
7211	Knit Goods Finishing Supervisor
7214	Printing Superintendent, Correctional Industries
7215	Industrial Maintenance Supervisor
7216	Printing Supervisor, Correctional Industries
7218	Book repair and Bindery Supervisor, Correctional Industries
2108	Laundry Superintendent, Correctional Industries
2109	Laundry Supervisor, Correctional Industries
8215	Senior Medical Technical Assistant
9908	Supervising Social Worker II, Youth Authority
9910	Supervising Social Worker I, Youth Authority
9911	Social Worker, Youth Authority
0716	Supervising Groundskeeper II (correctional facility)
0718	Supervising Groundskeeper I (correctional facility)
0720	Lead Groundskeeper (correctional facility)

0743	Groundskeeper (correctional facility)
2004	Janitor Supervisor II (correctional facility)
2005	Janitor Supervisor I (correctional facility)
2006	Janitor (correctional facility)
2044	Supervising Housekeeper I (correctional facility)
2046	Housekeeper (correctional facility)
2068	Shoemaker (correctional facility)
2077	Seamer (correctional facility)
2080	Assistant Seamer (correctional facility)
2084	Barbershop Manager (correctional facility)
2086	Barber (correctional facility)
2111	Laundry Supervisor II (correctional facility)
2114	Laundry Supervisor I (correctional facility)
2117	Laundry Worker (correctional facility)
2120	Laundry Finisher (correctional facility)
2150	Food Manager (correctional facility)
2147	Food Administrator II (correctional facility)
2153	Food Administrator I (correctional facility)
2182	Supervising Cook II (correctional facility)
2183	Supervising Cook I (correctional facility)
2186	Cook II (correctional facility)
2187	Cook I (correctional facility)
2221	Baker II (correctional facility)
2224	Baker I (correctional facility)
2245	Butcher–Meat Cutter II (correctional facility)
2195	Food Service Assistant II (correctional facility)
2196	Food Service Assistant I (correctional facility)
2305	Supervisor of Academic Instruction (correctional facility)
2284	Teacher (arts and crafts) (correctional facility)
2285	Teacher (business education) (correc-

	tional facility)
2287	Teacher (elementary education) (correctional facility)
2290	Teacher (high school education) (correctional facility)
2297	Teacher (ethnic studies) (correctional facility)
2291	Teacher (home economics) (correctional facility)
2298	Teacher (librarian) (correctional facility)
2286	Teacher (cerebral palsied children) (correctional facility)
2295	Teacher (recreation and physical education) (correctional facility)
2294	Teacher (music) (correctional facility)
2296	Teacher (speech development and correction) (correctional facility)
2293	Teacher (mentally retarded deaf children) (correctional facility)
2292	Teacher (mentally retarded children) (correctional facility)
2288	Teacher (emotionally handicapped) (correctional facility)
2289	Teacher (family life education) (correctional facility)
2423	Vocational instructor (dog grooming and handling) (correctional facility)
2665	Vocational Instructor (powerplant mechanics) (correctional facility)
2387	Vocational Instructor (airframe mechanics) (correctional facility)
2396	Vocational Instructor (auto body and fender repair) (correctional facility)
2398	Vocational Instructor (auto mechanics) (correctional facility)
2399	Vocational Instructor (baking) (correctional facility)
2400	Vocational Instructor (bookbinding) (correctional facility)
2417	Vocational Instructor (carpentry) (correctional facility)
2420	Vocational Instructor (cosmetology) (correctional facility)
2422	Vocational Instructor (culinary arts) (correctional facility)
2628	Vocational Instructor (merchandising)

(correctional facility)
2425 Vocational Instructor (drycleaning works) (correctional facility)
2426 Vocational Instructor (electrical work) (correctional facility)
2428 Vocational Instructor (electronics) (correctional facility)
2431 Vocational Instructor (furniture refinishing and repair) (correctional facility)
2432 Vocational Instructor (garment making) (correctional facility)
2597 Vocational Instructor (household appliance repair) (correctional facility)
2598 Vocational Instructor (industrial arts) (correctional facility)
2599 Vocational Instructor (instrument repair) (correctional facility)
2600 Vocational Instructor (janitorial service) (correctional facility)
2601 Vocational Instructor (landscape gardening) (correctional facility)
2611 Vocational Instructor (laundry work) (correctional facility)
2614 Vocational Instructor (machine shop practice) (correctional facility)
2615 Vocational Instructor (masonry) (correctional facility)
2619 Vocational Instructor (meat cutting) (correctional facility)
2627 Vocational Instructor (mechanical drawing) (correctional facility)
2630 Vocational Instructor (mill and cabinet work) (correctional facility)
2640 Vocational Instructor (offset printing) (correctional facility)
2644 Vocational Instructor (painting) (correctional facility)
2661 Vocational Instructor (plumbing) (correctional facility)
2666 Vocational Instructor (printing) (correctional facility)
2667 Vocational Instructor (radiologic technology) (correctional facility)
2668 Vocational Instructor (refrigeration and air-conditioning repair) (correctional facility)
2669 Vocational Instructor (sewing machine

	repair) (correctional facility)
2670	Vocational Instructor (sheet metal work) (correctional facility)
2671	Vocational Instructor (shoemaking) (correctional facility)
2672	Vocational Instructor (silk screening process) (correctional facility)
2673	Vocational Instructor (storekeeping and warehousing) (correctional facility)
2674	Vocational Instructor (typewriter repair) (correctional facility)
2675	Vocational Instructor (upholstering) (correctional facility)
2419	Vocational Instructor (commercial diver training) (correctional facility)
2677	Vocational Instructor (welding) (correctional facility)
2676	Vocational Instructor (vocational nursing) (correctional facility)
2945	Senior Librarian (correctional facility)
6216	Building Maintenance Worker (correctional facility)
6221	Warehouse Worker (correctional facility)
1502	Warehouse Manager II (correctional facility)
1504	Warehouse Manager I (correctional facility)
1505	Materials and Stores Supervisor II (correctional facility)
1508	Materials and Stores Supervisor I (correctional facility)
6379	Heavy Truck Driver (correctional facility)
6382	Truck Driver (correctional facility)
6392	Automotive Equipment Operator II (correctional facility)
6394	Automotive Equipment Operator I (correctional facility)
6471	Carpenter Supervisor (correctional facility)
6483	Carpenter I (correctional facility)
6521	Painter Supervisor (correctional facility)
6524	Painter II (correctional facility)
6474	Carpenter II (correctional facility)

6528	Painter I (correctional facility)
6534	Electrician Supervisor (correctional facility)
6538	Electrician II (correctional facility)
6544	Electrician I (correctional facility)
6545	Plumber Supervisor (correctional facility)
6550	Plumber I (correctional facility)
6557	Steamfitter Supervisor (correctional facility)
6559	Steamfitter (correctional facility)
6617	Mason (correctional facility)
6941	Maintenance Mechanic (correctional facility)
6643	Locksmith (correctional facility)
6699	Chief Engineer I (correctional facility)
6705	Stationary Engineer Supervisor (correctional facility)
6708	Stationary Engineer II (correctional facility)
6697	Stationary Engineer I (correctional facility)
6709	Boiler Room Tender (correctional facility)
6715	Refrigeration Engineer (correctional facility)
6724	Water and Sewage Plant supervisor (correctional facility)
6748	Chief of Plant Operation III (correctional facility)
6751	Chief of Plant Operation II (correctional facility)
6754	Chief of Plant Operation I (correctional facility)
6763	Supervisor of Building Trades (correctional facility)
6865	Equipment Maintenance Supervisor (correctional facility)
6867	Lead Automobile Mechanic (correctional facility)
6868	Automobile Mechanic (correctional facility)
6893	Automotive Pool Manager I (correctional facility)
6916	Electronics Technician (correctional facility)
8217	Medical Technical Assistant (correctional facilities)

2645	Vocational Instructor (Plastering) (correctional facility)
7200	Dry Cleaning Plant Supervisor
6772	Utility Shops Supervisor (correctional facility)
6801	Machinist (correctional facility)
6826	Heavy Equipment Mechanic (correctional facility)
2688	Vocational Instructor (Eyewear Manufacturing) (correctional facility)
2940	Supervising Librarian (correctional facility)
6504	Plumber II (correctional facility)
7194	Assistant Textile Products Factory Superintendent
7197	Bedding Factory Supervisor
7217	Book Repair and Bindery Superintendent, Correctional Industries
6696	Chief Engineer II (correctional facility)
2000	Janitor Supervisor III (correctional facility)
6222	Laborer (correctional facility)
6955	Fusion Welder (correctional facility)

Any such officer or employee in employment on the operative date of this section, may elect by a writing filed with the board prior to 90 days after such operative date, to be restored to his previous status as a state industrial member. Upon the filing of such election the member shall cease to be a state safety member, and his rights and obligations shall be adjusted prospectively and retroactively to the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any member included in a classification until such time as a ruling or regulation authorizing the inclusion of persons employed in that classification within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d)(5)(A) of the Social Security Act.

Any officer or employee employed in one of the last 14 classifications listed in this section who is in employment on the operative date of the amendments to this section enacted in 1978 may elect, by a writing filed with the board prior to 90 days after such operative date, to be restored to his previous status as a state industrial member. Upon the filing of such election, the member shall cease to be a state safety member, and his rights and obligations shall be adjusted prospectively and retroactively to the operative date of this section, to what they would have been had this section not been enacted.

This section shall not become applicable to any member employed

in one of the last 14 classifications listed in this section until such time as a ruling or regulation authorizing the inclusion of persons employed in such classifications within the definition of "policeman" is issued by the federal agency for purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 3. Section 20017.792 is added to the Government Code, to read:

20017.792. Any person who was employed in one of the last 14 classifications listed in Section 20017.79 immediately prior to retirement or death on and after January 1, 1977, and any person who is eligible to receive any benefits with respect to such person, shall have such allowance and benefits recalculated on July 1, 1978, and shall receive allowances and benefits computed on such basis.

Any person or any survivor thereof who held one of the last 14 classifications listed in Section 20017.79 shall have the right to elect, within 90 days of the operative date of this section, not to have his or their allowance and benefits recalculated on the date Section 20017.79 becomes applicable to the classification that the person was employed in immediately prior to retirement.

SEC. 4. Section 20803.9 of the Government Code is repealed.

SEC. 5. Section 22013.8 of the Government Code is amended to read:

22013.8. "Policeman" as used in this part also includes persons employed in classifications listed in Section 20017.79, as amended in 1978; provided, such designation is not contrary to any definition, ruling or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d) (5) (A) of the Social Security Act.

SEC. 6. Section 22013.9 of the Government 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:

In order for persons in the new state safety member classifications created by this act to obtain the benefits conferred thereby as soon as possible, it is necessary for this act to become effective immediately.

CHAPTER 787

An act to amend Section 1237 of the Financial Code, relating to mortgage instruments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 1237, as added to the Financial Code by Chapter 394 of the Statutes of 1978, is amended 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 five 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, including, but not 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. 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:

Section 1237 of the Financial Code as added by Chapter 394 of the Statutes of 1978 took effect July 11, 1978, and the Superintendent of Banks is presently preparing to issue regulations pursuant to that act. It is necessary that the changes proposed to be made by this bill are in effect prior to the issuance of the regulations. It is therefore necessary that this act take effect immediately.

CHAPTER 788

An act relating to the Department of Food and Agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Notwithstanding the proviso contained in Item 58 of the Budget Act of 1977, every indemnity payment which was made at any time during the 1977–78 fiscal year for brucellosis-reacting cattle from any funds appropriated for such purpose shall be recalculated and indemnity payments shall be made in accordance with the provisions of Chapter 3 (commencing with Section 10301) of Part 2 of Division 5 of the Food and Agricultural Code.

SEC. 2. There is hereby appropriated from the General Fund, to the Department of Food and Agriculture, an amount equal to the unencumbered balance of the funds appropriated by Item 58 of the Budget Act of 1977, but not to exceed one hundred ten thousand dollars ($110,000), to carry out the provisions of 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 requires the Department of Food and Agriculture to make additional indemnity payments to those persons who received indemnity payments for brucellosis-reacting cattle under provisions of the Budget Act of 1977. In order for this act to achieve its intended result, it is necessary that it take effect immediately.

CHAPTER 789

An act relating to the Department of Corrections, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. The sum of seven million six hundred thousand dollars ($7,600,000) is hereby appropriated from the General Fund to the Department of Corrections for the preliminary planning for an additional maximum security facility or facilities and the razing of the California State Prison at San Quentin and possibly the California State Prison at Folsom.

Such appropriation is also made for the preliminary planning for the renovation of existing facilities and to inventory existing surplus state lands and to determine the suitability of such lands for new prison facilities.

Any plan developed for the razing, renovation, or construction of any facility from appropriations contained in this act shall not be adopted or implemented by the Department of Corrections until such proposal is submitted for review by the Legislature, in addition to annual state budget hearings, and enacted into law.

The Legislature declares that greater use be made of the authority granted in Chapter 9.5 (commencing with Section 6250) of Title 7 of Part 3 of the Penal Code to place inmates in community 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:

The Department of Corrections estimates that by 1980 the current capacity of the state prisons to house inmates will have been exceeded. To avoid or minimize serious potential overcrowding, as well as to rectify unsafe conditions in the existing state prisons, it is necessary that this act take effect immediately.

CHAPTER 790

An act to amend, repeal, and add Section 11050.5 of, to add and repeal Section 1463.14 of, the Penal Code, and to amend, repeal, and add Sections 23101, 23102, 23103, 23104, 23105, and 23106 of the Vehicle Code, relating to public offenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978 Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 1463.14 is added to the Penal Code, to read:

1463.14. Notwithstanding the provisions of Section 1463, of the moneys deposited with the county treasurer pursuant to Section 1463, twenty-five dollars ($25) for each conviction of a violation of Vehicle Code Section 23101, 23102, 23103, 23104, 23105, or 23106 shall be deposited in a special account which shall be used exclusively to pay for the cost of performing for the county, or a city within the county, analysis of blood, breath, or urine for alcohol content or for the presence of controlled substances, or for services related to such testing.

On November 1 of each year, the treasurer of each county shall determine those moneys in the special account which were not expended during the preceding fiscal year, and shall transfer such moneys into the general fund of the county. The county may retain an amount of such money equal to its administrative cost incurred pursuant to this section, and shall distribute the remainder pursuant to Section 1463.

The Department of Justice shall promulgate rules and regulations to implement the provisions of this section.

This section shall remain in effect only until July 1, 1980, and as of such date is repealed.

SEC. 2. Section 11050.5 of the Penal Code is amended to read:

11050.5. (a) The Attorney General may, upon the request of any district attorney, sheriff, chief of police, or other local, state or federal law enforcement official, make available to such official so requesting, the department's laboratory facilities and personnel and the department's technical experts, including but not limited to such personnel as fingerprint examiners, criminalists, document examiners and intelligence specialists for the purpose of assisting in the investigation of criminal matters, the detection of crimes and the apprehension or prosecution of criminals.

(b) The Attorney General may, upon the request of any public defender or private defense counsel appointed by the court, make available to such public defender or such private appointed counsel, the department's laboratory facilities and personnel and the department's technical experts, including but not limited to such personnel as fingerprint examiners, criminalists, document examiners and intelligence specialists for the purpose of assisting in the representation by such public defender or private appointed counsel of persons in criminal proceedings. The Attorney General may contract with each county whose public defender or such private appointed counsel makes requests pursuant to this subdivision for the payment of the reasonable costs of time and material in making available information, services or facilities

pursuant to this subdivision. No information, services or facilities shall be made available to such public defender or private appointed counsel unless the county so contracts with the Attorney General.

(c) A copy of any information, including the results of any analysis, furnished by the Attorney General to a public defender, or private defense counsel appointed by the court, pursuant to subdivision (b) shall be sent to the district attorney of the county in which the public defender is located. If this subdivision or its application to any person or circumstance is invalid, subdivision (b) shall not be operative.

(d) The Department of Justice may charge a fee for the laboratory services which it performs.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed.

SEC. 2.5. Section 11050.5 is added to the Penal Code, to read:

11050.5. (a) The Attorney General may, upon the request of any district attorney, sheriff, chief of police, or other local, state or federal law enforcement official, make available to such official so requesting, the department's laboratory facilities and personnel and the department's technical experts, including but not limited to such personnel as fingerprint examiners, criminalists, document examiners and intelligence specialists for the purpose of assisting in the investigation of criminal matters, the detection of crimes and the apprehension or prosecution of criminals.

(b) The Attorney General may, upon the request of any public defender or private defense counsel appointed by the court, make available to such public defender or such private appointed counsel, the department's laboratory facilities and personnel and the department's technical experts, including but not limited to such personnel as fingerprint examiners, criminalists, document examiners and intelligence specialists for the purpose of assisting in the representation by such public defender or private appointed counsel of persons in criminal proceedings. The Attorney General may contract with each county whose public defender or such private appointed counsel makes requests pursuant to this subdivision for the payment of the reasonable costs of time and material in making available information, services or facilities pursuant to this subdivision. No information, services or facilities shall be made available to such public defender or private appointed counsel unless the county so contracts with the Attorney General.

(c) A copy of any information, including the results of any analysis, furnished by the Attorney General to a public defender, or private defense counsel appointed by the court, pursuant to subdivision (b) shall be sent to the district attorney of the county in which the public defender is located. If this subdivision or its application to any person or circumstance is invalid, subdivision (b) shall not be operative.

This section shall become operative on July 1, 1980.

SEC. 3. Section 23101 of the Vehicle Code is amended to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and when so driving do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and when so driving do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by fine of not less than two hundred seventy-five dollars ($275) nor more than five thousand dollars ($5,000).

(d) If any person is convicted of an offense under this section within five years of a prior conviction of a violation of Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 5 days but not more than one year and pay a fine of at least two hundred seventy-five dollars ($275) but not more than five thousand dollars ($5,000). If any person is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least two hundred seventy-five dollars ($275) but not more than five thousand dollars ($5,000).

(e) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23102, 23105, or 23106 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred seventy-five dollars ($275), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23105, or 23106 for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any

of such reasons.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed.

SEC. 3.5. Section 23101 is added to the Vehicle Code, to read:

23101. (a) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon a highway and when so driving do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle other than on a highway and when so driving do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

(d) If any person is convicted of an offense under this section within five years of a prior conviction of a violation of Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 5 days but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than five thousand dollars ($5,000). If any person is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23106, and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year, and pay a fine of at least two hundred fifty dollars ($250) but not more than five thousand dollars ($5,000).

(e) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23102, 23105, or 23106 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23102, 23105, or 23106 for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On

appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

This section shall become operative on July 1, 1980.

SEC. 4. Section 23102 of the Vehicle Code is amended to read:

23102. (a) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by fine of not less than two hundred seventy-five dollars ($275) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to, and does participate in and successfully completes, a driver improvement program or treatment program for persons who are habitual users of alcohol, or both such programs, as designated by the court, the court shall punish such person by a fine of not less than one hundred seventy-five dollars ($175) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(d) Any person convicted of an offense under this section within five years of a prior conviction of an offense under this section or Section 23105 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than two hundred seventy-five dollars ($275) nor more than one thousand dollars ($1,000). Any person convicted of an offense under this section within five years of a prior conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred seventy-five dollars ($275) nor more than one thousand dollars ($1,000).

(e) If any person is convicted of an offense under this section within five years of a prior conviction under this section or under Section 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least two hundred seventy-five dollars ($275) but not more than one thousand dollars ($1,000). If any person is convicted of an offense under this section within five years of a prior conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such

person be confined in jail for not less than five days nor more than one year and by a fine of not less than two hundred seventy-five dollars ($275) nor more than one thousand dollars ($1,000).

(f) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction under this section or Section 23101, 23105, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least two hundred seventy-five dollars ($275), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction it shall be conclusively presumed that such order was made only for the reasons specified in such order and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(h) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(i) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

This section shall remain in effect only until July 1, 1980, and as of such date is repealed.

SEC. 4.5. Section 23102 is added to the Vehicle Code, to read:

23102. (a) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of intoxicating liquor, or under the combined influence of intoxicating liquor and any drug, to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any

person so convicted consents to, and does participate in and successfully completes, a driver improvement program or treatment program for persons who are habitual users of alcohol, or both such programs, as designated by the court, the court shall punish such person by a fine of not less than one hundred fifty dollars ($150) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(d) Any person convicted of an offense under this section within five years of a prior conviction of an offense under this section or Section 23105 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000). Any person convicted of an offense under this section within five years of a prior conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

(e) If any person is convicted of an offense under this section within five years of a prior conviction under this section or under Section 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than one thousand dollars ($1,000). If any person is convicted of an offense under this section within five years of a prior conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

(f) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction under this section or Section 23101, 23105, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction it shall be conclusively presumed that such order was

made only for the reasons specified in such order and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(h) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(i) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

This section shall become operative on July 1, 1980.

SEC. 5. Section 23103 of the Vehicle Code is amended to read:

23103. Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and upon conviction thereof shall be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by fine of not less than fifty dollars ($50) nor more than two hundred fifty dollars ($250) or by both such fine and imprisonment, except as provided in Section 23104.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed.

SEC. 5.5. Section 23103 is added to the Vehicle Code, to read:

23103. Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and upon conviction thereof shall be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by fine of not less than twenty-five dollars ($25) nor more than two hundred fifty dollars ($250) or by both such fine and imprisonment, except as provided in Section 23104.

This section shall become operative on July 1, 1980.

SEC. 6. Section 23104 of the Vehicle Code is amended to read:

23104. Whenever reckless driving of a vehicle proximately causes bodily injury to any person, the person driving the vehicle shall upon conviction thereof be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by fine of not less than one hundred twenty-five dollars ($125) nor more than five hundred dollars ($500) or by both.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed.

SEC. 6.5. Section 23104 is added to the Vehicle Code, to read:

23104. Whenever reckless driving of a vehicle proximately causes bodily injury to any person, the person driving the vehicle shall upon conviction thereof be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by both.

This section shall become operative on July 1, 1980.

SEC. 7. Section 23105 of the Vehicle Code is amended to read:

23105. (a) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) It is unlawful for any person who is addicted to the use of any drug, except such a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code, to drive a vehicle upon any highway.

(d) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by fine of not less than two hundred seventy-five dollars ($275) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any person so convicted consents to participate, and does participate in and successfully completes, a driver improvement program or a treatment program for persons who are habitual users of drugs, or both such programs, as designated by the court, a court shall punish such person by fine of not less than one hundred seventy-five dollars ($175) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(e) Any person convicted of an offense under this section within five years of a prior conviction of an offense under this section or Section 23102 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than two hundred seventy-five dollars ($275) nor more than one thousand dollars ($1,000). Any person convicted of an offense under this section within five years of a prior conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred seventy-five dollars ($275) nor more than one thousand dollars ($1,000).

(f) If any person is convicted of an offense under this section within five years of a prior conviction under this section or under Section 23102 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least two hundred seventy-five dollars ($275) but not more than one thousand dollars ($1,000). If any person is convicted of an offense under this section within five years of a prior conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and by a fine of not less than two hundred seventy-five dollars ($275) nor more than one thousand dollars ($1,000).

(g) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction under this section or Section 23101, 23102, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least two hundred seventy-five dollars ($275), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction it shall be conclusively presumed that such order was made only for the reasons specified in such order and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(i) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(j) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed.

SEC. 7.5. Section 23105 is added to the Vehicle Code, to read:

23105. (a) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon any highway.

(b) It is unlawful for any person who is under the influence of any drug to drive a vehicle upon other than a highway.

The department shall not be required to provide patrol or enforce the provisions of this subdivision.

(c) It is unlawful for any person who is addicted to the use of any drug, except such a person who is participating in a methadone maintenance treatment program approved pursuant to Article 3 (commencing with Section 4350) of Chapter 1 of Part 1 of Division 4 of the Welfare and Institutions Code, to drive a vehicle upon any highway.

(d) Any person convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than 48 hours nor more than six months or by fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500) or by both such fine and imprisonment. If, however, any

person so convicted consents to participate, and does participate in and successfully completes, a driver improvement program or a treatment program for persons who are habitual users of drugs, or both such programs, as designated by the court, a court shall punish such person by fine of not less than one hundred fifty dollars ($150) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than 48 hours nor more than six months or by both such fine and imprisonment.

(e) Any person convicted of an offense under this section within five years of a prior conviction of an offense under this section or Section 23102 shall be punished by imprisonment in the county jail for not less than 48 hours nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000). Any person convicted of an offense under this section within five years of a prior conviction of a violation of Section 23101 or 23106 shall be punished by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

(f) If any person is convicted of an offense under this section within five years of a prior conviction under this section or under Section 23102 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 48 hours but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than one thousand dollars ($1,000). If any person is convicted of an offense under this section within five years of a prior conviction under Section 23101 or 23106 and is granted probation, it shall be a condition of probation that such person be confined in jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000).

(g) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction under this section or Section 23101, 23102, or 23106 from the obligation of spending the minimum time in confinement in the county jail as provided in this section and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision (h).

(h) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement in the county jail and the minimum fine, as provided in this section.

When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order.

On appeal by the people from such an order striking such a prior conviction it shall be conclusively presumed that such order was

made only for the reasons specified in such order and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

(i) The court may order that any person convicted under this section, who is to be punished by imprisonment in jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(j) If the person convicted under this section is under the age of 21 years and the vehicle used in any such violation is registered to such person, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days.

This section shall become operative on July 1, 1980.

SEC. 8. Section 23106 of the Vehicle Code is amended to read:

23106. (a) It is unlawful for any person, while under the influence of any drug, to drive a vehicle upon a highway and when so driving do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of any drug, to drive a vehicle other than on a highway and when so driving do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by fine of not less than two hundred seventy-five dollars ($275) nor more than five thousand dollars ($5,000).

(d) If any person is convicted of an offense under this section within five years of a prior conviction under Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least five days but not more than one year and pay a fine of at least two hundred seventy-five dollars ($275) but not more than five thousand dollars ($5,000). If any person is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23101 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year and pay a fine of at least two hundred seventy-five dollars ($275) but not more than five thousand dollars ($5,000).

(e) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23101, 23102, or 23105 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred seventy-five dollars ($275), except as provided in subdivision (f).

(f) Except in unusual cases where the interests of justice demand

an exception, the court shall not strike a prior conviction of an offense under this section or Section 23101, 23102, or 23105 for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

This section shall remain in effect only until July 1, 1980, and as of that date is repealed.

SEC. 8.5. Section 23106 is added to the Vehicle Code, to read:

23106. (a) It is unlawful for any person, while under the influence of any drug, to drive a vehicle upon a highway and when so driving do any act forbidden by law or neglect any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes death or bodily injury to any person other than himself.

(b) It is unlawful for any person, while under the influence of any drug, to drive a vehicle other than on a highway and when so driving do any act, or neglect any duty imposed by law, which act or neglect proximately causes death or bodily injury to any person other than himself.

(c) Any person convicted under this section shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000).

(d) If any person is convicted of an offense under this section within five years of a prior conviction under Section 23102 or 23105 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least five days but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than five thousand dollars ($5,000). If any person is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23101 and is granted probation, it shall be a condition of probation that such person be confined in jail for at least 90 days but not more than one year and pay a fine of at least two hundred fifty dollars ($250) but not more than five thousand dollars ($5,000).

(e) In no event does the court have the power to absolve a person who is convicted of an offense under this section within five years of a prior conviction of a violation of this section or Section 23101, 23102, or 23105 from the obligation of spending the minimum time in confinement as provided in this section and of paying a fine of at least two hundred fifty dollars ($250), except as provided in subdivision

(f).

(f) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under this section or Section 23101, 23102, or 23105 for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for such striking order. On appeal by the people from such an order striking such a prior conviction, it shall be conclusively presumed that such order was made only for the reasons specified in such order, and such order shall be reversed if there is no substantial basis in the record for any of such reasons.

This section shall become operative on July 1, 1980.

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 self-financing authority is provided in this act to cover such costs.

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:

Funding for the state-run blood-alcohol laboratory program will expire December 31, 1978. This bill provides a source of funding for this program without which the laboratories must close. If these laboratories are not operational, there will be a significant reduction in the ability to enforce laws against drunk drivers, and we can expect a rise in deaths and injury caused by drunk drivers. A measure to fund these laboratories must be passed this session to insure that the laboratories continue to provide blood-alcohol lab analyses.

CHAPTER 791

An act to add Sections 21085.5 and 21085.6 to the Public Resources Code, and to add Section 7660 to the Public Utilities Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 21085.5 is added to the Public Resources Code, to read:

21085.5. A project for the institution or increase of passenger or commuter service on rail lines already in use, including the

modernization of existing stations and parking facilities, shall be exempt from this division.

SEC. 1.5. Section 21085.6 is added to the Public Resources Code, to read:

21085.6. A project for the development of a regional transportation improvement program or the state transportation improvement program is exempt from this division.

SEC. 2. Section 7660 is added to the Public Utilities Code, to read:

7660. The commission, in authorizing any restrictions on the speed of rail services, shall do so only upon receipt of evidence and a finding (a) that the restriction is required due to track condition, alignment, curvature of tracks, superelevation, or inadequate right-of-way protection, or any combination thereof, as the case may be, and (b) that higher speeds will have an adverse impact upon the health and safety of the public until the specified conditions are changed.

SEC. 3. All funds appropriated by Section 12 of Chapter 1349 of the Statutes of 1976 for the improvement of railroad tracks pursuant to paragraph (2) of subdivision (c) of the section that are unencumbered as of July 1, 1978, are hereby reappropriated to the Department of Transportation to enter into an agreement with the National Railroad Passenger Corporation for (a) the improvement of the railroad tracks and passenger facilities, the installation of fencing and crossing protection devices, and the retiming of grade protection facilities on the line of railroad between Los Angeles and San Diego, and (b) the purchase of rights-of-way and the realignment of that portion of the line between San Juan Capistrano and San Clemente, so that trains may operate safely on the line at a speed of 110 miles per hour.

SEC. 4. Any facility or equipment purchased or improved by any entity with funds made available to it pursuant to Chapter 1349 of the Statutes of 1976, or reappropriated by Section 3 of this act, may become the property of that entity at such time and under such conditions as are agreed upon by the state in the agreement that made such funds available to the entity.

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 rail passenger services be implemented with a minimum of delay and the line of railroad between Los Angeles and San Diego be improved as soon as possible to accommodate safely train speeds of 110 miles per hour from funds which may be available for such purpose, it is necessary that this act take effect immediately.

1 1894 0 29574

CHAPTER 792

An act relating to the sale of real property by the Director of General Services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Notwithstanding the provisions of Chapter 23 of the Statutes of 1976, Chapter 1256 of the Statutes of 1976, and Chapter 3 of the Statutes of 1977, the Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell the following real property, and any water company stock held in connection therewith, to the County of San Mateo or the Midpeninsula Regional Open Space District, or to the County of San Mateo and the Midpeninsula Regional Open Space District, for the current market value, as determined by an appraisal approved by the director of General Services, 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:

Parcel 1. Approximately 274 acres acquired from private parties and located in the westernly boundaries of Redwood City in the County of San Mateo.

Parcel 2. Approximately 203 acres acquired from the County and City of San Francisco and located south of Edgewood County Road and east of State Freeway 280 in San Mateo County.

SEC. 2. Any moneys received from the sale of real property pursuant to this act shall be paid into the Capital Outlay Fund for Public Higher Education for capital outlay by the Trustees of the California State University and Colleges, to be expended pursuant to the provisions contained in Item 484 of the Budget Act of 1978, except that any costs or expenses incurred in the sale of real property pursuant to this act may be reimbursed from the proceeds of the sale.

SEC. 2.5. As soon as possible after the effective date of this act, the Director of General Services shall conduct an appraisal of the parcels described in Section 1.

SEC. 3. As to any property conveyed pursuant to Section 1 of this act, the Director of General Services shall reserve to the state all mineral deposits, as defined by Section 6407 of the Public Resources Code.

SEC. 4. Within 90 days of the completion of the appraisal conducted pursuant to Section 2.5, the Midpeninsula Regional Open Space District or County of San Mateo shall indicate to the Department of General Services the sources of funding for the purchase of the parcels described in Section 1.

SEC. 5. In the event the Director of General Services does not

enter into an agreement to sell the parcels described in Section 1 with the County of San Mateo or the Midpeninsula Regional Open Space District, or with the County of San Mateo and the Midpeninsula Regional Open Space District, within one year of the completion of the appraisal conducted pursuant to Section 2.5, the director may sell the property at current market value.

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 to consummate as soon as possible a sale with the County of San Mateo or the Midpeninsula Regional Open Space District which intend to utilize the parcels for recreational purposes or for undeveloped open space, it is necessary that the provisions of this act go into effect immediately.

CHAPTER 793

An act making an appropriation for the state park system, and in this connection amending and supplementing the Budget Act of 1978 (Chapter 359, Statutes of 1978) by adding Section 2.8I thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978 Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 2.8I is added to the Budget Act of 1978 (Chapter 359, Statutes of 1978), to read:

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

Sec. 2.8I. 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 fiscal year. All such appropriations shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

CAPITAL OUTLAY

RESOURCES

503I—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 Re-

sources Code, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974 40,000

Schedule:

(a) Town of Locke State Park Project —acquisition, restoration, and development 40,000

provided, that such funds shall be expended only for plans for the acquisition, restoration, and development of the Town of Locke State Park Project, as depicted on the map of such project.

Provided, further, that funds are expended to plan for the acquisition of only such interest in Area III of such map as will assure its continued use for agricultural purposes.

Provided, further, that none of the funds appropriated in this item for the project set forth herein shall be available for incumbrance unless and until such project is recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency.

Provided, further, that such plans shall be completed by June 1, 1979.

Reversion

506I—As of the effective date of the act that added Section 2.8I to the Budget Act of 1978 (Chapter 359, Statutes of 1978) the unencumbered balance of the appropriation made by the following item shall revert to the unappropriated balance of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

(a) Item 505(a)(26), Budget Act of 1978, Delta Meadows State Park Project 40,000

SEC. 2. Funds appropriated by Section 1 of this act shall be available for plans for the acquisition, development, and restoration of the townsite, gardens, packing shed, and any additional land described on the map of the proposed Town of Locke State Park Project.

SEC. 3. It is the intent of the Legislature that the Town of Locke State Park Project continue the traditional, commercial, and residential functions of the town, and that town life be continued in the same manner as presently exists. It is the intent of the Legislature that, whenever possible, provisions be made for continued tenure by present residents of the town, by such means as leases, life estates, or similar property interest arrangements.

SEC. 4. This act is an urgency statute necessary for the immedi-

ate preservation of the public peace, 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 sufficient lead time to complete the plans called for in this act by June 1, 1979, it is necessary that this act take effect immediately.

CHAPTER 794

An act to amend Sections 2206.5, 2231, 2236, 2241, 2246, 2250, 2253, 2253.2, 2253.5, 2253.8, and 2255 of, to add Sections 2238, and 2255.1 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 2206.5 of the Revenue and Taxation Code is amended to read:

2206.5. "Costs mandated by the voters" means any increased costs expressly mandated upon a local agency or school district after September 2, 1975, by any statute or any amendment to the State Constitution adopted or enacted pursuant to the approval of a statewide ballot measure by the voters. "Costs mandated by the voters" does not include costs which are specifically reimbursed or funded by the terms of such ballot measure.

SEC. 1.1. Section 2231 of the Revenue and Taxation Code is amended to read:

2231. (a) The state shall reimburse each local agency for all "costs mandated by the state", as defined in Section 2207. The state shall reimburse each school district only for those "costs mandated by the state" as defined in Section 2207.5.

(b) For the initial fiscal year during which such costs are incurred reimbursement funds shall be provided as follows: (1) any statute mandating such costs shall provide an appropriation therefor, and (2) any executive order mandating such costs shall be accompanied by a bill appropriating the funds therefor, or, alternatively, an appropriation for such funds shall be included in the Budget Bill for the next following fiscal year, and such executive order shall cite the appropriate Budget Bill item or other bill as the source from which the Controller may pay the claims of local agencies and school districts.

In subsequent fiscal years appropriations for such costs shall be included in the State Budget and in the Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders

for which claims have been awarded pursuant to subdivision (b), (c), or (d) of Section 2253 shall be included in the State Budget and in the Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 2255 which includes the amounts awarded relating to such chaptered bills or executive orders.

(c) The amount appropriated for such purposes shall be appropriated to the Controller for disbursement.

(d) The Controller shall disburse reimbursement funds to local agencies as follows:

(1) For the initial fiscal year during which such costs will be incurred, each local agency or school district to which the mandate is applicable shall submit to the Controller, within 45 days of the operative date of the mandate, a claim for payment of its estimated costs required by such mandate for the current fiscal year. If the local agency or school district does not submit such claim within the 45-day period, it may submit its claim for reimbursement for costs incurred in such initial fiscal year concurrent with its submission of the claim described in paragraph 2 of this subdivision without any imposition of a late penalty pursuant to Section 2237. The Controller shall pay such claims from the funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim which he determines is excessive or unreasonable. The amendments to this paragraph during 1978 shall apply to all claims submitted on or after January 1, 1978.

(2) In subsequent fiscal years each local agency or school district shall submit such claims to the Controller by October 31. The Controller shall pay such claims from funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (ii) may reduce any claim, which he determines is excessive or unreasonable, and (iii) shall adjust the payment to correct for any underpayments or overpayments which occurred in the previous fiscal year.

SEC. 2. Section 2236 of the Revenue and Taxation Code is amended to read:

2236. In the event that the amount appropriated for reimbursement purposes pursuant to Section 2231 is not sufficient to pay all of the claims approved by the Controller, the Controller shall prorate claims in proportion to the dollar amount of approved claims timely filed and on hand at the time of proration. The Controller shall adjust prorated claims if supplementary funds are appropriated for this purpose.

In the event that the Controller finds it necessary to prorate claims as provided by this section, he shall immediately report such action to the Department of Finance and to the chairmen of the respective committees in each house of the Legislature which consider appropriations in order to assure appropration of such funds in the Budget Act. If such funds cannot be appropriated on a timely basis

in the Budget Act, the Controller shall transmit such information to the State Board of Control which shall include such amounts in its report to the Legislature pursuant to Section 2255 to assure that an appropriation sufficient to pay such claims is included in the local government claims bills or other appropriation bills. If the local government claims bills have been introduced in the Legislature, the Controller shall report directly to the chairmen of the respective fiscal committees to assure inclusion of a sufficient appropriation in such claims bills.

SEC. 3. Section 2238 is added to the Revenue and Taxation Code, to read:

2238. If a local agency or school district submits an otherwise valid claim to the Controller after the deadline specified in paragraph (2) of subdivision (d) of Section 2231, the Controller shall pay such claim in an amount equal to 80 percent of the amount which would have been allowed pursuant to paragraph (2) of subdivision (d) of such section. Claims which were filed by the deadline specified in paragraph (2) of subdivision (d) of such section shall be paid in full before payments are made on claims filed after the deadline. In the event the amount appropriated to the Controller for reimbursement purposes is not sufficient to pay such claims approved by the Controller, the Controller shall prorate such claims in proportion to the dollar amount of approved claims filed after the deadline and shall report to the State Board of Control or the Legislature in the same manner as described in Section 2236 in order to assure appropriation of funds sufficient to pay such claims.

SEC. 4. Section 2241 of the Revenue and Taxation Code is amended to read:

2241. When a bill is introduced in the Legislature, and each time a bill is amended, the Legislative Counsel shall determine whether such bill requires state reimbursement to local agencies or school districts pursuant to Section 2229, 2230, or 2231. He shall make this determination known in the digest of the bill. For purposes of this section, whenever a bill requires a state agency to issue an executive order which would impose a cost mandated by the state pursuant to subdivision (b) or (c) of Section 2207 or subdivision (b) or (c) of Section 2207.5, the Legislative Counsel shall find that such bill does require state reimbursement pursuant to Section 2231 and shall make this determination known in the digest of the bill.

In making the determination required by this section the Legislative Counsel shall disregard any provision in a bill which would make inoperative the reimbursement requirements of Section 2229, 2230, or 2231, and shall make his determination irrespective of any such provision.

SEC. 4.5. Section 2246 of the Revenue and Taxation Code is amended to read:

2246. (a) Before the end of each calendar year the Department of Finance shall review all statutes enacted during such calendar year which (1) contain provisions making inoperative Section 2229, 2230,

2231, or 2234 or (2) have resulted in costs or revenue losses mandated by the state which were not identified when the statute was enacted. Such review shall identify the costs or revenue losses involved in complying with the provisions of such statutes. The Department of Finance shall submit to the Legislature an annual report of the review required by this section, together with such recommendations as it may deem appropriate.

SEC. 5. Section 2250 of the Revenue and Taxation Code is amended to read:

2250. The State Board of Control, pursuant to the provisions of this article, shall hear and decide upon a claim by a local agency or school district that such local agency or school district has not been reimbursed for all costs mandated by the state as required by Section 2231 or 2234.

Notwithstanding any other provision of law, this article shall provide the sole and exclusive procedure by which the Board of Control shall hear and decide upon a claim that a local agency or school district has not been reimbursed for all costs mandated by the state as required by Section 2231 or 2234.

SEC. 6. Section 2253 of the Revenue and Taxation Code is amended to read:

2253. Claims submitted pursuant to this article for reimbursement, as required by Section 2231, of a cost mandated by the state shall be limited to the following:

(a) A claim alleging that the Controller has incorrectly reduced payments to a local agency pursuant to the provisions of paragraph (2) of subdivision (d) of Section 2231;

(b) A claim alleging that a chaptered bill or an executive order has resulted in costs mandated by the state and that such bill or executive order contains a provision making inoperative Section 2231 or 2234 or

(c) A claim alleging that a chaptered bill has resulted in costs mandated by the state and that such bill contains neither a provision making inoperative Section 2231 or 2234 nor an appropriation to reimburse the claimant for such costs; or

(d) A claim alleging that an executive order has resulted in costs mandated by the state, that no funds have been appropriated pursuant to Section 2231 to reimburse the claimant for such costs, and that such executive order does not contain a provision making inoperative Section 2231 or 2234.

Subdivisions (b) and (c) of this section shall apply only to claims submitted under a bill chaptered after January 1, 1973, for all costs incurred after January 1, 1978.

SEC. 10. Section 2253.2 of the Revenue and Taxation Code is amended to read:

2253.2. (a) The Board of Control shall, within ten days after receipt of the first claim based upon each chaptered bill or executive order as described in subdivisions (b) and (d) of Section 2253, set a date for a public hearing on such claim within a reasonable time.

Such claims shall be submitted in a form prescribed by the board. After a hearing in which the claimant and any other interested organization or individual may participate, the board, if it determines a cost was mandated, shall adopt parameters and guidelines for reimbursement of any claims relating to such bill or executive order. A local agency, school district, and the state may file a claim or request with the board to amend, modify, or supplement such parameters or guidelines. The board may, after due public notice and hearing, amend, modify, or supplement such parameters and guidelines.

The board shall include in its report to the Legislature required under Section 2255 the number and amount of claims awarded pursuant to this section. The local government claims bill, specified in Section 2255, at the time of its introduction shall provide for an appropriation sufficient to pay all claims awarded pursuant to this section.

(b) The Board of Control shall not allow, pursuant to either Section 2250 of this code or to Section 905.2 of the Government Code, any claim submitted by a local agency or school district if, after a hearing, the board finds that:

(1) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the chaptered bill, and that chaptered bill imposes costs upon that local agency or school district requesting such legislative authority. For purposes of this paragraph, a resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests legislative authorization for that local agency or school district to implement a given program shall constitute a "request" within the meaning of this paragraph, except that a request to implement an existing reimbursable mandate in an alternative manner shall not constitute a "request"; or

(2) The chaptered bill affirmed for the state that which had been declared existing law or regulation by action of the courts; or

(3) The chaptered bill implemented a federal law or regulation, unless such chaptered bill mandates costs which exceed the mandate in such law or regulation; or

(4) The chaptered bill provided for self-financing authority, unless the mandated cost exceeds the revenue from the additional self-financing authority; or

(5) The chaptered bill provides for offsetting savings to local agencies or school districts which result in no net costs to such local agencies or school districts.

(c) The Board of Control shall not consider, pursuant to either Section 2250 of this code or to Section 905.2 of the Government Code, any claims submitted by a local agency or school district if:

(1) The chaptered bill imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election; or

(2) The chaptered bill created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the chaptered bill relating directly to the enforcement of the crime or infraction; or

(3) The claim is for two hundred dollars ($200) or less.

(d) The Legislature declares that the purpose of this section is to encourage local agencies and school districts to file claims for reimbursement with much more advance knowledge of the extent of possible reimbursement and to provide for a more expeditious and efficient claims process.

SEC. 8. Section 2253.5 of the Revenue and Taxation Code is amended to read:

2253.5. A claimant or the state may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure to set aside a decision of the Board of Control on the grounds that the board's decision is not supported by substantial evidence. The court may order the board to hold another hearing regarding such claim and may direct the board on what basis the claim is to receive a rehearing.

SEC. 9. Section 2253.8 of the Revenue and Taxation Code is amended to read:

2253.8. In no case shall a claim be considered which is submitted more than one year after the deadline specified in paragraph (2) of subdivision (d) of Section 2231.

SEC. 10. Section 2255 of the Revenue and Taxation Code is amended to read:

2255. At least twice each calendar year the Board of Control shall report to the Legislature on the number of claims it has allowed pursuant to the provisions of this article. Such report shall identify the claimants, the amount of each allowed claim, and the reasons for recommending approval. Such report may be included in the report required by Section 13928 of the Government Code. Immediately on receipt of such report a local government claims bill shall be introduced in the Legislature. The local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay all claims awarded pursuant to the provisions of this article, by the Board of Control during the preceding calendar year.

SEC. 11. Section 2255.1 is added to the Revenue and Taxation Code, to read:

2255.1. Notwithstanding Section 2255, the Board of Control may request that separate local government claims bills be introduced for any claims awarded by the board that amount to at least three million dollars ($3,000,000) resulting from any one specific chaptered bill or executive order. In addition, separate appropriation bills may be introduced to appropriate funds sufficient to pay such claims, in which case the appropriate local government claims bill shall be amended to exclude such claims.

SEC. 12. The Legislative Analyst shall evaluate the effectiveness of implementation of the provisions of Chapter 1135, Senate Bill 90,

enacted during the first year of the 1977–78 Regular Session of the Legislature and submit his report to the Joint Legislative Budget Committee by April 2, 1979. In the report, the Legislative Analyst shall:

(1) Compare the estimates of the amounts of reimbursement required to pay for mandated costs prepared by the Department of Finance pursuant to Sections 2242 and 2243 of the Revenue and Taxation Code to the actual amounts of appropriations provided for in all bills considered by the fiscal and revenue and taxation committees in each house during the second year of the 1977–78 Regular Session.

(2) Evaluate the effectiveness by which the Department of Finance prepares its estimates pursuant to Sections 2242 and 2243. The report shall include specific recommendations for changes in the method of preparing estimates or other related procedures used to comply with Sections 2242 and 2243.

(3) Evaluate the effectiveness of the five-member Board of Control's implementation of the claims process established under Chapter 1135, Senate Bill 90 of 1977.

(4) Evaluate the effectiveness of local agencies' and school districts' (a) provision of information to the Department of Finance to assist in the preparation of estimates pursuant to Sections 2242 and 2243, (b) role in monitoring legislation and executive orders that contain incorrect disclaimers and do not provide funds for reimbursement for state-mandated costs, and (c) role in filing so-called "test" claims under Sections 2253 and 2253.2 of Chapter 1135, Senate Bill 90 of 1977.

(5) Evaluate the effectiveness of the revenue and taxation and fiscal committees' analyses and review of bills containing so-called "SB 90 disclaimers."

(6) Evaluate the fiscal effects of the two hundred dollars ($200) minimum under Section 2233 on local agencies and school districts and the potential administrative costs for the state to pay claims under such minimum amount.

(7) Evaluate the effectiveness of the auditing of claims by the Controller.

(8) Evaluate the effectiveness of procedures established and implemented by the Department of Finance and other state agencies to review executive orders prior to their adoption to assure that such executive orders, where appropriate, are accompanied by appropriations for reimbursement pursuant to Section 2231 of the Revenue and Taxation Code.

(9) Evaluate the effectiveness of the manner in which the Legislative Counsel determines under Section 2241 whether a bill requires state reimbursement.

(10) Evaluate whether the state should reduce or offset the claims of local agencies or school districts in amounts equivalent to the savings to those entities resulting from legislation enacted in the same calendar year, and, if such reduction or offsets should be made,

evaluate how such reductions or offsets should be made.

(11) Include discussion of any other matters that the Legislative Analyst believes are related directly to the purposes of this study.

The report shall include any recommendations the Legislative Analyst may have in order to improve the effectiveness of implementation of Chapter 1135.

In the preparation of the report, the Legislative Analyst shall consult with local agencies and school districts.

SEC. 13. The Legislature recognizes that it has enacted many statutes without proper consideration of appropriate reimbursement for the state-mandated costs resulting from such statutes.

The Legislative Analyst shall review all statutes upon which test claims have been filed subsequent to January 1, 1978, pursuant to Section 2253 of the Revenue and Taxation Code and where the Board of Control has found mandates exist. The Analyst shall review each such statute in light of its estimated future costs to the state recoverable through the claims process. The Analyst shall recommend, in the case of each such statute, whether the Legislature should reconsider its original enactment of such statute to repeal or modify its provisions.

The Analyst shall submit this report to the Joint Legislative Budget Committee by November 1, 1978.

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:

In order to implement Chapter 1135 of the Statutes of 1977 this act must take effect immediately.

CHAPTER 795

An act to amend Sections 700 and 838.5 of, and to add Sections 1107 1107.1, 11521.1, 11521.2, 11521.3, 11521.4, and 11521.5 to, the Insurance Code, relating to insurance.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 700 of the Insurance Code is amended to read:

700. (a) A person shall not transact any class of insurance business in this state without first being admitted for such class. Such admission is secured by procuring a certificate of authority from the commissioner. Such certificate shall not be granted until the applicant conforms to the requirements of this code and of the laws of this state prerequisite to its issue.

(b) The unlawful transaction of insurance business in this state in willful violation of the requirement for a certificate of authority is a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding one hundred thousand dollars ($100,000), or by both, and shall be enjoined by a court of competent jurisdiction on petition of the commissioner.

(c) After the issuance of a certificate of authority, the holder shall continue to comply with the requirements as to its business set forth in this code and in the other laws of this state.

(d) Where a hearing is held under this section the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

SEC. 1.5. Section 838.5 of the Insurance Code is amended to read:

838.5. Pursuant to this code, the commissioner has been and is authorized, in the instance of an application for a permit to issue securities in exchange for one or more bona fide outstanding securities, claims or property interest, or partly in such exchange and partly for cash, to approve the terms and conditions of such issuance and exchange and the fairness of such terms and conditions, after a hearing upon the fairness of such terms and conditions, to which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear.

SEC. 2. Section 1107 is added to the Insurance Code, to read:

1107. In accordance with either subdivision (e) of Section 1001 or Section 1101.1 of the Corporations Code, an insurer may apply for the insurance commissioner's approval of the terms and conditions of the covered transactions and the fairness of such terms and conditions to deliver consideration other than securities which shall be in such form, contain such information and be accompanied by such documents as the commissioner deems appropriate or requires.

SEC. 3. Section 1107.1 is added to the Insurance Code, to read:

1107.1. The commissioner shall require the payment of two hundred fifty dollars ($250) in lawful money of the United States as fee for the determination referred to in Section 1107.

SEC. 4. Section 11521.1 is added to the Insurance Code, to read:

11521.1. The funds and other property, together with interest and dividends thereon and proceeds therefrom, conditioned upon insurance of the certificate holder's contracts to pay annuities, shall be maintained under a trust agreement in a separate account legally and physically segregated from the other assets of the certificate holder. Such requirement does not prevent the certificate holder from withdrawing from time to time, pursuant to an appropriate resolution of its board of trustees, such amount or amounts as are determined, in a manner which is satisfactory to the commissioner, to be excess over and above its reserve required to be maintained under the provisions of Section 11521.

SEC. 5. Section 11521.2 is added to the Insurance Code, to read:

11521.2. (a) The reserve required by the table of commensurate values for each annuity contract issued must be invested in investments specified in Sections 1170 through 1182 except that a certificate holder may invest in securities listed and traded on the New York Stock Exchange, the American Stock Exchange or regional stock exchanges or successors to such exchanges having the same qualifications, to the extent of the lesser of net worth (assets over liabilities and reserves) of the certificate holder or 10 percent of such general investments. This section does not permit investment in options or commodity exchanges.

(b) The certificate holder may invest in such other investments as permitted by and subject to the written consent of the commissioner.

SEC. 6. Section 11521.3 is added to the Insurance Code, to read:

11521.3. (a) Prior to admission each applicant shall file with the commissioner an accurate and complete financial statement consisting of a balance sheet and income and expense statement, showing the current condition of the applicant and sworn to by the officer of applicant having the responsibility for preparing such statement.

(b) If the applicant is already transacting a grants and annuities business in another state, an accurate and complete financial statement showing the condition of the present grants and annuities business, sworn to by the officer having the responsibility for preparing such statement, shall be submitted.

(c) Ninety days after the end of their fiscal year, every certificate holder shall make and file with the commissioner an accurate and complete financial statement, consisting of a balance sheet and income and expense statement, showing the current condition of the certificate holder's grants and annuities operation on a form prescribed by the commissioner.

SEC. 7. Section 11521.4 is added to the Insurance Code, to read:

11521.4. The commissioner may, in his discretion and after hearing, require the disposal of any investment made in violation of the provisions of this chapter; pending disposal pursuant to such order, no value shall be allowed for such investment in any financial statement or report required to be filed with the commissioner and purporting to show the financial condition of the owner thereof for the purpose of determining whether such owner is solvent or insolvent.

SEC. 8. Section 11521.5 is added to the Insurance Code, to read:

11521.5. The commissioner may adopt reasonable rules and regulations as may be necessary to carry out the provisions of this chapter 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. Pursuant to such provisions, the commissioner may also amend or repeal such rules and regulations.

CHAPTER 796

An act to amend Sections 33403, 52035, and 56351 of, to add Sections 33406, 56350.5, and 56351.5 to, to add Article 3 (commencing with Section 52040) to Chapter 6 of Part 28 of, to repeal Sections 52036, 52037, and 52038 of, and to repeal and add Section 56350 of, the Education Code, and to amend Section 70 of Chapter 894 the Statutes of 1977, relating to school programs.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 33403 of the Education Code is amended to read:

33403. The Department of Education shall perform evaluations of educational programs in accordance with one of the following levels of evaluation:

(a) A descriptive report of an individual educational program which describes the objectives and components of the subject program, the number of pupils involved, and contains general information regarding the program's cost and the extent of implementation of the program.

The department shall prepare or have prepared descriptive reports for the following programs:

(1) Experimental kindergarten programs, pursuant to Section 41380;

(2) Year-round school programs, pursuant to Chapter 4 (commencing with Section 37500) and Chapter 5 (commencing with Section 37600) of Part 22;

(3) Indian education centers, pursuant to Article 6 (commencing with Section 33380) of Chapter 3 of Part 20;

(4) Bilingual teacher corps, pursuant to Article 2 (commencing with Section 52150) of Chapter 6 of Part 28;

(5) Alternative schools programs, pursuant to Chapter 3 (commencing with Section 58500) of Part 31;

(6) Private schools for the handicapped, pursuant to Article 3 (commencing with Section 56030) of Chapter 1 of Part 30; and

(7) Professional development centers, pursuant to Article 10 (commencing with Section 44630) of Chapter 3 of Part 25.

(b) Individual program evaluations performed pursuant to Sections 33520, 58607, 52327, and 56351.

(c) A multiple-funded program evaluation, consisting of a comprehensive evaluation of the impact on a local school site of educational programs which are financed by multiple state or federal sources.

The Department of Education shall perform multiple-funded program evaluations for the following programs:

(1) School improvement programs, pursuant to Chapter 6 (commencing with Section 52000) of Part 28;

(2) Educationally disadvantaged youth programs, pursuant to Chapter 1 (commencing with Section 54000) of Part 29;

(3) Compensatory education, pursuant to Article 2 (commencing with Section 54420) of Chapter 4 of Part 29;

(4) Bilingual education programs, pursuant to Article 1 (commencing with Section 52100) of Chapter 7 of Part 28; and

(5) Miller-Unruh reading programs, pursuant to Article 3 (commencing with Section 60640) of Chapter 5 of Part 33.

Such evaluation shall contain information obtained by whatever means possible regarding pupil growth in the subject program, information regarding the expected achievement of comparable groups of pupils who do not receive specialized educational services, information regarding program costs, and inferential judgments regarding the effectiveness of the programs. An objective of such evaluation shall be to illustrate the relative effectiveness of different program elements regardless of source of funding. The Department of Education shall identify those programs which are judged to be least effective.

For each of the funding sources identified in the multiple-funded evaluation report, the Department of Education shall include a separate chapter which will present data from schools funded solely by that source. Each of these chapters will provide, to the extent possible, information regarding pupil growth, the expected achievement of comparable groups of pupils, information regarding program costs, and inferential judgments regarding the quality of programs funded by that source; provided that the evaluation regarding school improvement programs pursuant to Chapter 6 (commencing with Section 52000) of Part 28 shall be performed pursuant to Section 52042.

SEC. 1.5. Section 33406 is added to the Education Code, to read:

33406. (a) The Superintendent of Public Instruction shall annually, not later than February 15 of each fiscal year submit to the State Board of Education and the Legislature, a proposal for the initiation or continuance for the succeeding fiscal year of special studies. Special studies shall address strategies to improve education for California's public school pupils. The proposal shall specify the resources to be devoted to each study and the date by which results of each study shall be reported.

The superintendent shall utilize existing information to the maximum extent feasible in conducting such special studies.

(b) Studies may include, but need not be limited to, the effectiveness of:

(1) Various educational programs in improving education for all pupils, including programs designed to improve the responsiveness of schools and districts to the educational requirements of individual pupils;

(2) School district management practices and governance

procedures designed to improve the utilization of limited school district financial resources;

(3) Procedures to disseminate information on effective educational programs and strategies among districts and among schools within districts;

(4) Alternative programs of staff development for school personnel, including administrators and teachers;

(5) Projects designed to improve educational evaluation, including development of assessment devices to measure the noncognitive aspects of education.

SEC. 2. Section 52035 of the Education Code is amended to read:

52035. The Superintendent of Public Instruction shall:

(a) Assist districts and schools, upon request, to design, implement or evaluate school improvement programs authorized by this chapter.

(b) Ensure that procedures utilized by governing boards to approve and evaluate school improvement programs and to terminate allowances are consistent with this chapter and with standards and criteria adopted by the State Board of Education.

(c) Apportion district allowances in accordance with the provisions of Article 4 (commencing with Section 52045) of this chapter.

(d) Identify effective practices regarding, but not limited to, the objectives described in Sections 52015, 52016, and 52017 and disseminate such information to all school districts and county superintendents of schools.

(e) Conduct program and fiscal reviews to:

(1) Ensure that funds allocated pursuant to this chapter are expended for the purposes intended.

(2) Provide information helpful to local schools in meeting their school improvement objectives.

(3) Provide information to the state board regarding program implementation to be used in decisions regarding program expansion to other schools. Information regarding program implementation at a given school shall not be used in decisions regarding program expansion until such school has participated in the school improvement program for at least one and one-half school years. The superintendent shall recognize diversity in school improvement objectives and implementation strategies. In no case shall the review process be used to impose or prohibit a particular instructional program.

The majority of persons participating in such review shall be persons who are not in the employment of the district under review.

(f) Give priority in scheduling such reviews to districts and schools which have been least successful in meeting the objectives of their plans.

(g) By November 1, 1977, improve program and fiscal reviews to ensure adequate training of review teams, continuity of information to given schools, consistency in ratings among schools and

opportunities for assistance to schools in meeting their improvement program objectives.

Two or more school districts may join together to apply, or join together with one or more county superintendents of schools to apply, to provide information to local schools and the state board as described under this section. Such application shall be in a manner and form prescribed by the State Board of Education.

(h) Ensure, insofar as is practicable, that secondary schools participating in the school improvement program represent the geographic and socioeconomic diversity of secondary schools.

SEC. 3. Section 52036 of the Education Code is repealed.

SEC. 4. Section 52037 of the Education Code is repealed.

SEC. 5. Section 52038 of the Education Code is repealed.

SEC. 6. Article 3 (commencing with Section 52040) is added to Chapter 6 of Part 28 of the Education Code, to read:

Article 3. Evaluation

52040. It is the intent of the Legislature to provide for ongoing comprehensive evaluation of school improvement programs established pursuant to this chapter and staff development programs and school resource centers established pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25. The Legislature finds and declares that the evaluation of these statewide educational improvement efforts shall be designed to provide the Legislature, the State Board of Education, the Superintendent of Public Instruction, and program administrators at district and school levels with the information necessary to:

(a) Refine and improve policies, regulations, guidelines and procedures on a continuing basis, and

(b) Assess the overall merits of these school improvement efforts.

52041. The Superintendent of Public Instruction shall coordinate the design of school, district, state, and independent evaluations to minimize the data collection and reporting requirements at the school and district levels.

The Superintendent of Public Instruction and the independent evaluator shall utilize sampling procedures whenever feasible.

52042. The Superintendent of Public Instruction shall:

(a) Utilize existing information sources, including the California Assessment Program established pursuant to Article 1 (commencing with Section 60600) of Chapter 5 of Part 33 and program reviews conducted pursuant to subdivision (e) of Section 52035 to gather ongoing information regarding changes in pupil performance and improvements in schoolwide planning, implementation, and evaluation.

(b) Summarize and report on the results of special studies regarding the school improvement program performed pursuant to Section 33406.

The Superintendent of Public Instruction shall report annually,

beginning January, 1979, to the State Board of Education, Legislature, and Governor pursuant to this section. Such reports shall emphasize information necessary to refine and improve statewide policies, regulations, guidelines, and procedures developed pursuant to this chapter.

52043. The Superintendent of Public Instruction shall contract for an independent evaluation of the school improvement programs established pursuant to this chapter and staff development programs and resource centers established pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25 of the Education Code, to be conducted during the 1977–78, 1978–79, 1979–80, 1980–81, and 1981–82 fiscal years and which shall contain, but need not be limited to, information over the five-year period regarding improved pupil achievement; school environment, including the satisfaction of parents, pupils, teachers, administrators and other school personnel with school services and decisionmaking processes; school-related student social and personal development skills; adult citizenship and career skills; improvement in professional skills of teachers, administrators, and other school personnel; and fiscal expenditures. The independent evaluator shall have expertise in evaluation. The evaluator and the scope and design of the independent evaluation shall be approved by the Department of Finance and the Legislative Analyst.

The independent evaluator shall submit annual progress reports to the Legislature and the Governor. The evaluator, by October 1, 1981, shall submit an interim report to include findings regarding program implementation, school environment and the improvement of professional skills of teachers and other school personnel. The evaluator, by October 1, 1982, shall submit a final report to include information regarding program implementation and outcomes, including student achievement.

SEC. 7. Section 56350 of the Education Code is repealed.

SEC. 8. Section 56350 is added to the Education Code, to read:

56350. It is the intent of the Legislature to provide for ongoing comprehensive evaluation of special education programs authorized by this chapter. The Legislature finds and declares that the evaluation of these programs shall be designed to provide the Legislature, State Board of Education, Department of Education, and program administrators at district and school levels with the information necessary to: (a) refine and improve policies, regulations, guidelines, and procedures on a continuing basis, and (b) assess the overall merits of these efforts.

SEC. 9. Section 56350.5 is added to the Education Code, to read:

56350.5. Each responsible local agency shall submit to the superintendent at least annually a report in a form and manner prescribed by the superintendent. Such reports shall include that information necessary for the superintendent to carry out his or her responsibilities described in Section 56351 and such other statistical data, program descriptions, and fiscal information as the

superintendent may require.

SEC. 10. Section 56351 of the Education Code is amended to read:

56351. In accordance with a program evaluation plan adopted pursuant to subdivision (e) of Section 56310, the superintendent shall submit to the board, the Legislature, and the Governor, an annual evaluation of the special education programs implemented under this chapter. This evaluation shall:

(a) Utilize existing information sources including fiscal records, child counts, other descriptive data, and program reviews to gather ongoing information regarding implementation of programs authorized by this chapter;

(b) Utilize existing information to the maximum extent feasible to conduct special evaluation studies of issues of statewide concern. Such studies may include, but need not be limited to: pupil performance; placement of pupils in least restrictive environments; degree to which services identified in individualized education programs are provided; and parent, pupil, teacher, program specialist, resource specialist, and administrator attitudes toward services and processes provided.

(c) Summarize and report on the results of special studies regarding the Master Plan for Special Education performed pursuant to Section 33406.

The Department of Education shall report annually, beginning January 1979, to the State Board of Education, Legislature and Governor pursuant to this section. Such reports shall emphasize information necessary to refine and improve statewide policies, regulations, guidelines, and procedures developed pursuant to this chapter.

SEC. 11. Section 56351.5 is added to the Education Code, to read:

56351.5. The Superintendent of Public Instruction shall coordinate the design of school, district, state, and independent evaluations to prevent duplication and to minimize data collection and reporting requirements at the school and district levels.

The Department of Education and the independent evaluator shall utilize sampling procedures whenever feasible.

SEC. 12. Section 70 of Chapter 894 of the Statutes of 1977 is amended to read:

Sec. 70. There is hereby appropriated from the General Fund in the State Treasury to the Department of Education the sum of two hundred fifty thousand dollars ($250,000) for the fiscal year 1978–79, one hundred seventy-five thousand dollars ($175,000) for the fiscal year 1979–80, two hundred fifty thousand dollars ($250,000) for the fiscal year 1980–81, and two hundred thousand dollars ($200,000) for the fiscal year 1981–82 to fund the independent evaluation required by Section 52043 of the Education Code.

CHAPTER 797

An act to amend Sections 389, 5900, 5901, 5906.5, and 11713 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 389 of the Vehicle Code is amended to read:

389. A "manufacturer branch" is an office maintained by a manufacturer for the sale of new vehicles to dealers or for directing or supervising in whole or in part the manufacturer's representatives.

SEC. 2. Section 5900 of the Vehicle Code is amended to read:

5900. (a) Whenever the owner of a vehicle registered under this code sells or transfers his title or interest in, and delivers the possession of, the vehicle to another, the owner shall immediately notify the department of the sale or transfer giving the date thereof, the name and address of the owner and of the transferee, and such description of the vehicle as may be required in the appropriate form provided for such purpose by the department.

(b) Except as otherwise provided in subdivision (c), in the case of a vehicle under 6,001 pounds, manufacturer's maximum gross vehicle weight rating, the owner shall also notify the department of the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of sale or transfer. However, if the vehicle owner has knowledge that the mileage displayed on the odometer is incorrect, such owner shall indicate on the appropriate form the true mileage, if known, of the vehicle at the time of sale or transfer.

Providing false or inaccurate mileage shall not be construed as a violation of this subdivision unless it is done with the intent to defraud.

(c) Whenever the registered owner is not in possession of the vehicle that is sold or transferred, the person in physical possession of such vehicle shall give the notice required by subdivision (b).

SEC. 3. Section 5901 of the Vehicle Code is amended to read:

5901. (a) Every dealer or lessor-retailer, upon transferring by sale, lease or otherwise any vehicle, whether new or used, of a type subject to registration under this code, shall, not later than the end of the fifth calendar day thereafter, not counting the day of sale, give written notice of the transfer to the department at its headquarters upon an appropriate form provided by it.

(b) Except as otherwise provided in this subdivision or in subdivision (c), in the case of a vehicle under 6,001 pounds, manufacturer's maximum gross vehicle weight rating, the dealer or lessor-retailer shall indicate on the form the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of the

transfer. However, if the vehicle dealer or lessor-retailer has knowledge that the mileage displayed on the odometer is incorrect, such licensee shall indicate on the form the true mileage, if known, of the vehicle at the time of the transfer. A vehicle dealer or lessor-retailer need not give the notice when selling or transferring a new unregistered vehicle to a dealer or lessor-retailer.

(c) When the dealer or lessor-retailer is not in possession of the vehicle that is sold or transferred, the person in physical possession of such vehicle shall give the information required by subdivision (b).

(d) A "sale" shall be deemed completed and consummated when the purchaser of that vehicle has paid the purchase price, or, in lieu thereof, has signed a purchase contract or security agreement, and taken physical possession or delivery of that vehicle.

SEC. 4. Section 5906.5 of the Vehicle Code is amended to read:

5906.5. (a) Except as otherwise provided in subdivision (b), in the case of any transfer, including, but not limited to, a transfer resulting from a sale, lease, gift, or auction, of a vehicle under 6,001 pounds, manufacturer's maximum gross weight rating, where no application for transfer is required, the person making such transfer, or his authorized representative, shall sign and shall record on the document evidencing the transfer of the vehicle the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of the transfer. However, if the person making the transfer, or his authorized representative, has knowledge that the mileage displayed on the odometer is incorrect, such person shall record on the document the true mileage, if known, of the vehicle at the time of transfer.

(b) Whenever the person making such transfer is not in possession of the vehicle that is transferred, the person in physical possession of such vehicle shall provide the information required by subdivision (a).

SEC. 5. Section 11713 of the Vehicle Code is amended to read:

11713. It shall be unlawful and a violation of this code for the holder of any license issued under this article:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate or cause to be so disseminated any such statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of such dealer or available to said dealer from the manufacturer or distributor of such vehicle at the time of the advertisement or offer; provided however, that this

subdivision does not apply to advertising or offering for sale or exchange any used mobilehome, as defined by Section 18008 of the Health and Safety Code, or used commercial coach, as defined by Section 18012 of the Health and Safety Code, other than a recreational vehicle, as defined by Section 18010.5 of the Health and Safety Code, where such advertising or offering for sale is not contrary to any terms of a contract between the seller of the mobilehome or commercial coach and the owner of the mobilehome park, and which mobilehome or commercial coach is either in place on a lot rented or leased for human habitation within an established mobilehome park, as defined in Section 18214 of the Health and Safety Code, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and such use would be authorized, for a total and uninterrupted period of at least one year.

(c) To fail within 48 hours in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) To advertise or represent a vehicle as a new vehicle if such vehicle falls within the purview of Section 665 of this code.

(e) To engage in the business for which licensee is licensed without having in force and effect a good and sufficient bond with corporate surety as hereinbefore provided.

(f) For any licensed dealer to engage in the business for which such dealer is licensed without at all times maintaining an established place of business as required by this code.

(g) To include as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which amount is not due to the state unless, prior to the sale, such amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of such fees. However, a dealer may collect, from the second purchaser of a vehicle, a prorated fee based upon the number of months remaining in the registration year for that vehicle, if the vehicle had been previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this code and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the vehicle.

(h) To employ any person as a salesman who has not been licensed pursuant to Article 2 (commencing with Section 11800) of this chapter, and whose license is not displayed on the premises of the dealer as provided in Section 11812.

(i) To deliver, following sale, a vehicle for operation on California highways, if such vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000) of this code.

(j) To use or permit the use of the special plates assigned to him for any purpose other than permitted by Section 11715.

(k) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on his behalf or at his place of business,

that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance such downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle.

(*l*) To participate in the sale of a vehicle reported to the Department of Motor Vehicles under the provisions of Section 5900 or Section 5901 of this code without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(m) To permit the use of his dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of vehicles required to be registered under this code, or to permit the use of his dealer's license, supplies, or books to operate a branch location to be used by any other person, if, in either situation, the licensee has no financial or equitable interest or investment in the vehicles sold by, or the business of, or branch location used by, such person, or has no such interest or investment other than commissions, compensations, fees, or any other thing of value received for the use of the dealer's license, supplies, or books to engage in the sale of vehicles.

(n) To violate any of the provisions of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12 of this code.

(o) To fail to deliver or honor the terms and conditions of any warranty as set forth in Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(p) To violate any of the terms or provisions of Chapter 6 (commencing with Section 11950) of Division 5.

(q) Has violated any of the provisions of Part 2 (commencing with Section 18000) of Division 13 of, or Section 18613 of, the Health and Safety Code or any rules and regulations issued pursuant thereto.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 798

An act to amend Section 219 of, and to add Section 1769.5 to, the Health and Safety Code, relating to the Department of the California Highway Patrol, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 219 of the Health and Safety Code is amended to read:

219. (a) The director may develop, or prescribe standards for and approve, an emergency medical technician training and testing program for the Department of the California Highway Patrol, Department of Forestry, and other public safety agency personnel, upon the request of, and as deemed appropriate by, the director for the particular agency.

(b) The director may, with the concurrence of the Department of the California Highway Patrol, designate the California Highway Patrol Academy as a site where such training and testing may be offered.

(c) The director may prescribe that each person, upon successful completion of the training course and upon passing a written and a practical examination, be certified as an emergency medical technician of an appropriate classification. A suitable identification card may be issued to each certified person to designate that person's emergency medical skill level.

(d) The director may prescribe standards for refresher training to be given to persons trained and certified under this section.

(e) The Department of the California Highway Patrol shall, subject to the availability of federal funds, provide for the initial training of its uniformed personnel in the rendering of emergency medical technician services to the public in specified areas of the state as designated by the Commissioner of the California Highway Patrol.

SEC. 2. Section 1769.5 is added to the Health and Safety Code, to read:

1769.5. A member of the California Highway Patrol who renders emergency medical services at the scene of an emergency shall be liable in civil damages only for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith.

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:

It is the intent of the Legislature, in enacting this act, to ensure the earliest possible rendering, to accident victims, of emergency medical services. To do so, it is necessary that this act take effect immediately to ensure both the timely implementation of the emergency medical technical training and the maximum utilization of existing authorized funds for the training program.

CHAPTER 799

An act to amend Sections 20017.77, 20654, 21024.1, 21025, 21263.7, 21360, 21404, and 22310 of, and to add Sections 20180.1 and 21360.1 to, the Government Code, relating to retirement of public employees.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 20017.77 of the Government Code is amended to read:

20017.77. "State safety member" shall also include officers and employees in (a) the Department of Corrections employed to perform the duties now performed in positions with the following class titles: Director of Corrections; Deputy Director, Department of Corrections; Deputy Director, Institutions, Camps and Program Services Division; Deputy Director, Parole and Community Services; warden; Warden—San Quentin; superintendent II and III, Department of Corrections; deputy superintendent; correctional administrator; program administrator, correctional institution; all classes of correctional program supervisor; correctional captain, correctional lieutenant, correctional sergeant; correctional officer; all classes of women's correctional supervisor; Assistant Deputy Director, Parole and Community Services; all classes of parole administrator, adult parole; all classes of parole agent, adult parole; Assistant Director, Investigations and Law Enforcement Liaison; senior special agent; special agent; all classes of women's parole agent; medical facility superintendent; Superintendent, California Institution for Women; all classes of correctional counselor, (b) the Department of the Youth Authority employed to perform the duties now performed in positions with the following class titles: Director, Department of the Youth Authority; Chief, Division of Parole and Community Services; Deputy Chief, Division of Parole and Community Services; program administrator, correctional school; assistant superintendent, correctional school; all classes of superintendent, correctional school; Youth Authority camp superintendent; assistant superintendent, Youth Authority camp; Chief, Division of Institutions; treatment team supervisor; all classes of transportation officers, Youth Authority; security officer; all classes of group supervisors; all classes of parole agent, Youth Authority; all classes of youth counselor; supervisor community treatment programs; correctional casework training supervisor; correctional casework trainee; all classes of correctional counselor, and (c) the Community Release Board employed to perform duties now performed in positions with the following class titles: all classes of parole officer; all classes of correctional counselor.

SEC. 2. Section 20180.1 is added to the Government Code, to

read:

20180.1. Notwithstanding any other provision of this part or of Section 13943.5 or 16302.1 to the contrary, the system may dispense with any recalculation of, or other adjustment to, benefit payments, and shall not effect a collection or return of accumulated contributions when there has been a payment of retirement or death benefits or a return of accumulated contributions, and either (a) there is a plus or minus balance of ten dollars ($10) or less remaining posted to a member's individual account, or (b) such balance exceeds ten dollars ($10) but the difference to the monthly allowance unmodified by optional settlement is less than twenty-five cents ($0.25).

SEC. 3. Section 20654 of the Government Code is amended to read:

20654. A member may redeposit at any time in the Retirement Fund, in a lump sum or by installment payments over such period and subject to such minimum payments as may be prescribed by regulations of the board, (1) an amount equal to the accumulated contributions that he has withdrawn at one or more terminations of service, but in reverse chronological order in which they occurred, and (2) an amount equal to the interest which would have been credited to his account to the date of completion of payments had such contributions not been withdrawn, and (3) if he elects to redeposit in other than one sum, interest on the unpaid balance of the amount payable to the Retirement Fund, beginning on such first day, assuming with respect to the computation in (2) and (3) that the annual interest rate in effect on the date of election had been and continues in effect throughout such period.

SEC. 4. Section 21024.1 of the Government Code is amended to read:

21024.1. If the board requests a person to submit to a medical examination, he shall be entitled to reimbursement for expenses of transportation, and meals and lodging incident to such examination if he is required to travel more than 50 miles one way. Standard per diem rates in effect for state employees as authorized by regulation of the State Board of Control shall be used for such reimbursement; provided, that higher costs of lodging may be paid if supported by receipt and determined necessary by the board. "Expenses of transportation" with respect to the use of private transportation includes mileage fees from the person's home to the place of examination and back to a maximum of 300 miles round trip at the appropriate current rate per mile authorized to state employees for use of private vehicles by regulation of the State Board of Control plus bridge tolls. Such per diem and mileage may be paid to the person by the system at the time he is given notification of the time and place of examination.

SEC. 5. Section 21025 of the Government Code is amended to read:

21025. If the medical examination and other available

information show to the satisfaction of the board, or in case of a local safety member the governing body of the contracting agency employing such member, that the member is incapacitated physically or mentally for the performance of his duties in the state service and is eligible to retire for disability, the board shall forthwith retire him for disability, unless the member is qualified to be retired for service and applies therefor prior to the effective date of his retirement for disability or within 30 days after the member is notified of his eligibility for retirement on account of disability, in which event the board shall retire the member for service. The governing body of a contracting agency upon receipt of the request of the board pursuant to Section 21024 shall certify to the board its determination under this section that the member is or is not so incapacitated.

SEC. 6. Section 21263.7 of the Government Code is amended to read:

21263.7. (a) The monthly allowances provided by Sections 21263.4 and 21263.5 shall be paid on account of retired state miscellaneous members, other than school members, who did not at retirement elect optional settlement 2 or 3 or an optional settlement involving life contingency under optional settlement 4 and whose retirement dates were effective before July 1, 1974, with respect to members who were not covered by the federal system, and before July 1, 1975, with respect to members who were covered under the federal system. Upon receipt of a written application by the board, the benefits provided by this section shall be payable to eligible survivors of retired members who are not receiving a monthly allowance on account of service as a state member, provided that the retired member was alive and receiving a monthly allowance on June 30, 1974. Such benefits shall be subject to the same eligibility and termination provisions which apply to members at retirement and shall, subject to the provisions of subdivision (b), be paid only for the period of time commencing on the first of the month following receipt by the board of the application for such benefits.

(b) Upon receipt of a written application pursuant to subdivision (a) after October 1, 1978, and prior to January 1, 1979, the benefits provided by this section shall be paid both prospectively and retroactively for the period of time commencing with the first day of the month following receipt of such application.

SEC. 7. Section 21360 of the Government Code is amended to read:

21360. This system is liable for either the basic or special death benefit upon the death of a member (a) before the effective date of retirement, and (1) while in state service, or (2) while absent on military service and who makes contributions under Section 20891 or 20891.1 or for whom contributions will be made under Section 20894.5, or (3) within four months after discontinuance of state service, or while on an approved leave of absence, or (4) while physically or mentally incapacitated for the performance of duty, if

such incapacity has been continuous from discontinuance of state service, or (5) while employed as a member of a retirement system established under the County Employees' Retirement Law of 1937, Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3; provided, such employment as a member was begun on or after October 1, 1957, and within 90 days of discontinuance of state service, or (b) on or after the effective date of retirement and before the mailing of a retirement allowance warrant and either within four months of discontinuance of state service or while physically or mentally incapacitated for the performance of duty if such incapacity has been continuous from discontinuance of state service and providing all of the following conditions exist: (1) the retirement of the member was not compulsory under Article 2 (commencing with Section 20980) of Chapter 8, and (2) he has not elected optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 4 (commencing with Section 21330) of Chapter 9, and (3) a partially continued allowance under Sections 21263 to 21263.6, inclusive, is not payable. Upon the death of a member before the effective date of his retirement or, with respect to (1) any member whose retirement was not compulsory under Article 2 (commencing with Section 20980) of Chapter 8, and (2) any member who has not elected optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 4 (commencing with Section 21330) of Chapter 9, on or after such effective date and before the mailing of a retirement allowance warrant, under circumstances in which this system is not so liable for either the basic or special death benefit and a partially continued allowance under Sections 21263 to 21263.6, inclusive, is not payable, this system is liable for a limited death benefit which consists only of the accumulated contributions of the member payable to his beneficiary or to his estate.

Liability imposed on the system with respect to the death of a member while on approved leave of absence by amendment to this section enacted during the 1965 Regular Session shall extend to death of members occurring on or after July 1, 1964, and to any benefit for which there would have been liability with respect to such death had such amendment been effective on that date.

SEC. 8. Section 21360.1 is added to the Government Code, to read:

21360.1. If a member dies on or after the effective date of retirement and prior to the mailing of a retirement allowance warrant and if the member has elected an optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of the beneficiary or if a partially continued retirement allowance under Sections 21263 to 21263.6, inclusive, is payable, the death shall be considered to be death after retirement and the applicable benefits shall be payable.

If the person entitled to receive benefits under this section is a

surviving spouse or a surviving unmarried minor child or children, the surviving spouse or, if there is no surviving spouse, the guardian of the minor children may elect to receive benefits which would have been payable had the death occurred under the conditions of Section 21360. Nothing in this part permits a surviving spouse, surviving children, or any person other than a member to elect an optional settlement.

SEC. 9. Section 21404 of the Government Code is amended to read:

21404. The insurance benefit shall be paid upon death of an insured member of this system to the beneficiary entitled to receive the basic death benefit if all of the following conditions concur:

(a) Death occurs either:

(1) While in such state service; or

(2) While absent from such state service on military service or on approved leave of absence; or

(3) Within four months of discontinuance of such state service; or

(4) While physically or mentally incapacitated for performance of duty continuously from discontinuance of such state service.

(b) If either:

(1) Death occurs while a member and before the effective date of retirement; or

(2) If an optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of the beneficiary has not been elected and if an allowance under Section 21263, 21263.2, 21263.4, or 21263.5 is not payable, and death occurs on or after the effective date of retirement and before the mailing of a retirement allowance warrant.

(c) Death occurs during a period of insurance.

(d) Death occurs under circumstances other than those described in subdivision (a) (5) of Section 21360.

SEC. 9.5. Section 21404 of the Government Code is amended to read:

21404. The insurance benefit shall be paid upon death of an insured member of this system to the beneficiary entitled to receive the basic death benefit if all of the following conditions concur:

(a) Death occurs either:

(1) While in such state service; or

(2) While absent from such state service on military service or on approved leave of absence; or

(3) Within four months of discontinuance of such state service; or

(4) While physically or mentally incapacitated for performance of duty continuously from discontinuance of such state service.

(b) If either:

(1) Death occurs while a member and before the effective date of retirement; or

(2) If an optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of the beneficiary has not been elected and if an allowance under Section

21263, 21263.2, 21263.4, or 21263.5 is not payable, and death occurs on or after the effective date of retirement and before the mailing of a retirement allowance warrant.

(c) Death occurs during a period of insurance.

(d) Death occurs under circumstances other than those described in subdivision (a) (5) of Section 21360.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 10. Section 22310 of the Government Code is amended to read:

22310. Upon giving at least two years' advance notice to the board, a public agency other than a school district may terminate, subject to approval of the federal agency, effective at the end of a calendar year specified in the notice, its coverage under the provisions of this part and the federal system either

(1) With respect to all employees of the public agency having such coverage, but only if such coverage has been in effect from the effective date of coverage of such employees under the federal system for not less than five years prior to the receipt of such notice; or

(2) With respect to any coverage group of such public agency, but only if such coverage has been in effect from the effective date of coverage of such coverage group under the federal system for not less than five years prior to the receipt of such notice.

In no event shall the effective date of the termination be earlier than the date prescribed by the Secretary of Health, Education and Welfare.

Any termination of coverage under the federal system shall be subject to the provisions of Section 218 (g) of the Social Security Act and federal regulations adopted pursuant thereto and rules and regulations promulgated by the board pursuant to this part.

SEC. 10.5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3053 are both chaptered and become effective January 1, 1979, both bills amend Section 21404 of the Government Code, and this bill is chaptered after Assembly Bill No. 3053, that the amendments to Section 21404 proposed by both bills be given effect and incorporated in Section 21404 in the form set forth in Section 9.5 of this act. Therefore, Section 9.5 of this act shall become operative only if this bill and Assembly Bill No. 3053 are both chaptered and become effective January 1, 1979, both amend Section 21404, and this bill is chaptered after Assembly Bill No. 3053, in which case Section 9 of this act shall not become operative.

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 there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 800

An act to amend Sections 9407, 9411, and 9510 of the Welfare and Institutions Code, and to amend Section 11 of Chapter 1199 of the Statutes of 1977, relating to older persons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 9407 of the Welfare and Institutions Code is amended to read:

9407. "Multipurpose senior services" means a coordinated, integrated system of delivery of the following social and health services designed for older persons: recreation services, educational services, senior center programs, information and referral services, transportation, income maintenance counseling, housing services, outreach services, volunteer programs, employment services, legal services, home repair services, escort services, telephone reassurance services, friendly visiting services, health screening services, psychological screening services, nutrition services, home health services, preventive health services, mental health services, homemaker chore services, portable meals, day care services, adult day health care services, nonmedical respite care services, night services, intermediate care, skilled nursing care, acute hospital care, and hospice care.

SEC. 2. Section 9411 of the Welfare and Institutions Code is amended to read:

9411. The agency shall formulate criteria for pilot multipurpose senior services projects. The criteria shall include, but need not be limited to, the following:

(a) Specifications for a social and health review team to evaluate older persons and to assure that a continuity of social, economic, and health services are provided to maintain such persons at the appropriate level of care.

(b) Development of social and health services necessary to maintain the older person at the appropriate level of care in the project area.

(c) Specifications for the quality of the social and health services to be provided.

(d) Development of a sliding fee schedule.

(e) Coordination and integration of the social and health services

described in Section 9407.

(f) Access to as many services specified in Section 9407 as possible at the same location in a facility known as a multipurpose senior services center.

(g) The number of pilot projects shall be consistent with the moneys made available for purposes of this chapter.

(h) Coordination with local governmental agencies concerned with multipurpose senior services.

(i) Specifications for the evaluation of the proposals submitted for the pilot projects and for the evaluation of the pilot projects. The evaluation of the pilot project shall measure the effectiveness and the efficiency of the projects in:

(1) Identifying the health and social needs of the older persons and the coordination of the available services required to maintain persons at the appropriate level of care.

(2) Assuring that the continuity of social and health services are provided to maintain persons at the appropriate level of care.

The evaluation shall include, but not be limited to:

(1) A description of the social and economic characteristics of the older persons served by the projects.

(2) The range of problems presented by the persons served, and the services provided in response to those problems.

(3) A description of those problems best handled by the pilot project and a description of the problems least effectively handled by the pilot project.

(4) The costs of the services required to maintain persons at the appropriate level of care under a continuity of care program compared with the costs of services for persons who have not received services as components of a continuity of care program.

SEC. 3. Section 9510 of the Welfare and Institutions Code is amended to read:

9510. In order to assist the department in the performance of its duties pursuant to this chapter, there is hereby created an advisory committee. It shall be the responsibility of the advisory committee to advise the department on any and all matters coming within the purview of this chapter.

Three members of the advisory committee shall be appointed by the Governor. The Speaker of the Assembly and the President pro Tempore of the Senate shall each appoint one member. Each member shall serve at the pleasure of the appointing power and shall receive reimbursement for actual and necessary receipted expenses incurred in the performance of duties. Reimbursed expenses shall be deemed program costs, not administrative costs incurred by the department.

SEC. 4. Section 11 of Chapter 1199 of the Statutes of 1977 is amended to read:

Sec. 11. Notwithstanding the limitations of Section 2 of the Budget Act of 1977 (Ch. 219, Stats. 1977), nine hundred thousand dollars ($900,000) of the amount appropriated in Item 241.3 of that

act shall be available for encumbrance without regard to fiscal years for the purposes specified in Item 241.3 and Section 8 of this act.

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

In order to make technical clarifications regarding currently operating programs for older persons, it is necessary for this act to take effect immediately.

CHAPTER 801

An act to amend Sections 4801 and 4803 of the Public Resources Code, relating to forest resources.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 4801 of the Public Resources Code is amended to read:

4801. The Legislature finds and declares as follows:

(a) The forest resources of California provide vitally important economic and environmental benefits to the people of California.

(b) Demands on forest resources in California are expected to increase significantly in the next decades.

(c) Forest resources in California are limited.

(d) Better use of forest resources can result where there is good information as to anticipated needs and constraints and the potentials for meeting such needs consistent with Section 4513.

(e) The necessary information is not now available and should be developed.

(f) It is the intent of the Legislature to provide for the assessment of California's forest resources in order to develop and implement forest resources policies for the state.

SEC. 2. Section 4803 of the Public Resources Code is amended to read:

4803. (a) Under policy guidance from the board and in consultation with the Secretary of the Resources Agency, the director shall prepare and submit to the board and the Secretary of the Resources Agency, a preliminary forest resource assessment and analysis not later than July 1, 1979, and shall present a full and updated assessment by January 1, 1987, and by January 1 of each fifth year thereafter. The assessment and analysis shall recognize distinct differences in ownership and management of forest resources in California between the various public and the various private owners and shall include, but not be limited to, the following:

(1) An assessment and analysis of the supply and availability of the various present and potential forest resources of the state, including limits to such supplies imposed by natural site conditions, such as slope stability and erosion hazard, or by governmental restriction, such as special zoning. Among resource potentials to be evaluated are opportunities to:

(i) Improve and rehabilitate the understocked timberland in California and to more fully utilize the productive potential for growing and harvesting timber.

(ii) Improve wood fiber utilization and wood product recycling.

(iii) Salvage trees infested with insects and diseases on timberland.

(iv) Improve the management of forest wildlife and wildlife habitat within the state.

(v) Increase the quantity and quality of recreation available in the state.

(vi) Improve and rehabilitate forest range areas within the state.

(vii) Increase the potential to use wood fiber from timberland as an economically viable source of fuel for energy production.

(2) An analysis of present and anticipated demand for various forest resources in the state.

(3) A description and evaluation of current state programs and responsibilities in cooperative state-federal forestry programs, and management of state and local public forest and related lands.

(4) A discussion of important policy considerations, laws, regulations, management responsibilities, and other factors expected to influence and significantly affect the use, ownership, and management of forest and range resources.

(5) When assessing various resource potentials which could be obtained from forest lands, the director shall include an evaluation of probable direct and indirect economic and environmental benefits and costs, including opportunity costs, associated with realizing such potentials.

(b) In preparing the assessment, the director, under policy guidance of the board, shall solicit the cooperation of, and information collected by, public and private organizations, federal forest resource agencies, state agencies concerned with forest resources, county planning and taxation agencies, and state-supported forest resource research agencies.

(c) For the purpose of assisting the director and the board in preparing the assessment and its revisions, the board may appoint such advisory committees as it deems necessary. Such committees shall consist of individuals with expertise in forest resource fields, with particular emphasis on survey and program analysis, and shall include representatives of state agencies concerned with the use of forest resources.

(d) In preparation of the assessment the director shall:

(1) Analyze the need to develop and maintain an effective system for the collection, analysis, and display of such data in forms that

contribute to the achievement of the purposes of this chapter.

(2) Identify high-priority needs for completing the data base and analytical framework essential to improving the quality of future assessments.

(3) Evaluate the accuracy and completeness of existing data and of steps needed to improve the accuracy and completeness of data for future assessments.

CHAPTER 802

An act to add Section 5000.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 5000.5 is added to the Vehicle Code, to read:

5000.5. (a) Vehicles owned by any constable or deputy constable and used in law enforcement work shall, upon request of the constable or deputy constable, be issued license plates with suitable distinguishing marks or symbols distinguishing them from other license plates issued.

(b) In addition to the regular registration fees, a fee of twenty-five dollars ($25) shall be charged for the initial issuance of such plates.

(c) The regular renewal fee shall be charged.

(d) A fee of twenty-five dollars ($25) shall be charged in addition to all other appropriate fees whenever any person who has been issued such plates applies to the department for transfer of the plates to another vehicle.

CHAPTER 803

An act relating to community colleges.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. The governing board of any community college district may lease to the International Olympic Committee, to any local organizing committee, or to any other person or agency, for the purpose of conducting the 1984 Olympic Games and for such a term as may be reasonably necessary, for construction on or modification of, any real property belonging to the district, together with any

personal property which may be located thereon which is not or will not at the time of entry into possession be needed for instructional purposes and which will be used for the conduct of athletic events of such games and activities related thereto.

SEC. 2. Notwithstanding any other provision of law, any lease entered into pursuant to Section 1 of this act shall be upon such terms and conditions as the parties thereto agree, provided that a governing board shall not enter into such a lease unless the following conditions have been met:

(a) The board has adopted a resolution declaring its intention to enter into such a lease and prescribing the terms of the lease.

(b) The board has published this resolution in a newspaper of general circulation in the district. The board shall publish the resolution not less than once a week for three weeks prior to the meeting at which the board intends to enter into the lease.

SEC. 3. The provisions of this act shall remain in effect only until January 1, 1985, and as of that date are repealed.

CHAPTER 804

An act to amend Sections 61306, 61317, and 61839 of the Food and Agricultural Code, relating to milk and dairy products, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 61306 of the Food and Agricultural Code is amended to read:

61306. "Distributor" means any person that purchases or handles market milk, market cream, or any dairy product for processing, manufacture, or sale. It includes brokers and agents and the nonprofit cooperative associations described in Article 2 (commencing with Section 61331) of this chapter in the transactions in which such article provides that the associations are distributors. It also includes any person who regularly operates mobile vehicles on routes predominantly for sales of market milk, market cream, or dairy products on such routes to wholesale customers, or directly to consumers at their homes. Distributor also means any of the following:

(a) Any person operating, owning, or servicing automatic vending machines dispensing less than quart containers of market milk or market cream, if the market milk or market cream such person sells or distributes through other than vending machines, in retail stores, or establishments it owns, operates, or controls, is

purchased by such person at no less than wholesale prices. The sale of market milk or market cream through an automatic vending machine, which market milk is sold principally or primarily for consumption on or adjacent to the premises where sold, shall not be deemed a sale by or at a retail store or establishment, whether or not such market milk or market cream is sold in conjunction with other food products;

(b) Any person who refrigerates, stores, or assembles individual order allotments of market milk or market cream, in containers of less than one quart, at a fixed, established business location prior to transportation of such market milk or market cream in which mobile vehicles on regularly operated routes not predominantly for sales of market milk or market cream on such routes, from which mobile vehicle such market milk or market cream is sold, on such routes, in containers of less than one quart, directly to consumers;

(c) Any person whose primary and regular business is the sale of supplies to documented or foreign registry vessels in any transaction where such person refrigerates, stores, or assembles individual order allotments of market milk or market cream at a fixed established business location and thereafter transports such market milk or market cream to documented or foreign registry vessels.

(d) A retail store or a wholesale customer only as to milk, cream, or any dairy product that is actively and directly processed, manufactured, or packaged by such retail store or wholesale customer.

Distributor does not, however, include any of the following:

(a) Any retail store or wholesale customer which is not actively and directly engaged in manufacturing, processing, or packaging milk, cream, or any dairy product.

(b) Any producer that delivers milk or cream only to a distributor or manufacturer.

SEC. 2. Section 61317 of the Food and Agricultural Code is amended to read:

61317. "Wholesale customer" means any person, including a distributor, that buys packaged milk, cream, or any dairy product from a distributor or manufacturer for resale to consumers or other wholesale customers.

SEC. 3. Section 61839 of the Food and Agricultural Code is amended to read:

61839. "Wholesale customer" means any person, including a distributor, that buys packaged milk, cream, or any dairy product from a handler, manufacturer, or distributor, as defined in Section 61306, for resale to consumers or other wholesale customers.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental

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

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 milk as soon as possible, it is necessary that the provisions of this act become effective immediately.

CHAPTER 805

An act to amend and repeal Section 6140.3 of, the Business and Professions Code, relating to attorneys.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 6140.3 of the Business and Professions Code is amended to read:

6140.3. (a) Notwithstanding Section 6140, the board shall fix the annual membership fee as follows:

(1) For active members who have been admitted to the practice of law in this state for ten (10) years or longer, at a sum not exceeding one hundred thirty-five dollars ($135).

(2) For active members who have been admitted to the practice of law in this state for less than ten (10) years but more than five (5) years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding one hundred twenty dollars ($120).

(3) For active members who have been admitted to the practice of law in this state for less than five (5) years but more than two (2) years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding ninety dollars ($90).

(4) For active members who have been admitted to the practice of law in this state for less than two (2) years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding sixty dollars ($60).

(b) For the years commencing January 1, 1973, and ending December 31, 1982, the board may increase the annual membership fee fixed pursuant to subdivision (a) by an additional amount not exceeding ten dollars ($10) in any or all of such years, such additional amount in any year to be applied only to the cost of land and buildings to be used to conduct the operations of the State Bar, including furniture, furnishings, equipment, architects' fees, construction and financing costs, landscaping and other expenditures

incident to the acquisition, construction, furnishing and equipping of such land and buildings, the payment of interest on and the repayment of moneys borrowed for such purposes, and the reimbursement of the State Bar's treasury expended for such purposes.

(c) Except as otherwise fixed by the board, the annual membership fee for active members is payable on or before the first day of February of each year.

(d) This section shall remain in effect only until January 1, 1980, and as of that date is repealed.

CHAPTER 806

An act to repeal Section 3 of Chapter 950 of the Statutes of 1973, and to amend Section 2290.2 of, and to amend and repeal Section 2290.10 of, the Civil Code, relating to institutional funds.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 3 of Chapter 950 of the Statutes of 1973 is repealed.

SEC. 2. Section 2290.2 of the Civil Code is amended to read:

2290.2. The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by Section 2290.6. Appropriations shall be based upon an average fair value covering a period of up to the five preceding fiscal years of the institution and shall be set at any reasonable date prior to each fiscal year. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the charter of the institution.

SEC. 3. Section 2290.10 of the Civil Code is amended to read:

2290.10. Any institution electing to avail itself of the powers granted under this chapter shall periodically file with the Registrar of Charitable Trusts such report or reports as may reasonably be required by the Attorney General. Such reports shall be confidential and shall be limited to information relating to the assets of the institution covered by this chapter and the results of the use of the powers granted by this chapter with respect to such assets. Any institution electing not to avail itself of the powers conferred by this chapter shall file a written statement to such effect with the registrar.

This section shall remain in effect until January 1, 1983, and as of that date is repealed.

CHAPTER 807

An act to amend Section 11011 of the Government Code, and to amend Sections 5099.12, 31001, 31101, 31107, 31150, 31206, 31207, 31255, 31257, 31350, 31351, 31352, 31353, 31354, 31355, 31400.1, 31401, and 31405.5 of, to add Sections 31104.1, 31107.1, 31109, 31150.1, 31207.1, and 31255.1 to, and to repeal Sections 31350.1 and 31355.5 of, the Public Resources Code, relating to coastal resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 11011 of the Government Code is amended to read:

11011. On or before December 31st of each year each state agency shall make a review of all proprietary state lands (other than tax-deeded land and land held for highway purposes and lands under the jurisdiction of the State Lands Commission and land which has escheated to the state or which has been distributed to the state by court decree in estates of deceased persons and lands under the jurisdiction of the State Coastal Conservancy) over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services.

Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director thereof, for sale or disposition under this section or as may be otherwise authorized by law.

The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

Whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any such land is needed by any other state agency it may transfer the jurisdiction of such land to such other state agency upon such terms and conditions as it may deem to be for the best interests of the state.

When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to such authorization, upon such terms and conditions and subject to such reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General

Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(a) A description or other identification of the property

(b) The date of authorization

(c) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange, or

(d) The present status of the property, if not sold or otherwise disposed of at the time of the report.

Money received from the sale of any parcel of land pursuant to this section shall be paid into the General Fund unless otherwise specified by law.

Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under the provisions of this section, shall be deposited in the General Fund in the account established by Section 15863 of this code. Any expenditures required to maintain, repair, care for, and sell such real property shall be paid from the appropriation made by Section 15863.

Nothing contained in this section shall be construed to prohibit the sale, letting or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing such sale, letting or disposition.

SEC. 1.5. Section 11011 of the Government Code is amended to read:

11011. On or before December 31st of each year each state agency shall make a review of all proprietary state lands (other than tax-deeded land and land held for highway purposes and lands under the jurisdiction of the State Lands Commission and land which has escheated to the state or which has been distributed to the state by court decree in estates of deceased persons and lands under the jurisdiction of the State Coastal Conservancy) over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services.

Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director thereof, for sale or disposition under this section or as may be otherwise authorized by law.

The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

Whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any such land is needed by any other state agency it may transfer the jurisdiction of such land to such other state agency upon such terms and conditions as it may deem to be for the best interests of the state.

When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to such authorization, upon such terms and conditions and subject to such reservations and exceptions as the Department of General Services may deem to be for the best interests of the state; provided, that any sale or other disposition of such land shall be subject to the applicable provisions regarding mineral reservations found in Chapter 5 (commencing with Section 6401) of Part 1 of Division 6 of the Public Resources Code. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(a) A description or other identification of the property

(b) The date of authorization

(c) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange, or

(d) The present status of the property, if not sold or otherwise disposed of at the time of the report.

Money received from the sale of any parcel of land pursuant to this section shall be paid into the General Fund unless otherwise specified by law.

Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under the provisions of this section, shall be deposited in the General Fund in the account established by Section 15863 of this code. Any expenditures required to maintain, repair, care for, and sell such real property shall be paid from the appropriation made by Section 15863.

Nothing contained in this section shall be construed to prohibit the sale, letting or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing such sale, letting or disposition.

SEC. 2. Section 5099.12 of the Public Resources Code is amended to read:

5099.12. Of the annual apportionment of funds received by the director pursuant to this chapter, 30 percent shall be allocated for regional projects, 30 percent for less-than-regional projects, and 40 percent for state agency projects. The state agency share shall be disbursed to the following state agencies in the following percentages: 55 percent to the Department of Parks and Recreation; 35 percent to the Wildlife Conservation Board or the Department of Fish and Game; 5 percent to the Department of Water Resources; and 5 percent to the Department of Navigation and Ocean Development. The State Coastal Conservancy established pursuant to Section 31100 shall be eligible to compete for grants of funds for projects of an outdoor recreational nature from the 6 percent contingency fund established by this section.

In the event that either the state, regional, or local governmental agencies are unable to utilize their allocation of such funds, the director shall allocate the uncommitted funds to those state, regional, or local governmental agencies that are in position to take advantage of the funds during the year in which they are allocated. The 30-percent allocation for regional projects, the 30-percent allocation for less-than-regional projects and the 40-percent allocation to state agency projects shall not be computed until the costs of maintaining and keeping up to date the plan required pursuant to Section 5099.2 and an additional 6 percent for deposit to a contingency fund have been deducted.

As used in this section, "regional" and "less-than-regional" shall have such meaning as defined by the director by regulation.

SEC. 2.5. Section 31001 of the Public Resources Code is amended to read:

31001. "Certified local coastal plan or program" means any plan or program or land use plan of a local program adopted by the commission pursuant to Chapter 6 (commencing with Section 30500) of Division 20.

SEC. 2.7. Section 31101 of the Public Resources Code is amended to read:

31101. The members appointed under subdivisions (a) and (d) of Section 31100 shall serve for a term of four years. Such members shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day, and shall be reimbursed for the actual and necessary expenses, including traveling expenses, incurred in the performance of their duties.

SEC. 3. Section 31104.1 is added to the Public Resources Code, to read:

31104.1. The conservancy shall serve as a repository for lands whose reservation is required to meet the policies and objectives of the California Coastal Act of 1976 (commencing with Section 30000) or a certified local coastal plan or program. Pursuant to this authority, the conservancy may accept dedication of fee title, easements, development rights, or other interests in lands, including interests required to provide public access to recreation and resources areas in the coastal zone.

SEC. 4. Section 31107 of the Public Resources Code is amended to read:

31107. Notwithstanding other provisions of law, the Director of General Services, when so requested by the conservancy, may lease, rent, sell, or exchange any land acquired pursuant to this division; provided, however, that such action is determined by the conservancy to be necessary to meet the provisions of this division, including the implementation of any plan approved by the conservancy in accordance with this division. Leases executed pursuant to the provisions of this division shall not provide for a period longer than 10 years.

SEC. 4.5. Section 31107.1 is added to the Public Resources Code,

to read:

31107.1. The Department of General Services and the conservancy shall jointly develop and implement appropriate procedures to ensure that land acquisition, leasing, options to purchase, land disposal, and other property transactions undertaken in accordance with the provisions of this division are carried out efficiently and equitably and with proper notice to the public.

SEC. 4.7. Section 31109 is added to the Public Resources Code, to read:

31109. Where certification of a local coastal plan or program is required under this division as a condition of action by the conservancy, the conservancy may take such action, including the funding of projects prior to certification, when the action is identified in a local issue identification and work program which has been approved by the California Coastal Commission. However, in undertaking actions prior to certification of a local coastal plan or program, the conservancy shall follow other applicable project review and approval requirements set forth in this division.

SEC. 4.9. Section 31150 of the Public Resources Code is amended to read:

31150. The conservancy may acquire fee title, development rights, easements, or other interests in land located in the coastal zone in order to prevent loss of agricultural land to other uses and to assemble agricultural lands into parcels of adequate size permitting continued agricultural production. The conservancy may also undertake improvements to and development of such lands where such action is required to meet the purposes of this section.

The conservancy shall take all feasible action to return to private use or ownership, with appropriate use restrictions, all lands acquired for agricultural preservation under this division.

SEC. 5. Section 31150.1 is added to the Public Resources Code, to read:

31150.1. Notwithstanding any other provisions of law, the conservancy may enter into an option to purchase the lands designated in Section 31150 if the total cost of any such option does not exceed one hundred thousand dollars ($100,000), when the Legislature appropriates funds for purposes of carrying out the objectives of this division.

SEC. 6. Section 31206 of the Public Resources Code is amended to read:

31206. In accordance with procedures adopted by the conservancy, local public agencies may submit proposed coastal restoration projects for consideration by the conservancy. After evaluation of the submitted project proposals, the conservancy shall prepare a schedule of projects proposed for grants under this chapter. The schedule shall be submitted to the commission for review. The commission shall have 90 days to review and to determine the consistency of the projects with Division 20 (commencing with Section 30000). If no comments are received at

the end of such period, the projects shall be deemed to be in accordance with Division 20 (commencing with Section 30000). The conservancy shall not provide a grant for any project under this chapter unless the project has been certified by the commission as being in accord with the policies and objectives of Division 20 (commencing with Section 30000).

SEC. 6.5. Section 31207 of the Public Resources Code is amended to read:

31207. Following certification of the schedule by the commission, the conservancy shall notify, in writing, local applicants whose projects have been approved for funding and shall request that each applicant prepare a plan for restoration of the area following guidelines established by the conservancy. Local public agencies shall have six months to prepare such plans. The conservancy may provide up to fifty thousand dollars ($50,000) of the cost of preparing local coastal restoration plans.

SEC. 7. Section 31207.1 is added to the Public Resources Code, to read:

31207.1. Following approval of a proposed coastal restoration project as provided in Section 31206 or 31213, the conservancy may enter into an option to purchase lands included in the project when such action is necessary to reserve such lands during the period of preparation of the restoration plan and acquisition proceedings, and when the Legislature appropriates funds for purposes of carrying out the objectives of this division. The cost of such option shall not exceed one hundred thousand dollars ($100,000).

SEC. 8. Section 31255 of the Public Resources Code is amended to read:

31255. In accordance with procedures adopted by the conservancy, local public agencies and state agencies may submit proposed coastal resource enhancement projects for consideration by the conservancy. After evaluation of the project proposals submitted, the conservancy shall prepare a schedule of projects proposed for grants under this chapter. The schedule shall be submitted to the commission for review. The commission shall have 90 days to review and make a formal finding on each of the projects included in the schedule. If no comments are received at the end of such period, the projects shall be deemed to be in accordance with Division 20 (commencing with Section 30000).

SEC. 9. Section 31255.1 is added to the Public Resources Code, to read:

31255.1. Following approval of a proposed coastal resource enhancement project as provided in Section 31255 or Section 31263, the conservancy may enter into an option to purchase lands included in the project when such action is necessary to reserve such lands during the period of preparation of the resource enhancement plan and acquisition proceedings, and when the Legislature appropriates funds for purposes of carrying out the objectives of this section. The cost of such option shall not exceed one hundred thousand dollars

($100,000).

SEC. 9.5. Section 31257 of the Public Resources Code is amended to read:

31257. Following review and approval of the schedule by the commission, the conservancy shall notify, in writing, the state or local public agencies whose projects have been approved for funding and shall request that each applicant prepare a plan for resource enhancement for the area following the guidelines established by the conservancy. Such agencies shall have six months to prepare such plans. The conservancy may provide up to fifty thousand dollars ($50,000) of the cost of preparing local coastal resource enhancement plans.

SEC. 10. Section 31350 of the Public Resources Code is amended to read:

31350. It is the policy of the Legislature to assure that significant coastal resource sites shall be reserved for public use and enjoyment. To achieve this objective, it is the intent of the Legislature to vest in the conservancy authority to acquire and hold key coastal resource lands which otherwise would be lost to public use.

SEC. 11. Section 31350.1 of the Public Resources Code is repealed.

SEC. 12. Section 31351 of the Public Resources Code is amended to read:

31351. The conservancy shall cooperate with the commission and with other state and local public agencies in ensuring the reservation of lands for park, recreation, fish and wildlife habitat, historical preservation, or scientific study required to meet the policies and objectives of the California Coastal Act of 1976 (commencing with Section 30000) or a certified local coastal plan or program.

SEC. 13. Section 31352 of the Public Resources Code is amended to read:

31352. In the event that any state or local public agency is unable, due to limited financial resources or other circumstances of a temporary nature, to acquire a site as provided in Section 31351, the conservancy may acquire and hold the site for subsequent conveyance to the appropriate public agency.

SEC. 14. Section 31353 of the Public Resources Code is amended to read:

31353. Notwithstanding any other provisions of law, the conservancy may enter into an option to purchase the lands designated in Section 31350 if the total cost of any such option does not exceed one hundred thousand dollars ($100,000), when the Legislature appropriates funds for purposes of carrying out the objectives of this division.

SEC. 15. Section 31354 of the Public Resources Code is amended to read:

31354. The conservancy shall not hold lands acquired in accordance with this chapter more than 10 years from the time of acquisition. A local public agency shall have the right to acquire the

land at any time during such period for public purposes indicated in a certified local coastal plan or program. The acquisition price to local agencies shall be based upon the cost of acquisition under this division, plus administrative and management costs in reserving the land. The lands acquired under the provisions of this section shall not be disposed of under the provisions of Section 11011.1 of the Government Code.

If, at the expiration of such 10-year period, no public agency is willing or able to acquire the lands, the conservancy shall request the Real Estate Services Division of the Department of General Services to dispose of such lands at fair market value without restriction on subsequent land use under this division.

Any funds received by the state upon disposition of lands acquired in accordance with Section 31352 shall be deposited with the conservancy and shall be available for expenditure when appropriated by the Legislature for the purposes of funding the programs specified in this division.

SEC. 16. Section 31355 of the Public Resources Code is amended to read:

31355. The conservancy is authorized to lease lands acquired in accordance with this chapter. When such leases are made to private individuals or groups, the conservancy shall annually, upon appropriation of such amounts by the Legislature, transfer 24 percent of the gross income of such leases to the county in which such lands are situated.

The county shall distribute any payment received by it pursuant to this section to itself, to each revenue district for which the county assesses and collects real property taxes or assessments, and to every other taxing agency within the county in which the property is situated. The amount distributable to the county and each such revenue district or other taxing agency shall be proportionate to the ratio which the amount of the taxes and assessments of each on similar real property similarly situated within that part of the county embracing the smallest in area of the revenue districts or other taxing agencies other than the county, levied for the fiscal year next preceding, bears to the combined amount of the taxes and assessments of all such districts and agencies, including the county, on such property levied for that year. The county auditor shall determine and certify the amounts distributable to the board of supervisors, which shall thereupon order the making of the distribution.

Any money distributed pursuant to this section to any county, revenue district, or other taxing agency shall be deposited to the credit of the same fund as any taxes or assessments on any taxable similar real property similarly situated.

Where a county receives a payment pursuant to this section in an amount of twenty-five dollars ($25) or less in respect to any parcel of leased property, all of such payment shall be distributed to the county for deposit in the county general fund.

SEC. 17. Section 31355.5 of the Public Resources Code is repealed.

SEC. 17.5. Section 31400.1 of the Public Resources Code is amended to read:

31400.1. The conservancy may award grants to the department for purposes of the acquisition of interests in, and for initial development of, lands required for public accessways to the coast. The conservancy may also award grants to local agencies for the acquisition of interests in, and for the initial development of, lands required for public accessways to the coast where it is determined that such accessways are required to serve more than local needs.

SEC. 18. Section 31401 of the Public Resources Code is amended to read:

31401. The department shall develop and adopt standards to guide state and local public agencies and federal agencies to the extent permitted by federal law or regulations or the United States Constitution in acquiring and developing public access to coastal resources. Such standards shall be incorporated within an integrated system of public accessways to and along the state's coastline which shall become an element of the California Outdoor Recreation Resources Plan required by Section 5099.2.

SEC. 19. Section 31405.5 of the Public Resources Code is amended to read:

31405.5. The conservancy may provide funds to the department for the purposes of preparing and maintaining a plan for a system of public accessways to and along the state's coastline.

SEC. 19.5. It is the intent of the Legislature, if this bill and Senate Bill No. 1723 are both chaptered and Senate Bill No. 1723 becomes effective January 1, 1979, both bills amend Section 11011 of the Government Code, and this bill is chaptered after Senate Bill No. 1723, that Section 11011 of the Government Code, as amended by Section 1 of this act shall remain operative only until the operative date of Senate Bill No. 1723, and that on the operative date of Senate Bill No. 1723 Section 11011 of the Government Code as amended by Section 1 of this act be further amended in the form set forth in Section 1.5 of this act to incorporate the changes in Section 11011 proposed by Senate Bill No. 1723. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill No. 1723 are both chaptered and Senate Bill No. 1723 becomes effective January 1, 1979, both bills amend Section 11011, and this bill is chaptered after Senate Bill No. 1723, in which case Section 1.5 of this act shall become operative on the operative date of Senate Bill No. 1723.

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 that the funds already appropriated may be dispersed without delay in accordance with the provisions of this act, it is necessary that this act become effective immediately.

CHAPTER 808

An act to amend and renumber Section 2617.5 of, and to add Sections 2636, 2708, 2772, and 2927.6 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 2617.5 of the Revenue and Taxation Code is amended and renumbered to read:

4985.2. (a) Any uncollected delinquent penalty on property provided for in Section 2617, 2618, 2704, 2705, or 2922 may be canceled by the tax collector or the auditor, with the approval of the board of supervisors upon a finding that (1) the assessee's failure to make a timely payment is due to reasonable cause and circumstances beyond the assessee's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, provided the principal payment for the proper amount of the tax due is made within 90 days after the first delinquency date or within 30 days after the second delinquency date, or, (2) there was an inadvertent error in the amount of payment made by the assessee, provided the principal payment for the proper amount of the tax due is made within 10 days after the notice of shortage is mailed by the tax collector.

(b) Any assessee seeking to be relieved of the penalty shall file with the board of supervisors a claim for refund conforming with the provisions of Article 1 (commencing with Section 5096) of Chapter 5 of Part 9. The claim for refund shall be accompanied by a statement under penalty of perjury setting forth the facts upon which the claim for relief is based. The statement shall be filed with the board of supervisors within 60 days after the penalty is paid, or within 60 days following the effective date of this act, whichever is later.

(c) Nothing herein shall affect the powers of a tax collector or redemption officer pursuant to Section 2512, 2512.5 or 2513.

SEC. 2. Section 2636 is added to the Revenue and Taxation Code, to read:

2636. Notwithstanding any other provision of law, in the case of a deficiency in the payment of taxes due and payable pursuant to this chapter, the tax collector, with the approval of the board of supervisors, may accept such partial payment from the taxpayer. The difference between the amount paid by the taxpayer and the amount due shall be treated as a delinquent tax in the same manner as any other delinquent tax.

SEC. 3. Section 2708 is added to the Revenue and Taxation Code, to read:

2708. Notwithstanding any other provision of law, in the case of

a deficiency in the payment of taxes due and payable pursuant to this chapter, the tax collector, with the approval of the board of supervisors, may accept such partial payment from the taxpayer. The difference between the amount paid by the taxpayer and the amount due shall be treated as a delinquent tax in the same manner as any other delinquent tax.

SEC. 4. Section 2772 is added to the Revenue and Taxation Code, to read:

2772. Notwithstanding any other provision of law, in the case of a deficiency in the payment of taxes due and payable pursuant to this chapter, the tax collector, with the approval of the board of supervisors, may accept such partial payment from the taxpayer. The difference between the amount paid by the taxpayer and the amount due shall be treated as a delinquent tax in the same manner as any other delinquent tax.

SEC. 5. Section 2927.6 is added to the Revenue and Taxation Code, to read:

2927.6. Notwithstanding any other provision of law, in the case of a deficiency in the payment of taxes due and payable pursuant to this chapter, the tax collector, with the approval of the board of supervisors, may accept such partial payment from the taxpayer. The difference between the amount paid by the taxpayer and the amount due shall be treated as a delinquent tax in the same manner as any other delinquent tax.

CHAPTER 809

An act to amend Section 26857 of, and to repeal Section 26860 of, the Government Code, and to amend Sections 10612, 10613, 10614, 10615, 10616, 10617, and 10618 of, to add Section 10619 to, and to repeal Section 10611 of, the Health and Safety Code, relating to vital statistics.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 26857 of the Government Code is amended to read:

26857. No fee shall be charged by the clerk for service rendered in any criminal action or except as otherwise provided in Section 10619 of the Health and Safety Code, in any adoption proceeding, nor shall any fees be charged for any service to the state. No fee shall be charged by the clerk for service rendered to any municipality or county in the state, or to the national government, nor for any service relating thereto.

SEC. 1.5. Section 26860 of the Government Code is repealed.

SEC. 2. Section 10611 of the Health and Safety Code is repealed.

SEC. 3. Section 10612 of the Health and Safety Code is amended to read:

10612. A fee of eleven dollars ($11) shall be paid to the State Registrar by the applicant at the time of application for a delayed birth registration under the provisions of Chapter 9 (commencing with Section 10500) of this division. Upon acceptance of the application the State Registrar shall retain the fee.

SEC. 4. Section 10613 of the Health and Safety Code is amended to read:

10613. A fee of eleven dollars ($11) shall be paid to the State Registrar by the applicant for an amendment to a birth, death, or marriage record under provisions of Articles 1 (commencing with Section 10400) and 3 (commencing with Section 10420) of Chapter 8 of this division, except for those amendments which are filed within one year of the date of occurrence of the event.

SEC. 5. Section 10614 of the Health and Safety Code is amended to read:

10614. A fee of eleven dollars ($11) shall be paid to the State Registrar by the applicant for the preparation of an amended record which shall include a certified copy of the newly amended record under provisions of Section 10433.3.

SEC. 6. Section 10615 of the Health and Safety Code is amended to read:

10615. A fee of eleven dollars ($11) shall be paid to the State Registrar by the applicant or when applicable, by the county clerk for the establishment of an amended record of birth under the provisions of Articles 4 (commencing with Section 10430), and 6 (commencing with Section 10450) of Chapter 8, except where the required fee has been paid or an exception to the fee is provided under provisions of Section 10619.

SEC. 7. Section 10616 of the Health and Safety Code is amended to read:

10616. A fee of eleven dollars ($11) shall be paid to the State Registrar by the applicant for the establishment of a new record of birth under the provisions of Article 6.5 (commencing with Section 10455) of Chapter 8 of this division.

SEC. 8. Section 10617 of the Health and Safety Code is amended to read:

10617. A fee of eleven dollars ($11) shall be paid to the State Registrar by the applicant for the establishment of an amended record of birth under the provisions of Article 8 (commencing with Section 10470) of Chapter 8 of this division.

SEC. 9. Section 10618 of the Health and Safety Code is amended to read:

10618. A fee of eleven dollars ($11) shall be paid to the State Registrar by the applicant for establishment of a new record of birth under the provisions of Article 9 (commencing with Section 10475) of Chapter 8 of this division.

SEC. 10. Section 10619 is added to the Health and Safety Code, to read:

10619. A fee of eleven dollars ($11) for each individual being adopted shall be paid to the county clerk at the time of filing the petition in an adoption proceeding, except for agency adoptions in which the adoption fee is waived and a statement from the agency to this effect is filed with the petition, which fee shall be paid monthly by the county clerk to the State Registrar of Vital Statistics for the services required by statute of that office.

CHAPTER 810

An act to amend Sections 7508, 18950, 20981, 20983.5, and 20983.6 of, and to add Sections 20023.7 and 20985 to, and to repeal Section 21158 of, the Government Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 7508 of the Government Code, as added by Chapter 385 of the Statutes of 1978, is amended 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, or to persons whose earlier mandatory retirement is permitted under the Federal Age Discrimination in Employment Act of 1967, as amended by the Age Discrimination in Employment Act Amendments of 1978 (Public Law 95-256).

SEC. 2. Section 18950 of the Government Code is amended to read:

18950. Vacancies in positions shall be filled insofar as consistent with the best interests of the state from among employees holding positions in appropriate classes, and appropriate promotional lists shall be established to facilitate this purpose. Examinations shall be held on an open, nonpromotional basis when, in the judgment of the board, open competition will produce eligible lists with more highly skilled qualified candidates and is consistent with the best interests of the state.

The board may prescribe conditions under which state employees, persons on leave of absence, and persons whose names are on appropriate reemployment lists, may be permitted to compete in promotional examination and to attain eligibility for appointment.

The board may further prescribe conditions under which eligibility may be transferred from one promotional list to another

promotional list when such lists are for the same class and have been established as a result of the same examination.

SEC. 3. Section 20023.7 is added to the Government Code, to read:

20023.7. Notwithstanding the provisions of Section 20023.1, if a member on deferred retirement from this system is eligible to retire for service at age 50 from a system established under the County Employees Retirement Law of 1937 and does so retire prior to the age of 55, at the time such member becomes entitled to retire under this system his retirement shall be deemed a concurrent retirement for purposes of computing final compensation under Section 20023.1.

SEC. 4. Section 20981 of the Government Code is amended to read:

20981. Notwithstanding any other provision of law except Sections 20981.1, 20983.1, 20983.2, 20983.5, 20983.6, and 20988, 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. 5. Section 20983.5 of the Government Code is amended to read:

20983.5. Every state member, other than a patrol or state safety member, and every local miscellaneous member who is employed by a school district or by a county superintendent of schools, and who has attained age 70, shall have the right to delay retirement and to continue in employment upon certification of the member's eligibility to continue in employment by the department or agency head or other appropriate supervisor pursuant to rules and regulations adopted by the State Personnel Board, the respective county superintendent of schools, or their designees, the Regents of the University of California, or the Trustees of the State Universities or Colleges with respect to employees under their respective

jurisdictions. Such rules and regulations shall also provide for an appeal in cases when eligibility is denied. The appeal shall be directly to the entity or its designated representative. Certificates of eligibility may be limited for a time period of one or more years, and may be renewed from time to time upon expiration.

"Eligibility," for purposes of this section, shall mean job performance of standard or above.

The board shall identify all members who are approaching age 70 and shall notify the member and his employer of the member's option to continue in employment under this section. Upon receipt of the initial certificate of eligibility by the board from the employer, a member shall be continued in membership and shall be entitled to all of the rights and subject to all of the liabilities arising from such membership, including the obligation to pay contributions and the right to receive additional service credit.

All subsequent certifications and processing shall be the responsibility of the department or agency head and the board shall have no further responsibility.

Notwithstanding any other provisions of law, a member who continues in membership pursuant to this section shall thereafter be retired for service only upon his voluntary application for retirement, and the effective date of such retirement shall be the date following the last date for which salary is payable or any subsequent date specified by the member.

SEC. 6. Section 20983.6 of the Government Code is amended to read:

20983.6. 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. 7. Section 20985 is added to the Government Code, to read:

20985. Notwithstanding any other provision of law, every state miscellaneous member, school member, or local miscellaneous member who is reinstated from retirement during the period beginning on July 11, 1978, and ending on January 1, 1979, shall not

be retired solely because they have attained age 67. On and after January 1, 1979, such persons shall be subject to the same retirement provisions as every other member in the same employment and membership category.

SEC. 8. Section 21158 of the Government Code is repealed.

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 there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 10. Except for Sections 2, 7, 9, 11, and this section, all sections of this act shall become operative January 1, 1979.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to prevent inequity which could result when state employees transfer from one department to another, this act must take effect immediately.

CHAPTER 811

An act to amend Section 14256 of the Government Code, relating to the State Contract Act.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 14256 of the Government Code is amended to read:

14256. Where the nature of the work in the opinion of the department is such that its services in connection therewith are not required, it may authorize the carrying out of the project directly by the state agency concerned therewith if the estimated cost does not exceed one hundred thousand dollars ($100,000), except that the one hundred thousand dollars ($100,000) limitation shall not apply to a project of a district agricultural association or a project of the State Lands Commission.

If the estimated total cost of any construction project or work carried out under this section exceeds fifteen thousand dollars ($15,000), the district or agency shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids; provided, however, that the director may authorize the district or agency to carry out work in excess of fifteen thousand dollars ($15,000) under the provisions of this section by day labor if he deems that the award of a contract, the acceptance of bids, or the

acceptance of further bids is not in the best interests of the state; however, in no event shall the amount of work performed by day labor under this section exceed the sum of thirty-five thousand dollars ($35,000) in the case of agricultural district fair projects, or twenty thousand dollars ($20,000) in other cases.

CHAPTER 812

An act to amend Sections 1351.1 and 1357 of the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 1351.1 of the Health and Safety Code is amended to read:

1351.1. In addition to the requirements of Section 1351 and upon request of the commissioner, each application shall be accompanied by authorization for disclosure to the commissioner of financial records of each health care service plan or specialized health care service plan licensed under this chapter pursuant to Section 7473 of the Government Code. For the purpose of this chapter, the authorization for disclosure shall also include the financial records of any association, partnership or corporation controlling, controlled by or otherwise affiliated with a health care service plan or specialized health care service plan.

SEC. 2. Section 1357 of the Health and Safety Code is amended to read:

1357. (a) It is unlawful for any person to act as a solicitor or solicitor firm in this state unless such person has first secured from the commissioner a license, then in effect, authorizing such person to do so, or unless such person is exempted pursuant to the provisions of Section 1343, except that any person who files an application for a solicitor or solicitor firm license, and who pays the fee prescribed by this section on or before July 15, 1976, may act in the capacity for which such license application is filed until such time as the application is denied by the commissioner.

(b) An applicant for a solicitor or solicitor firm license under this article shall file with the commissioner an application in the form and with such supporting documents as the commissioner prescribes together with the fee prescribed by subdivision (d). The commissioner shall investigate applicants and licensees in such manner and in respect of such manner as the commissioner deems advisable.

(c) A solicitor's license shall be issued only to an individual. No individual may act as a solicitor except as an employee of a plan or

solicitor firm, or as the commissioner may permit by rule in the protection of the public interest or for the protection of subscribers, enrollees, persons, or plans subject to this chapter.

(d) The fee for filing an application for a solicitor license is fifty dollars ($50), and payment of this amount shall keep the license, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year, during the following calendar year. Every solicitor who has secured a license from the commissioner shall, in order to keep such license in effect for an additional two-year period, pay a renewal fee of fifty dollars ($50) on or before the 15th day of December preceding the additional period.

(e) The fee for filing an application for a solicitor firm license shall be two hundred dollars ($200), and payment of this amount shall keep the license, if granted, in effect during the calendar year during which it is granted and if that year is an even-numbered year, during the following calendar year. Every solicitor firm which has secured a license from the commissioner shall, in order to keep such license in effect for an additional two-year period, pay a renewal fee of two hundred dollars ($200) on or before the 15th day of December preceding the additional period.

(f) The license of every solicitor and solicitor firm issued under this chapter shall remain in effect until revoked or suspended by the commissioner.

(g) The commissioner may, by regulation, reduce the fees required by subdivisions (d) and (e) for persons licensed pursuant to Chapter 5 (commencing with Section 1621) of Part 2 of Division 1 of the Insurance Code, but such reduced fees shall not be less than one-half of the fee prescribed in such subdivisions.

(h) Upon request of the commissioner, each application shall be accompanied by authorization for disclosure to the commissioner of the financial records of the solicitor or solicitor firm pursuant to Section 7473 of the Government Code.

CHAPTER 813

An act to amend Section 1851.1 of, and to add Sections 1854.5 and 11753.3 to, the Insurance Code, relating to insurance.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 1851.1 of the Insurance Code is amended to read:

1851.1. Notwithstanding subdivision (f) of Section 1851 or any other provision of law and except as and to the extent otherwise

provided in Section 1854.5 and 11753.3, any classification of risks and premium rates or system of rating for insurance covering employers against their liability for compensation or damages under the United States Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.) shall be subject to the provisions of this chapter.

SEC. 2. Section 1854.5 is added to the Insurance Code, to read:

1854.5. A workers' compensation insurance rating organization licensed pursuant to the provisions of Article 3 (commencing with Section 11750) of Chapter 3 of Part 3 of Division 2 which does not make rates, rating plans or rating systems for insurance covering the liability of employers for compensation or damages under the United States Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.) shall not be required to be licensed as a rating organization or registered as an advisory organization pursuant to the provisions of this chapter and shall have authority under its license as a workers' compensation insurance rating organization to:

(a) Collect and tabulate loss and expense experience statistics and other information and data relating to insurance covering employers against their liability for compensation under the United States Longshoremen's and Harbor Workers' Compensation Act.

(b) Furnish or exchange such information and experience data to or with rating organizations, advisory organizations and insurers in this and other states.

(c) Adopt and enforce compliance by its insurer members with reasonable rules and statistical plans to be used in the recording and reporting by insurer members of their California longshoremen's and harbor workers' insurance loss and expense experience in order that such experience of all of its insurer members shall be available in such form and detail as will be of aid to the commissioner in the enforcement of, and to its insurer members in complying with, the provisions of this chapter.

(d) Engage in the same activities and carry out the same functions with respect to insurance covering the liability of employers for compensation or damages under the United States Longshoremen's and Harbor Workers' Compensation Act that it is authorized to engage in or carry out with respect to California workers' compensation insurance generally under the provisions of Article 3 (commencing with Section 11750) of Chapter 3 of Part 3 of Division 2 other than the making of rates, rating plans and rating systems.

SEC. 3. Section 11753.3 is added to the Insurance Code, to read:

11753.3. Notwithstanding Section 1851.1, a workers' compensation insurance rating organization licensed pursuant to the provisions of this article which does not make rates, rating plans or rating systems for insurance covering employers against their liability for compensation or damages under the United States Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.) shall not be required to be licensed as a rating organization or registered as an advisory organization pursuant to the provisions of Chapter 9 (commencing with Section 1850) of Part

2 of Division 1, and shall have authority under its license as a workers' compensation insurance rating organization issued pursuant to this article to:

(a) Collect and tabulate loss and expense experience statistics and other information and data relating to insurance covering employers against their liability for compensation under the United States Longshoremen's and Harbor Workers' Compensation Act.

(b) Furnish or exhange such information and experience data to or with rating organizations, advisory organizations and insurers in this and other states.

(c) Adopt and enforce compliance by its insurer members with reasonable rules and statistical plans to be used in the recording and reporting by insurer members of their California longshoremen and harbor workers' insurance loss and expense experience in order that such experience of all of its insurer members shall be available in such form and detail as will be of aid to the commissioner in the enforcement of and to its insurer members in complying with the provisions of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1.

(d) Engage in the same activities and carry out the same functions with respect to insurance covering the liability of employers for compensation or damages under the United States Longshoremen's and Harbor Workers' Compensation Act that it is authorized to engage in or carry out with respect to California workers' compensation insurance generally under the provisions of this article other than the making of rates, rating plans and rating systems.

CHAPTER 814

An act to amend Section 76012 of the Government Code, relating to grand juries.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 76012 of the Government Code is amended to read:

76012. In a county of the 12th class, for acting as a grand juror for each day's attendance upon regularly called grand jury meetings, each juror shall be allowed fifteen dollars ($15) and for each committee meeting each grand juror shall receive five dollars ($5) per day, and trial jurors in the superior court, municipal court, and justice courts shall receive five dollars ($5) a day while engaged in the performance of the duties required of them by law. Grand jurors shall receive mileage at the rate of eighteen and one-half cents ($0.185) per mile to and from meetings, and trial jurors in the

superior court, municipal court, and justice courts shall receive mileage at the rate of fifteen cents ($0.15) per mile one way only.

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 which desires legislative authority to act to carry out the program specified in this act.

CHAPTER 815

An act to amend Sections 1540 and 1582 of the Code of Civil Procedure, relating to unclaimed property, and making an appropriation therefor.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 1540 of the Code of Civil Procedure is amended to read:

1540. (a) Any person, excluding another state, who claims an interest in property paid or delivered to the State Controller under this chapter may file a claim to the property or to the net proceeds from its sale. The claim shall be on a form prescribed by the State Controller and shall be verified by the claimant.

(b) The State Controller shall consider each claim within 90 days after it is filed. He may hold a hearing and receive evidence. He shall give written notice to the claimant if he denies the claim in whole or in part. Such notice may be given by mailing it to the address, if any, stated in the claim as the address to which notices are to be sent. If no such address is stated in the claim, the notice may be mailed to the address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either an address to which notices are to be sent or an address of the claimant.

(c) The State Controller shall add interest at the rate of 5 percent compounded annually or the current interest rate received upon deposits held in the Pooled Money Investment Account, whichever is lower, to the amount of any claim paid the owner under this section for the period the property was on deposit in the Unclaimed Property Fund. No interest shall be payable for any period prior to January 1, 1977.

(d) Any holder who pays to the owner, property which has escheated to the state and which, if claimed from the State Controller, would be subject to subdivision (c) may add interest as provided in subdivision (c). Such added interest shall be repaid to the holder by the State Controller in the same manner as the

principal.

(e) For the purposes of this section, "owner" means the person who had legal right to the property prior to its escheat, his heirs, or his legal representative.

SEC. 2. Section 1582 of the Code of Civil Procedure is amended to read:

1582. No agreement to locate, deliver, recover, or assist in the recovery of property reported under Section 1530, entered into between the date a report is filed under subdivision (d), of Section 1530 and six months after the date payment or delivery is required under Section 1532 is valid. Such an agreement made more than six months after payment or delivery is required under Section 1532 is valid if the fee or compensation agreed upon is not in excess of 10 percent of the recoverable property and the agreement is in writing and signed by the owner after disclosure in the agreement of the nature and value of the property and the name and address of the person or entity in possession of the property. Nothing in this section shall be construed to prevent an owner from asserting, at any time, that any agreement to locate property is based upon an excessive or unjust consideration.

CHAPTER 816

An act to add Section 59943.5 to the Food and Agricultural Code, relating to marketing.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 59943.5 is added to the Food and Agricultural Code, to read:

59943.5. For the convenience of collecting any producer fees which are established pursuant to this article, the director may collect such fees from the handlers of the commodity which is being regulated. Any handler that pays a fee for and on behalf of any producer may deduct the producer fee from any money which is owed by the handler to the producer. Any marketing program may require a handler to deduct producer fees from any money which is owed by the handler to the producer. Such producer fee deductions are hereby declared to be trust funds held by the handler for the purposes of the marketing program concerned and shall be timely remitted, with fee reports, to the director.

CHAPTER 817

An act to amend Section 224 of the Food and Agricultural Code, and to amend Section 8352.5 of the Revenue and Taxation Code, relating to the Department of Agriculture Fund.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 224 of the Food and Agricultural Code is amended to read:

224. Money transferred by the State Controller to the Department of Agriculture Fund from the Motor Vehicle Fuel Account pursuant to Section 8352.5 of the Revenue and Taxation Code shall be expended by the Director of Food and Agriculture as follows:

(1) Five hundred thousand dollars ($500,000) of the amount transferred each fiscal year is hereby appropriated for reimbursement for charges for state administrative costs, and for departmental and divisional overhead expense apportioned to the Department of Agriculture Fund.

(2) One million dollars ($1,000,000) each fiscal year is hereby appropriated to be used only for emergency detection, eradication, or research of agricultural plant or animal pests or diseases, during such fiscal year. The Director of Food and Agriculture may expend such funds with the approval of the Director of Finance. At the end of each fiscal year, any unencumbered balance of such funds shall be added to the amount available for payment to counties during the next fiscal year, as provided in subdivision (3).

(3) The total amount transferred during each fiscal year less the amounts provided in subdivisions (1) and (2) is hereby appropriated to be paid to the counties as partial reimbursement for county expenses for carrying out agricultural programs authorized by this code that are supervised by the department. Such payment shall be apportioned to the counties by the director in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for such agricultural programs, as determined by the director. The amount to be transferred to any county for a fiscal year may be increased or decreased by the director to provide that, insofar as such transferred unclaimed refundable gas tax funds for apportionment to the counties are available, no county shall receive smaller combined apportionments of gas taxes and unclaimed refundable gas taxes than such county would have received had the gas taxes been apportioned without the transfer required by Section 8352.5, as determined by the director, except that the amount of unclaimed refundable gas tax funds to be transferred to any county for a fiscal year may be increased or

decreased by the director to compensate for incorrect previous transfers to that county.

SEC. 2. Section 8352.5 of the Revenue and Taxation Code is amended to read:

8352.5. Subject to the provisions of Sections 8352 and 8352.1, there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Department of Agriculture Fund, during the second quarter of each fiscal year, an amount equal to the estimate contained in the most recent report prepared pursuant to this section.

Such amounts shall not be subject to the provisions of Section 6357 with respect to the collection of sales and use taxes thereon, and represent the portion of receipts in the Motor Vehicle Fuel Account during a calendar year that were attributable to agricultural off-highway use of motor vehicle fuel which is subject to refund pursuant to Section 8101, less gross refunds allowed by the State Controller during the fiscal year ending June 30th following such calendar year to persons entitled to such refunds for agricultural off-highway use pursuant to Section 8101. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

On or before September 30th of each odd-numbered year, the Secretary of the Business and Transportation Agency and the Director of Food and Agriculture shall jointly prepare, or cause to be prepared, a report setting forth the current estimate of the amount of money in the Motor Vehicle Fuel Account attributable to agricultural off-highway use of motor vehicle fuel, which is subject to refund pursuant to Section 8101 less gross refunds allowed by the State Controller to persons entitled to such refunds for agricultural off-highway use pursuant to Section 8101; and they shall submit a copy of such report to the Legislature.

CHAPTER 818

An act to amend Section 10770 of the Revenue and Taxation Code, and to amend Sections 1656, 5350.6, 9801, and 11704.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 10770 of the Revenue and Taxation Code is amended to read:

10770. (a) If the fee for an original registration is not paid within 20 days after it becomes delinquent, a penalty equal to 20 percent of the fee shall be added thereto and to be collected therewith.

(b) A penalty of 20 percent of the license fee shall be added on

any application for original or renewal of year-round or annual registration made later than midnight of the date of expiration or on or after the date penalties become due. Such penalty shall be computed after the vehicle license fee has been combined with the registration and weight fee as provided in Sections 9250, 9253, and 9400 of the Vehicle Code.

(c) In computing the penalty for the 1976 registration year as prescribed in subdivisions (a) and (b) of this section, no penalty shall be charged on that portion of the fee which is in excess of a 12-month registration period.

(d) Notwithstanding subdivision (a) of this section, any penalty which became due prior to January 1, 1978, shall be computed at the rate of penalty which was then in effect.

SEC. 2. 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 at a charge sufficient to pay the entire actual cost of publishing and distributing the code, except the charge shall not exceed three dollars ($3). In determining the amount of the charge, a fraction of a dollar shall be disregarded, unless it exceeds fifty cents ($0.50), in which case it shall be treated as one full dollar ($1). The receipts from the sale of such publications shall be deposited in the Motor Vehicle Account.

(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 synopsis 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. 3. Section 5350.6 of the Vehicle Code is amended to read:

5350.6. (a) For the purposes of registration of mobilehomes pursuant to this article, "mobilehome" shall include, as a single unit with one registration, two or more units that are manufactured or fabricated for later assembly as a single unit which are actually sold to be assembled into a single unit.

(b) Subdivision (a) shall apply to mobilehomes upon application

for original registration.

(c) Subdivision (a) shall apply to mobilehomes described in subdivision (a) upon transfer of ownership thereof, unless the owner or transferee of such a mobilehome which is currently registered in this state as separate units, requests the continuation of such separate registration.

(d) The owner of a currently registered mobilehome described in subdivision (a) may request the department to register the mobilehome as a single unit as specified in subdivision (a).

SEC. 4. Section 9801 of the Vehicle Code is amended to read:

9801. (a) The department shall collect the fee, or any penalty, or both, plus costs, not exceeding two hundred dollars ($200), but at least equal to the cost, incurred by the department arising from the preparation for the seizure of the vehicle by due notice or by seizure of the vehicle from the person or persons in possession thereof, if any, and by the sale of such vehicle if fees and costs are not paid upon notice to pay all fees due and herein provided for except as otherwise provided.

(b) When a lien for the fee, or any penalty, or both, exists against more than one vehicle in possession of the same person or persons, the department may seize and sell a sufficient number of the vehicles to pay the fees, or penalties, or both, plus costs, to equal at least the cost of conducting the seizure and sale proceedings but not to exceed two hundred dollars ($200), for each vehicle incident to such seizure, against all such vehicles.

(c) When the lien for the fee, or any penalty, or both, exists on a vehicle sold by a dealer, the department may withhold seizure and sale of the vehicle pending notification of the selling dealer and his bonding company of the dealer's liability under Section 4456 and pursuant to the bond provided in Section 11710. The department may proceed with seizure and sale of the vehicle if the fee and any penalty is not paid within 30 days after due and proper notice to the dealer and his bonding company.

(d) The Department of the California Highway Patrol shall assist with the seizure and impounding of such vehicle.

SEC. 5. Section 11704.5 of the Vehicle Code is amended to read:

11704.5. (a) Except as otherwise provided in this section, every applicant for a mobilehome dealer's or salesman's license, and every vehicle salesman who commences working for a mobilehome dealer, shall, commencing July 1, 1976, be required to take, and successfully complete, a written examination, prepared and administered by the department. Such examination shall include, but not be limited to, subjects relating to mobilehomes, laws relating to contracts for the sale of vehicles, laws covering truth in lending, and departmental and warranty requirements.

(b) The department may administer an oral examination in lieu of the written examination required by subdivision (a) under the following conditions:

(1) To any person who applies for a mobilehome salesman's

license.

(2) To any person who applies for a mobilehome dealer's license, provided the person is not the sole owner of the dealership and other persons within the ownership structure meet the requirements of subdivisions (a) and (b).

(c) No person who, on July 1, 1976, held a then valid salesman's license and who has continuously for the same employer been a salesman of mobilehomes shall be required to take the examination specified in subdivision (a).

(d) No person who, on July 1, 1976, held a then valid dealer's license and who has continuously without lapse been a mobilehome dealer shall be required to take the examination specified in subdivision (a), regardless of whether such person subsequently makes an application to do business under a different name or form of business organization, except that a salesman of mobilehomes who makes an application for a mobilehome dealer's license shall be required to take, and successfully complete, the examination specified in subdivision (a).

(e) If the applicant for a mobilehome dealer's license is a corporation, only those persons who will participate in the direction, control, or management, or any combination thereof, of the sales operations of the business, or who act in the capacity of vehicle salesmen, shall be required to take and successfully complete the examination specified in subdivision (a), except that if no officer or director of the corporation participates in the direction, control, or management, or any combination thereof, of the sales operations of the business, or acts in the capacity of a vehicle salesman, the corporation shall designate and maintain a responsible managing employee who is a licensed vehicle salesman and who shall be required to take, and successfully complete, the examination specified in subdivision (a) for a dealer's license before a dealer's license may be issued.

CHAPTER 819

An act to amend Section 14108 of the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 14108 of the Welfare and Institutions Code is amended to read:

14108. Any developmentally disabled recipient under this chapter receiving care in a skilled nursing facility or intermediate care facility is entitled as a part of the therapeutic and rehabilitative

program, to be temporarily absent from such facilities. The State Department of Health Services shall, with consultation from the State Department of Developmental Services, adopt regulations establishing the periods of time and conditions under which temporary absences shall be permitted. Such regulations shall require that absences be in accordance with an individual program plan and provide for absences due to hospitalization for an acute condition. The limits on temporary leaves of absence established by the Department of Health Services by regulation shall not be less than 30 days per year.

During such temporary absences the State Department of Health Services shall reimburse the facility for the cost of maintaining the vacant accommodations at a rate determined by the department which shall be less than the regular rate.

CHAPTER 820

An act to amend Section 4014.5 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 4014.5 of the Welfare and Institutions Code, as amended by Chapter 1252 of the Statutes of 1977, is amended to read:

4014.5. In order to assure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of Mental Health shall plan with the University of California, private universities, and the California Postsecondary Education Commission, for the development of programs for the training of psychiatrists and psychologists with forensic skills. The department shall submit a report to the Legislature on February 1 of each year concerning implementation of forensic training programs and proposals for such training programs in the succeeding fiscal year.

CHAPTER 821

An act to amend Sections 13002, 13003, and 14902 of, and to repeal Section 14903 of, the Vehicle Code, relating to identification cards, and making an appropriation therefor.

[Approved by Governor September 15, 1978 Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 13002 of the Vehicle Code is amended to read:

13002. (a) Except as otherwise provided in subdivision (b), every identification card shall expire, unless canceled earlier, on the sixth birthday of the applicant following the date of application for the identification card. Renewal of any identification card, other than a senior citizen identification card, shall be made for a term which shall expire on the sixth birthday of the applicant following expiration of the identification card renewed, unless surrendered earlier. Any application for renewal received after 90 days after expiration of the identification card, including a senior citizen identification card, shall be considered the same as an application for an original identification card. The department shall, at the end of six years and six months after the issuance or renewal of an identification card, other than a senior citizen identification card, destroy any record of the card if it has expired and has not been renewed.

(b) Every senior citizen identification card issued pursuant to subdivision (b) of Section 13000 shall expire, unless canceled earlier, on the 10th birthday of the applicant following the date of application for the identification card. Renewal of any senior citizen identification card shall be made for a term which shall expire on the 10th birthday of the applicant following expiration of the senior citizen identification card renewed, unless surrendered earlier. The department shall, at the end of 10 years and six months after the issuance or renewal of a senior citizen identification card, destroy any record of the card if it has expired and has not been renewed.

SEC. 2. Section 13003 of the Vehicle Code is amended to read:

13003. In the event an identification card issued under this code is lost, destroyed, mutilated, or a new name is acquired, the person to whom it was issued shall make application for an original identification card as specified in Section 13000. The fee provided in Section 14902 shall be paid to the department upon application for the card. Every identification card issued pursuant to this section shall expire as provided in Section 13002 and shall be deemed an original identification card for that purpose.

SEC. 3. Section 14902 of the Vehicle Code is amended to read:

14902. (a) Except as otherwise provided in subdivision (b), upon an application for an identification card there shall be paid to the department a fee of three dollars and twenty-five cents ($3.25), which fee shall be deposited in the Motor Vehicle Account in the Transportation Tax Fund.

(b) Upon application for an original senior citizen identification card, or for the renewal thereof, issued pursuant to subdivision (b)

of Section 13000, there shall be paid to the department a fee of three dollars ($3).

All fees received pursuant to this subdivision for the issuance of senior citizen identification cards, shall be deposited in the Motor Vehicle Account in the Transportation Tax Fund.

SEC. 4. Section 14903 of the Vehicle Code is repealed.

CHAPTER 822

An act to amend Section 5130 of, to add Sections 5131 and 5134 to, and to repeal Section 5134 of, the Business and Professions Code, relating to accountants, and making an appropriation therefor.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 5130 of the Business and Professions Code is amended to read:

5130. The board shall charge and collect a fee from each applicant for the certificate of certified public accountant. The fee shall accompany the application which must be made on a blank provided by the board.

SEC. 2. Section 5131 is added to the Business and Professions Code, to read:

5131. The board shall charge and collect an examination fee from each applicant. The fee shall accompany the application which must be made on a form provided by the board.

SEC. 3. Section 5134 of the Business and Professions Code is repealed.

SEC. 4. Section 5134 is added to the Business and Professions Code, to read:

5134. The amount of fees prescribed by this chapter is as follows:

(a) The fee for the certified public accountant examination shall be fixed by the board at not more than seventy-five dollars ($75). Should the applicant fail to pass the required examination, reexamination at subsequent examinations will be given the same applicant for an additional fee fixed by the board at not more than fifteen dollars ($15) for each subject in which the applicant is reexamined.

(b) The application fee for issuance of a certified public accountant certificate shall be fixed by the board at not more than fifty dollars ($50).

(c) The application fee for issuance of a certified public accountant certificate by waiver of examination shall be fixed by the board at not more than fifty dollars ($50).

(d) The registration fee shall be fixed by the board at not more

than twenty dollars ($20).

(e) The biennial renewal fee shall be fixed by the board at not more than fifty dollars ($50).

(f) The delinquency fee shall be 50 percent of the accrued renewal fee.

(g) The initial permit fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the permit is issued, except that, if the permit is issued less than one year before it will expire, then the initial permit fee is an amount equal to fifty percent (50%) of the renewal in effect on the last regular renewal date before the date on which the permit is issued.

The board may, by regulation, provide for the waiver or refund of the initial permit fee where the permit is issued less than 45 days before the date on which it will expire.

(h) The fee for proctoring examinations for out-of-state candidates shall be fixed by the board at not more than twenty-five dollars ($25).

(i) The fee for filing of sponsor agreements for continuing education courses shall be fixed by the board at not more than one hundred dollars ($100). Universities, colleges, or other four-year institutions of learning accredited by a regional or national accrediting agency or association included in a list of such agencies or associations published by the United States Commissioner of Education under the requirements of Section 253 of the Veteran's Readjustment Assistance Act of 1952, known as Public Law 550 of the 82nd Congress, as amended, are exempted from the payment of this filing fee.

CHAPTER 823

An act to amend Section 5070.5 of the Business and Professions Code, relating to accountants.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 5070.5 of the Business and Professions Code is amended to read:

5070.5. Permits issued under this chapter expire at 12 p.m. on December 31, 1978, and thereafter shall expire at 12 midnight on the last day of the month of the legal birthday of the licensee during the second year of a two-year term if not renewed. The board shall establish by regulation procedures for the administration of the birth date renewal program.

To renew an unexpired permit, a certificate holder or registrant shall, before the time at which the permit would otherwise expire,

apply for renewal on a form prescribed by the board, pay the renewal fee prescribed by this chapter and give evidence to the board that he has complied with the continuing education provisions of this chapter.

CHAPTER 824

An act to amend the heading of Article 3 (commencing with Section 34261) of Chapter 9 of Part 1 of Division 15 of, and to add Sections 32921 and 34261.5 to, to repeal Section 34266 of, and to repeal Articles 4 (commencing with Section 34291) and 5 (commencing with Section 34321) of Chapter 9 of Part 1 of Division 15 of, the Food and Agricultural Code, relating to milk.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 32921 is added to the Food and Agricultural Code, to read:

32921. The official final action methods of analysis for the determination of the components of milk, bulk milk, products of milk, or products resembling milk products, when such component determinations are required as a basis for payment or to meet a legal compositional requirement of this division, shall be as follows:

(a) Milk fat: Roese-Gottlieb
(b) Total Solids: AOAC Method
(c) Protein: Kjeldahl Procedure
(d) Lactose: Polarimetric Method

The procedural regulations required for official final action methods shall be adopted not later than April 1, 1979.

The director may, by regulation, adopt other acceptable methods of comparable accuracy.

Milk testing regulations in existence on December 31, 1978, shall remain in effect until replaced or eliminated by action of the director under the provisions of this section.

SEC. 2. The heading of Article 3 (commencing with Section 34261) of Chapter 9 of Part 1 of Division 15 of the Food and Agricultural Code is amended to read:

Milk Tests

SEC. 3. Section 34261.5 is added to the Food and Agricultural Code, to read:

34261.5. The director shall, by regulation, adopt methods and procedures for the testing, weighing, and measuring of milk components and for the recording and reporting of such testing.

SEC. 4. Section 34266 of the Food and Agricultural Code is repealed.

SEC. 5. Article 4 (commencing with Section 34291) of Chapter 9 of Part 1 of Division 15 of the Food and Agricultural Code is repealed.

SEC. 6. Article 5 (commencing with Section 34321) of Chapter 9 of Part 1 of Division 15 of the Food and Agricultural Code is repealed.

CHAPTER 825

An act relating to the Department of Insurance.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. The Department of Insurance shall develop a consumer guide to assist senior citizens in choosing a health insurance policy supplementing medicare.

CHAPTER 826

An act to amend Section 833 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 833 of the Revenue and Taxation Code is amended to read:

833. (a) Except as provided in subdivisions (b), (c), (d), and (e), information and records in the board's office which are not required to be kept or prepared by the board are not public documents. Except as provided herein, all information required by the board or furnished in the property statement shall be held secret by the board.

(b) This section shall not apply to maps filed pursuant to Section 326 of this code.

(c) When requested by resolution of the board of supervisors of any county, or the council of any city which prepares its own local roll, the board shall permit the auditor or the assessor of the county or city, or any duly authorized duputy or employee of such officer, to examine any and all records of the board.

(d) The board shall disclose information, furnish abstracts or permit access to any and all of its records to or by law enforcement agencies, grand juries, and other duly authorized legislative or

administrative officials of the state pursuant to their authorization to examine such records.

(e) The board also may disclose information, records, and appraisal data relating to state assessment of companies engaged in interstate commerce to tax officials of other states having duties corresponding to those described by this chapter. Such disclosure shall be limited to instances in which there is a reciprocal exchange of information by the states in which the interstate companies operate, and shall be made only pursuant to a written agreement between the agencies involved. Such agreement shall provide that any request for information be in writing, shall specify the information to be exchanged, and shall require that any information furnished be used solely for tax administration purposes and otherwise shall be held secret. The request for information and any written material furnished pursuant to the request shall be open to inspection by the person to whom the information relates at the office of the board in Sacramento.

CHAPTER 827

An act to amend Sections 6452, 6453, 6702, 7851, 8608, 8782, 8952, 12254, 12984, 30311, 32201, 32381, 40151, 41105, 41120, 42006, and 42401 of, and to add Sections 6813, 7356.5, and 42103.5 to, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 6452 of the Revenue and Taxation Code is amended to read:

6452. On or before the last day of the month following each quarterly period of three months, a return for the preceding quarterly period shall be filed with the board in such form as the board may prescribe.

For purposes of the sales tax, a return shall be filed by every seller and also by every person who is liable for the sales tax under this part. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. 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.

SEC. 1.1. Section 6453 of the Revenue and Taxation Code is amended to read:

6453. For purposes of the sales tax, the return shall show the gross receipts of the seller during the preceding reporting period and, in the case of a person who is liable for the sales tax and is not a seller, the gross receipts of such person for the period in which the liability was incurred. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him, the storage, use, or consumption of which property became subject to the use tax during the preceding reporting period; in case of a return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the storage, use, or consumption of which became subject to the use tax during the preceding reporting period.

The return shall also show the amount of the taxes for the period covered by the return and such other information as the board deems necessary for the proper administration of this part.

SEC. 1.2. Section 6702 of the Revenue and Taxation Code is amended to read:

6702. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him 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 6738 or of a certificate under Section 6757, give notice thereof personally or by first-class 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 taxpayer 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, 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 hereunder, to the extent of the value of the property or the amount of the debts thus transferred or paid he 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.

SEC. 1.3. Section 6813 is added to the Revenue and Taxation Code, to read:

6813. The certificate may be issued after the payment of all amounts due under this part, according to the records of the board as of the date of the certificate, or after the payment of the amounts is secured to the satisfaction of the board. Such security is not subject to the limitations contained in Section 6701.

SEC. 2. Section 7356.5 is added to the Revenue and Taxation Code, to read:

7356.5. Any distributor or broker who acquires taxpaid motor vehicle fuel from another distributor or broker measured by the temperature corrected gallonage as provided in Section 7355, or by volumetric measure, and who redistributes the fuel is subject to the tax imposed by this part with respect to that gallonage redistributed which is in excess of the taxable measure of the gallonage acquired taxpaid. For the purposes of this section "taxpaid" means the gallonage, either temperature corrected or volumetric, with respect to which the tax imposed by this part has been paid prior to acquisition by the distributor or broker.

SEC. 3. Section 7851 of the Revenue and Taxation Code is amended to read:

7851. If any distributor is delinquent in the payment of his license tax, or in the event a determination has been made against him which remains unpaid, the Controller may, not later than 10 years after the payment became delinquent, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7872, give notice thereof personally or by first-class 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 distributor, or owing any debts to the distributor. 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 taxpayer to the State Controller.

SEC. 4. Section 8608 of the Revenue and Taxation Code is amended to read:

8608. "User" includes any person who, within the meaning of the term "use" as defined in this chapter, uses fuel.

The provisions of Article 1 (commencing with Section 8701) of Chapter 3 and Article 1 (commencing with Section 8751) of Chapter 4 of this part do not apply to a user whose sole use of fuel in this state is for the propulsion of a privately operated passenger motor vehicle; provided, that the fuel used, except fuel brought into this state in the fuel tank of the vehicle, is purchased from and delivered into the fuel tank of the vehicle by a vendor.

SEC. 5. Section 8782 of the Revenue and Taxation Code is amended to read:

8782. Except in the case of fraud, intent to evade the tax, or failure to make a return, every notice of a deficiency determination shall be given within three years after the last day of the period following the month for which the return was due or within three years after the return is filed, whichever period expires the later. If the user fails to make a return, the notice of determination shall be mailed within eight years after the last day of the period following the month for which the return was due.

SEC. 6. Section 8952 of the Revenue and Taxation Code is amended to read:

8952. If any user is delinquent in the payment of any obligation imposed under this part, or in the event a determination has been made against such a user which remains unpaid, the board may, not later than three years after the payment becomes delinquent, or within 10 years after the last recording or filing of a notice of state tax lien under Section 8996, give notice thereof, personally or by first-class 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 user, or owing any debts to the user. 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 taxpayer to the State Controller.

SEC. 7. Section 12254 of the Revenue and Taxation Code is amended to read:

12254. (a) The amount of each prepayment shall be 26½ percent of the amount of the annual insurance tax liability reported on the return of the insurer for the preceding calendar year.

(b) In establishing the prepayment amount of an insurer who has acquired the business of another insurer, the amount of tax liability of the acquiring insurer reported for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer reported for that year.

SEC. 8. Section 12984 of the Revenue and Taxation Code is amended to read:

12984. (a) If the board determines that any overpayment has been made intentionally or made not incident to a bona fide and orderly discharge of a liability reasonably assumed by the insurer to be imposed by law, no interest shall be allowed on the overpayment.

(b) If any insurer which has filed a claim for refund requests the

board to defer action on its claim, the board, as a condition to deferring action, may require the claimant to waive interest for the period during which the insurer requests the board to defer action on the claim.

SEC. 9. Section 30311 of the Revenue and Taxation Code is amended to read:

30311. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the board may, not later than three years after the payment became delinquent, or within 10 years after the last recording or filing of a notice of state tax lien under Section 30322, give notice thereof personally or by first-class 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 taxpayer to the State Controller.

SEC. 10. Section 32201 of the Revenue and Taxation Code is amended to read:

32201. An excise tax is imposed upon all distilled spirits sold in this state or pursuant to Section 23384 of the Business and Professions Code by manufacturers, distilled spirits manufacturer's agents, brandy manufacturers, rectifiers, or wholesalers, or sellers of distilled spirits selling distilled spirits with respect to which no tax has been paid within areas over which the federal government exercises jurisdiction, at the following rates:

On all distilled spirits of proof strength or less, two dollars ($2) per wine gallon, and at a proportionate rate for any quantity, and on all nonliquid distilled spirits containing 50 percent or less alcohol by weight two cents ($0.02) per ounce avoirdupois, and at a proportionate rate for any quantity.

All distilled spirits in excess of proof strength, and all nonliquid distilled spirits containing more than 50 percent alcohol by weight, shall be taxed at double the above rate.

SEC. 11. Section 32381 of the Revenue and Taxation Code is amended to read:

32381. If any taxpayer is delinquent in the payment of any obligations imposed by this part, or in the event a determination has been made against such a taxpayer which remains unpaid, the board may, not later than three years after the payment becomes delinquent, or within 10 years after the last recording of an abstract or copy of judgment under Section 32362 or the recording or filing of a notice of state tax lien under Section 32363, give notice thereof, personally or by first-class 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 taxpayer, or owing any debts to the taxpayer. 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 taxpayer to the State Controller.

SEC. 12. Section 40151 of the Revenue and Taxation Code is amended to read:

40151. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the board may, not later than five years after the payment became delinquent, give notice thereof personally or by first-class 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 to the State Controller.

SEC. 13. Section 41105 of the Revenue and Taxation Code is amended to read:

41105. Interest shall be paid upon any overpayment of any amount of tax at the rate of three-fourths of 1 percent per month from the date the return is due following the quarterly 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:

(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 he has not already filed a claim, is notified by the board that a claim may 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 surcharge or amount against which the credit is applied.

SEC. 14. Section 41120 of the Revenue and Taxation Code is amended to read:

41120. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the board may, not later than five years after the payment became delinquent, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivison 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 to the State Controller.

SEC. 15. Section 42006 of the Revenue and Taxation Code is amended to read:

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" 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). Nor shall a person be deemed to be a "wholesaler" if the person's only sale other than at retail during the period for which the assessment is made is a part of a single sale of 80 percent or more of the tangible personal property held or used in the business activity, or activities, sold in that sale.

SEC. 16. Section 42103.5 is added to the Revenue and Taxation Code, to read:

42103.5. When a person sells in a single sale 80 percent or more of the tangible personal property held or used in a business activity requiring the holding of a seller's permit, the sales tax liability incurred with respect to that sale shall not be used in determining the amount of the assessment under subdivision (a), (b), or (c) of Section 42103 for the business location or locations sold in that sale.

SEC. 17. Section 42401 of the Revenue and Taxation Code is amended to read:

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 first-class 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.

CHAPTER 828

An act to amend Sections 8007, 8243.5, 8414, 33520, 33400, and 58607 of, to add Sections 8007.5, 33403, and 52171.6 to, and to repeal Sections 33402, 33403, 37530, 52171.6, and 52327 of, the Education Code, relating to the Department of Education.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 8007 of the Education Code is amended to read:

8007. There is in the Department of Education and the Board of Governors of the California Community Colleges, a vocational education staff responsible for the design, implementation, and maintenance of a basic integrated statewide information system for vocational education and technical training. The data gathering and

analysis capabilities of the system shall include, but not be limited to, maintaining comprehensive inventory of all programs of all vocational education and technical training programs which are maintained by the public schools.

SEC. 2. Section 8007.5 is added to the Education Code, to read:

8007.5. The Department of Education and the Board of Governors of the Community Colleges shall submit the following reports each year to the Legislature.

(a) An annual descriptive report as defined in Section 33403 containing information on vocational education and technical training programs, including regional occupational centers and programs. Such report shall be coordinated with federal evaluation requirements pursuant to Public Law 94-482 and shall contain:

(1) Enrollment defined in terms of secondary students, postsecondary students, and adults;

(2) The number of graduates of programs and dropout rates;

(3) The number of students trained for specific entry level occupations;

(4) Fiscal information, including income by source and expenditure by category; and

(5) Other factors as determined in Budget Act language pursuant to Section 33404.

(b) An annual individual program evaluation derived from a representative sample of participating districts and schools containing information on program effectiveness as measured by:

(1) The extent to which program completers:

(A) Find employment in occupations related to their training, and

(B) Are considered by their employers to be well trained and prepared for employment.

(2) The extent to which Regional Adult and Vocational Education Councils have been effective in eliminating duplication among public entities providng vocational training.

(3) Other factors as determined in Budget Act language pursuant to Section 33404.

(c) A copy of the annual state plan for vocational education.

SEC. 3. Section 8243.5 of the Education Code is amended to read:

8243.5. Commencing November 1, 1977, and on or before November 1st for each year thereafter, the Superintendent of Public Instruction shall submit to the Joint Budget Committee of the Legislature a descriptive report, as defined by Section 33403, on child development programs operating pursuant to this chapter during the preceding fiscal year. Each annual report shall include, but is not limited to, the following information, derived through sampling methods:

(a) Statistical data enumerating and describing children and familes served by the programs, including distributions of families and children by income levels, by ethnic grouping, by children's ages, by marital status of parents, by reasons for receiving child care

service (i.e., employment, training, education, protection), by public assistance status, and by family size.

(b) Statistical data enumerating and describing the characteristics of programs, including the types of programs in terms of size and type of facilities utilized, types of agencies operating programs as defined by Section 8213, and the staff-child ratios and the staff composition for each type of program and for each type of operating agency.

(c) Cost data describing the total costs and the average cost per hour of service for each type of program (as defined for purposes of subdivision (b)) and for each type of operating agency as defined by Section 8213.

(d) Evaluate data describing the quality of child development programs in accordance with measurement criteria as established by the Superintendent of Public Instruction.

Each annual child development report shall be in two parts: one part shall relate to subsidized child care services and one part shall relate to services under the State Preschool Program.

SEC. 4. Section 8414 of the Education Code is amended to read:

8414. The superintendent shall submit to the Legislature and the Govenor a preliminary report by May 1, 1977, and an annual report thereafter prior to November 1 of each year, on the child care programs implemented for the preceding fiscal year under this chapter. This report shall include an assessment by the Superintendent of Public Instruction of the degree to which programs implemented pursuant to this chapter have met the purpose of this chapter as set forth in subdivisions (a) and (b) of Section 8400. Such report shall also include the superintendent's recommendations for appropriate regulatory and statutory changes.

The report shall include, as a minimum, the following information derived through sampling methods:

(a) Statistical data enumerating and describing children and families served by the programs, including distributions of families and children by income levels, by ethnic groupings, by children's ages, by marital status of parents, by reasons for receiving child care service (i.e., employment, training, education, protection), by public assistance status, and by family size.

(b) Statistical data enumerating and describing the characteristics of programs, including the types of programs in terms of size and type of facilities utilized, types of agencies operating programs, and the staff-child ratios and the staff composition for each type of program and for each type of operating agency.

(c) Cost data describing the total costs and the average cost per hour of service for each type of program and for each type of operating agency.

(d) Evaluative data describing the quality of child development programs in accordance with measurement criteria as established by the Superintendent of Public Instruction after consultation with the Secretary of the Health and Welfare Agency.

SEC. 5. Section 33400 of the Education Code is amended to read:

33400. It is the intention of the Legislature in enacting this article that:

(a) Evaluations shall be performed in such a manner as to minimize the resources required of school districts in the collection, analysis, and reporting of evaluation information. In order to achieve this goal, program evaluations shall require only that information which is essential to the Department of Education for carrying out statutorily mandated functions, and shall be conducted only as necessary for the conduct of such functions. In addition, in evaluations of state-funded programs, the department shall use scientific sampling procedures.

(b) Evaluations shall be performed and reported in such a manner as to maximize their utility to decisionmakers in the Legislature.

SEC. 6. Section 33402 of the Education Code is repealed.

SEC. 7. Section 33403 of the Education Code is repealed.

SEC. 8. Section 33403 is added to the Education Code, to read:

33403. The Department of Education shall perform evaluations of educational programs in accordance with the following:

(a) An individual program evaluation contains information describing the objectives and components of the program, the number of pupils involved, the program's cost and its effectiveness.

The department shall prepare or have prepared individual program evaluations for the following programs in accordance with the schedule specified:

(1) Innovative and exemplary programs, pursuant to Article 2 (commencing with Section 33502) of Chapter 4 of Part 20, biennially commencing with the 1978–79 academic year;

(2) Demonstration programs in intensive instruction, pursuant to Chapter 4 (commencing with Section 58600) of Part 31, biennially commencing with the 1979–80 academic year;

(3) Vocational education programs, pursuant to Chapter 1 (commencing with Section 8000) of Part 6, annually.

(b) A descriptive report of an individual educational program describes the objectives and components of the subject program, the number of pupils involved, and general information regarding the program's cost and the extent of the program's implementation.

The department shall prepare or have prepared descriptive reports for the following programs in accordance with the schedule specified:

(1) Indian education centers, pursuant to Article 6 (commencing with Section 33380) of Chapter 3 of Part 20, biennially commencing in the 1978–79 academic year;

(2) Professional development centers, pursuant to Article 10 (commencing with Section 44630) of Chapter 3 of Part 25, biennially commencing in the 1978–79 academic year;

(3) Bilingual teacher corps pursuant to Article 2 (commencing with Section 52150) of Chapter 6 of Part 28, biennially commencing

in the 1979–80 academic year;

(4) Child development programs, pursuant to Chapter 2 (commencing with Section 8200) of Part 6, annually;

(5) Bilingual education programs, pursuant to Article 1 (commencing with Section 52100) of Chapter 7 of Part 28, annually;

(6) Alternative school programs, pursuant to Chapter 3 (commencing with Section 58500) of Part 31, biennially commencing in the 1979–80 academic year; and

(7) Private schools for the handicapped, pursuant to Article 3 (commencing with Section 56030) of Chapter 1 of Part 30 biennially commencing in the 1979–80 academic year.

(c) A multiple-funded program evaluation, consisting of a comprehensive evaluation of the impact on a local school site of educational programs which are financed by multiple state or federal sources.

The Department of Education shall report to the Legislature on the following programs:

(1) School improvement programs, pursuant to Chapter 6 (commencing with Section 52000) of Part 28;

(2) Educationally disadvantaged youth programs, pursuant to Chapter 1 (commencing with Section 54000) of Part 29;

(3) Compensatory education, pursuant to Article 2 (commencing with Section 54420) of Chapter 4 of Part 29;

(4) Bilingual education programs, pursuant to Article 1 (commencing with Section 52100) of Chapter 7 of Part 28; and

(5) Miller-Unruh reading programs, pursuant to Article 3 (commencing with Section 60640) of Chapter 5 of Part 33.

Such report shall contain information obtained, when possible, by scientific sampling regarding pupil growth in the subject program, information regarding the expected achievement of comparable groups of pupils who do not receive specialized educational services, information regarding program costs, and inferential judgments regarding the effectiveness of the programs. An objective of such evaluation shall be to illustrate the relative effectiveness of different program elements regardless of source of funding. The evaluation shall identify those programs which are judged to be least effective.

For each of the funding sources identified in the multiple-funded evaluation report, the evaluation shall include a separate chapter which will present data from schools funded solely by that source. Each of these chapters will provide, to the extent possible, information regarding pupil growth, the expected achievement of comparable groups of pupils, information regarding program costs, and inferential judgments regarding the quality of programs funded by that source.

SEC. 9. Section 33520 of the Education Code is amended to read:

33520. The State Board of Education shall submit biennially a comprehensive descriptive report, as defined by Section 33403, to the Governor and the Legislature which shall document:

(a) Improved achievement levels resulting from the projects.

(b) The degree to which the program has motivated schools, both participating and nonparticipating in the program, to improve their curriculum in language development and mathematics and other instructional areas emphasized in grants approved.

(c) The numbers of programs continued by the original local educational agencies.

(d) The results of the dissemination and diffusion efforts by exemplary projects funded pursuant to Sections 33521 and 33522.

SEC. 10. Section 37530 of the Education Code is repealed.

SEC. 11. Section 52171.6 of the Education Code is repealed.

SEC. 12. Section 52171.6 is added to the Education Code, to read:

52171.6. The Department of Education shall prepare an annual descriptive report pursuant to Section 33403 on bilingual education programs. The report shall contain the following information:

(a) Summary of district reports submitted pursuant to subdivision (a) of Section 52170 on the number of identified limited and non-English-speaking pupils, funds from all sources available for programs to meet the needs of those identified pupils, and the numbers of identified pupils who are not being provided with services pursuant to subdivision (a), (b), (c), or (f) of Section 52163.

(b) Information on bilingual programs conducted pursuant to Section 52165, on:

(1) Numbers of limited, non-English-speaking, and fluent English-speaking students served in the program.

(2) Numbers of teachers holding bilingual credentials or certificates of competency, bilingual aides, and teachers who have waivers.

(3) Expenditures made from bilingual education funds by category of expenditure.

(c) An assessment of the educational needs of limited and non-English-speaking pupils and the extent to which such needs are being met from federal, state and local efforts, pursuant to subdivision (a) (7) of Section 52177.

SEC. 13. Section 52327 of the Education Code is repealed.

SEC. 14. Section 58607 of the Education Code is amended to read:

58607. The Superintendent of Public Instruction, with approval of the State Board of Education, shall submit biennially an individual program evaluation report, as defined by Section 33403, to the Legislature on the implementation and evaluation of demonstration programs under this chapter, including the achievement of pupils, dissemination and replication activities, the number of school districts that have replicated the demonstration projects and the funding sources used for such replication, and an analysis of the costs of each demonstration project detailed in terms of the costs of design, implementation and continuing operational expenses, including the degree of cost effectiveness of each project. The evaluation report shall also include recommendations concerning improvement, retention, extension or other aspects of the program. In addition, the report shall further include a description of how the Department of

Education will use the demonstration programs as models for replication if other compensatory education funds are available for use in grades 7, 8, or 9.

The evaluation report shall also set forth the number of waivers authorized by the Superintendent of Public Instruction under Section 58602, the number of pupils who participated in programs for which waivers were granted, and whether or not the waivers had a positive effect upon the reading or mathematics skill of participating pupils.

Not later than November 1 of each year, the Superintendent of Public Instruction shall submit to the Department of Finance and the Legislative Analyst a synopsis of available data produced for the evaluation report.

CHAPTER 829

An act to add Section 1367.2 to the Health and Safety Code, and to add Sections 10123.6 and 11512.14 to the Insurance Code, relating to alcoholism.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 1367.2 is added to the Health and Safety Code, to read:

1367.2. (a) On and after January 1, 1979, every health care service plan that covers hospital, medical, or surgical expenses on a group basis shall offer coverage for the treatment of alcoholism under such terms and conditions as may be agreed upon between the group subscriber and the Health Care Service Plan. Every plan shall communicate the availability of such coverage to all group subscribers and to all prospective group subscribers with whom they are negotiating.

SEC. 2. Section 10123.6 is added to the Insurance Code, to read:

10123.6. On and after January 1, 1979, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for the treatment of alcoholism under such terms and conditions as may be agreed upon between the group policyholder and the insurer. Every insurer shall communicate the availability of such coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating.

SEC. 3. Section 11512.14 is added to the Insurance Code, to read:

11512.14. On and after January 1, 1979, every nonprofit hospital service plan that covers hospital, medical or surgical expenses on a group basis shall offer coverage for the treatment of alcoholism, under such terms and conditions as may be agreed upon between the

plan and the group contract holder. Every nonprofit hospital service plan shall communicate the availability of such coverage to all group contract holders, and to all group contract holders with whom they are negotiating.

CHAPTER 830

An act to add Sections 2372.12 and 2436.5 to the Business and Professions Code, relating to physicians and surgeons.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 2372.12 is added to the Business and Professions Code, to read:

2372.12. The Division of Medical Quality shall report annually to the Legislature, no later than April 1 of each year, the following information:

(a) The total number of temporary restraining orders sought by the board or the division to enjoin certificate holders pursuant to Section 2436, the circumstances in each case which prompted the board to seek such injunctive relief, and whether a restraining order was actually issued;

(b) The total number and types of actions for unprofessional conduct taken by the board or a division of the board against certificate holders, the number and types of actions taken against certificate holders for unprofessional conduct related to prescribing drugs, narcotics, or other controlled substances, and the total number and types of actions taken against certificate holders for unprofessional conduct resulting from cases referred by the Department of Health Services pursuant to Section 14124 of the Welfare and Institutions Code. "Action," for purposes of this paragraph, includes proceedings brought by, or on behalf of, the board against certificate holders for unprofessional conduct which have not been finally adjudicated, as well as disciplinary actions taken against certificate holders.

SEC. 2. Section 2436.5 is added to the Business and Professions Code, to read:

2436.5. The Division of Medical Quality shall seek to obtain an injunction, pursuant to Section 125.7, against any physician and surgeon within its jurisdiction if the division has reasonable cause to believe that allowing such person to continue to engage in practice would endanger the public health, safety, and welfare.

CHAPTER 831

An act to add Section 44275 to the Education Code, relating to certificated employees.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 44275 is added to the Education Code, to read:

44275. Notwithstanding any other provision of this article, the commission may issue a teaching credential to a person who possesses a baccalaureate or higher degree in professional education from an approved institution in another state and who meets all of the following criteria:

(a) The person has completed a teacher preparation program approved by the state certification agency of the state in which the institution of higher education offering the program is located.

(b) The individual has completed a minimum of two years of full-time teaching on the basis of a standard state teaching credential of the state in which service was rendered. Such teaching experience shall be in addition to student teaching.

(c) The individual agrees to verify subject matter competency in the same manner required for graduates of California institutions of higher education as specified in subdivision (d) of Section 44259.

CHAPTER 832

An act to amend Section 739 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space heating and cooling, water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also

take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season.

(b) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing a lifeline rate. The lifeline rate shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rate until the average system rate in cents per kilowatt-hour or cents per therm has increased 25 percent or more over the January 1, 1976, level.

(c) Nothing shall preclude the commission from reducing any rate established pursuant to subdivision (a) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(d) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every other category of end use other than wholesale.

(e) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(f) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules for the purpose of achieving energy conservation.

SEC. 2 Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space heating and cooling, water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season.

(b) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing a lifeline rate. The lifeline rate shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rate until the average system rate in cents per kilowatt-hour or cents per therm has increased 25 percent or more over the January 1, 1976, level.

(c) Nothing shall preclude the commission from reducing any rate established pursuant to subdivision (a) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(d) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every other category of end use other than wholesale, except that it shall include all living units in facilities providing housing for the aged and licensed as community care facilities under the provisions of the

California Community Care Facilities Act, Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(e) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(f) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules for the purpose of achieving energy conservation.

SEC. 3. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space heating and cooling, water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season.

(b) The commission shall also develop a schedule which designates a lifeline volume of gas and a lifeline quantity of electricity necessary to supply the minimum energy needs of customers dependent on life support equipment including, but not limited to, emphysema and pulmonary patients. A customer dependent on life support equipment shall be given a higher energy allocation than the average residential user in accordance with the type of equipment that he or she uses. Consideration shall be given to the energy requirements of the specific type of equipment used and the frequency and duration of its usage.

"Life support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life support equipment", as used in this subdivision, includes the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

The schedule shall also include a higher lifeline energy allocation for paraplegic and quadriplegic persons than for the average residential user, in consideration of the increased heating needs of these persons.

(c) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing lifeline rates. The lifeline rates shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rates until the average system rate in cents per kilowatt-hour or cents per therm has increased 25 percent or more over the January 1, 1976, level.

(d) Nothing shall preclude the commission from reducing any rate established pursuant to subdivision (a) or (b) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(e) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every other category of end use other than wholesale.

(f) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(g) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules for the purpose of achieving energy conservation.

SEC. 4. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space heating and cooling, water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season.

(b) The commission shall also develop a schedule which designates a lifeline volume of gas and a lifeline quantity of electricity necessary to supply the minimum energy needs of customers dependent on life support equipment including, but not limited to, emphysema and pulmonary patients. A customer dependent on life support equipment shall be given a higher energy allocation than the average residential user in accordance with the type of equipment that he or she uses. Consideration shall be given to the energy requirements of the specific type of equipment used and the frequency and duration of its usage.

"Life support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life support equipment", as used in this subdivision, includes the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

The schedule shall also include a higher lifeline energy allocation for paraplegic and quadriplegic persons than for the average residential user, in consideration of the increased heating needs of these persons.

(c) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing lifeline

rates. The lifeline rates shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rates until the average system rate in cents per kilowatt-hour or cents per therm has increased 25 percent or more over the January 1, 1976, level.

(d) Nothing shall preclude the commission from reducing any rate established pursuant to subdivision (a) or (b) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(e) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every other category of end use other than wholesale, except that it shall include all living units in facilities providing housing for the aged and licensed as community care facilities under the provisions of the California Community Care Facilities Act, Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(f) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(g) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules for the purpose of achieving energy conservation.

SEC. 5. It is the intent of the Legislature that if this bill and Assembly Bill No. 2503 or Assembly Bill No. 2615, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 739 of the Public Utilities 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. 2503 are both chaptered and become effective January 1, 1979, both bills amend Section 739 of the Public Utilities Code, but Assembly Bill No. 2615 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2503, the amendments proposed by both bills shall be given effect and incorporated in Section 739 in the form set forth in Section 2 of this act. Therefore, if this bill and Assembly Bill No. 2503 are both chaptered and become effective January 1, 1979, both bills amend Section 739, this bill is chaptered after Assembly Bill No. 2503, and Assembly Bill No. 2615 is not chaptered or as chaptered does not amend that section, Section 2 of this act shall be operative and Sections 1, 3, and 4 of this act shall not become operative.

(2) If this bill and Assembly Bill No. 2615 are both chaptered and become effective January 1, 1979, both bills amend Section 739 of the Public Utilities Code, but Assembly Bill No. 2503 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2615, the amendments proposed by both bills shall be given effect and incorporated in Section 739 in the form set forth in Section 3 of this act. Therefore, if this bill and Assembly Bill No. 2615 are both chaptered and become effective January 1, 1979, both bills amend Section 739, this bill is chaptered after Assembly Bill No. 2615, and Assembly Bill No. 2503 is not chaptered or as chaptered

does not amend that section, Section 3 shall be operative and Sections 1, 2, and 4 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 2503 and Assembly Bill No. 2615 are all chaptered and become effective January 1, 1979, all three bills amend Section 739 of the Public Utilities Code, and this bill is chaptered after Assembly Bill No. 2503 and Assembly Bill No. 2615, the amendments proposed by all three bills shall be given effect and incorporated in Section 739 in the form set forth in Section 4 of this act. Therefore, if this bill and Assembly Bill No. 2503 and Assembly Bill No. 2615 are all chaptered and become effective January 1, 1979, all three bills amend Section 739 of the Public Utilities Code, and this bill is chaptered after Assembly Bill No. 2503 and Assembly Bill No. 2615, Section 4 of this act shall be operative and Sections 1, 2, and 3 of this act shall not become operative.

CHAPTER 833

An act to add Chapter 8 (commencing with Section 19725) to Part 2 of Division 10 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978 Filed with Secretary of State September 18, 1978]

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

SECTION 1. Chapter 8 (commencing with Section 19725) is added to Part 2 of Division 10 of the Welfare and Institutions Code, to read:

CHAPTER 8. JOB DEVELOPMENT

19725 (a) For the purpose of providing self-employment opportunities for those severely handicapped clients of the Department of Rehabilitation who are determined by the department to be eligible for such a program, the authorized officials of any county, city, city and county, or other political subdivision of the state may enter into appropriate written agreements with the Department of Rehabilitation providing for the installation and operation of business facilities on property owned or occupied by the various political subdivisions. The Business Development Services Section of the Department of Rehabilitation shall supervise the operation of such facilities. The department shall promulgate rules and regulations relating to the establishment and operation of the business facilities.

(b) For the purpose of this section, business facilities shall not include vending stands or food service facilities authorized by the

Business Enterprise for the Blind Program established by Article 5 (commencing with Section 19625) of Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code, and nothing in this section shall be construed to affect in any way the Business Enterprises for the Blind Program.

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 obtain presently available federal funds as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 834

An act to add Section 18056.4 to the Health and Safety Code, relating to vehicles.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 18056.4 is added to the Health and Safety Code, to read:

18056.4. (a) It shall be unlawful to manufacture a truck camper as defined in Section 18010.5 on or after July 1, 1979, unless the truck camper has a manufacturer's serial or identification number legibly stamped onto, or permanently affixed to the interior and exterior of the truck camper.

(b) After January 1, 1980, no retailer shall sell any new truck camper unless such truck camper has a manufacturer's serial or identification number as required in subdivision (a).

(c) There shall be no violation pursuant to this section until the director, after consulting with representatives of truck camper manufacturers, has approved a numbering system which provides each truck camper unit with a unique identification number.

(d) The department shall develop an identification numbering system, after consulting industry representatives, that will insure a unique and individual identification numbering system for truck campers.

(e) Prior to May 1, 1979, manufacturers of truck campers which are sold, offered for sale, rented or leased within this state shall apply to the department for assignment of truck camper identification numbers.

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 835

An act to amend Sections 15009, 15021, and 15022 of, and to add Section 15011.1 to, the Health and Safety Code, relating to hospitals.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 15009 of the Health and Safety Code is amended to read:

15009. (a) Plans submitted pursuant to this chapter for work which affects structural elements shall contain an assessment of the nature of the site and potential for earthquake damage, based upon geologic and engineering investigations by competent personnel of the causes of earthquake damage. One-story Type V wood-frame construction of 4,000 square feet or less shall be exempt from the provisions of this section, unless the project is within a special study zone established pursuant to Section 2622 of the Public Resources Code.

(b) The requirements of subdivision (a) of this section may be waived by the state department when the state department determines that such requirements for the proposed hospital project are unnecessary and would not be beneficial to the safety of the public. The state department, after consultation with the Building Safety Board, shall adopt regulations defining the criteria upon which such determination of a waiver shall be made.

SEC. 2. Section 15011.1 is added to the Health and Safety Code, to read:

15011.1. (a) The state department shall adopt by regulation seismic safety standards for fixed hospital equipment anchorages, as defined by the state department. Such regulations shall include criteria for the testing of such equipment anchorages.

(b) Any fixed hospital equipment anchorages purchased or acquired on or after either the effective date of the regulations adopted pursuant to subdivision (a), or purchased or acquired on or after January 1, 1980, whichever is earlier, shall not be used or installed in any hospital building, as defined in Section 15001, unless such equipment anchorages are approved by the state department.

(c) Manufacturers, designers, or suppliers of such equipment anchorages may submit data sufficient for the state department to evaluate such equipment anchorages' seismic safety prior to the

selection of such equipment anchorages for any specific hospital building.

(d) The state department may charge a fee based on the actual costs incurred by it for data review, approvals, and field inspections pursuant to this section.

SEC. 3. Section 15021 of the Health and Safety Code is amended to read:

15021. (a) There is in the Office of Statewide Health Planning and Development a Building Safety Board which shall advise and act as a board of appeals with regard to seismic safety of hospitals. The Director of the Office of Statewide Health Planning and Development, 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 safety in the administration and enforcement of this chapter. The board shall consist of 11 members appointed by the Director of the Office of Statewide Health Planning and Development and six ex officio members who are: the Director of the Office of Statewide Health Planning and Development, the State Architect, the State Fire Marshal, the State Geologist, the Chief of the Facilities Development Section in the Office of Statewide Health Planning and Development and the Chief Structural Engineer of the Structural Safety Section of the Office of the State Architect in the Department of General Services, or their officially designated representatives. 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, one shall be a member of any of such above listed professions, and one shall be a hospital administrator.

(b) The chairperson of the board shall be an appointive member and shall be elected by a majority of the appointive members.

(c) The appointive members shall serve at the pleasure of the director. The appointive members holding office on January 1, 1979, may continue to serve until the appointment of their successors by the director. The director may also appoint as many other ex officio members, with the advice of the chairperson, as the director may desire. Ex officio members are not entitled to vote.

(d) 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, Americian Institute of Architects; the Earthquake Engineering Research Institute; the Association of Engineering Geologists; the Consulting Engineers Association of California; and the California Hospital Association. Board members shall be residents of California.

SEC. 4. Section 15022 of the Health and Safety Code is amended

to read:

15022. The Building Safety Board shall convene upon request of the chairperson thereof. The chairperson may convene a meeting of the board whenever it may be necessary, in the chairperson's judgment, for the board to meet. The board shall adopt such rules of procedure as are necessary to enable it to perform its duties. The chairperson shall, in such person's discretion, or upon instructions from the board, designate subcommittees to study and report back to the board upon any technical subject or matter for which an independent review or further study is desired. Members of the board shall be reimbursed from the Hospital Building Account in the Architecture Public Building Fund for their reasonable actual expenses in attending meetings conducted to carry out the provisions of this chapter, but shall receive no compensation for their services.

CHAPTER 836

An act to amend Sections 1005, 1508, and 15201 of the Elections Code, relating to elections.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 1005 of the Elections Code is amended to read:

1005. Whenever, on the 54th day before the election, there are 100 or less persons registered to vote in any precinct, the elections official may furnish each voter with an absentee ballot along with a statement that there will be no polling place for the election. The voter shall not be required to file an application for the absentee ballot and the ballot shall be sent as soon as the ballots are available.

No precinct shall be divided in order to conform to the provisions of this section.

SEC. 2. Section 1508 of the Elections Code is amended to read:

1508. Whenever in a statewide primary or general election, the ballots are to be counted at a central place, either manually or by automatic mechanical or electrical devices, or whenever mechanical voting devices are used to mark ballots at the polling places, election precincts may be consolidated or formed, but no such precinct shall be formed or consolidated to contain more than 1,000 voters.

SEC. 3. Section 15201 of the Elections Code is amended to read:

15201. A governing board may adopt a system provided for in this division for any or all precincts within its jurisdiction, and for any portion or all of any election. The election official may, from time to time, combine, rearrange, or enlarge the precincts for which such

system is adopted, provided no direct primary or general election precinct shall include more than 1,000 voters. The governing board may cease to use such system in any or all precincts or elections under its jurisdiction.

CHAPTER 837

An act to amend Section 4007 of the Penal Code, relating to prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 4007 of the Penal Code is amended to read:

4007. When there is no jail in the county, or when the jail becomes unfit or unsafe for the confinement of prisoners, the judge of the superior court may, by a written order filed with the county clerk, designate the jail of a contiguous county for the confinement of the prisoners of his county, or of any of them, and may at any time modify or vacate such order.

When there are any reasonable grounds to believe that a prisoner may be forcibly removed from a county jail the sheriff may remove such prisoner to any California State prison for safekeeping and it is hereby made the duty of the warden of such prison to accept and detain such prisoner in his custody until his removal is ordered by the superior court of the county from which he was delivered. Immediately upon receiving such prisoner the warden shall advise the Attorney General of that fact in writing.

When a county prisoner requires medical treatment necessitating hospitalization which cannot be provided at the county jail or county hospital because of lack of adequate detention facilities, and when, because of his past or present behavior, such prisoner presents a serious custodial problem, with the consent of the Director of Corrections, the judge of the superior court may, upon request of the county sheriff, by a written order filed with the county clerk, designate, for the confinement of such prisoner, the nearest prison or correctional facility of this state which would be able to provide the necessary medical treatment and secure confinement of such prisoner, and may at any time modify or vacate such order. The rate of compensation for such medical treatment and confinement within a California state prison or correctional facility shall be established by the Department of Corrections of this state and shall be a charge against the county making the request for such treatment and confinement.

When there are any reasonable grounds to believe that there are

prisoners in a county jail who are acting in concert and are likely to be a threat to other persons in the facility or are likely to cause substantial damage to the facility, with the consent of the Director of Corrections, the judge of the superior court may, upon the request of the county sheriff, by written order filed with the county clerk, designate for the confinement of such persons the nearest state prison or correctional facility of the state which would, subject to space available, be able to secure confinement of such prisoners. The court shall immediately calendar the matter for a hearing to determine if the order shall continue or be rescinded. Such hearing shall be held within 48 hours of the initial order or the next judicial day, whichever occurs later. At such hearing, the prisoner shall be entitled to be present and to be represented by counsel. The court may at any time modify or vacate such order. The rate of compensation for such confinement within a California state prison or correctional facility shall be established by the Department of Corrections and shall be a charge against the county making the request for such confinement.

SEC. 2. Section 4007 of the Penal Code is amended to read:

4007. When there is no jail in the county, or when the jail becomes unfit or unsafe for the confinement of prisoners, the judge of the superior court may, by a written order filed with the county clerk, designate the jail of a contiguous county for the confinement of the prisoners of his county, or of any of them, and may at any time modify or vacate such order.

When there are any reasonable grounds to believe that a prisoner may be forcibly removed from a county jail the sheriff may remove such prisoner to any California state prison for safekeeping and it is hereby made the duty of the warden of such prison to accept and detain such prisoner in his custody until his removal is ordered by the superior court of the county from which he was delivered. Immediately upon receiving such prisoner the warden shall advise the Attorney General of that fact in writing.

When a county prisoner requires medical treatment necessitating hospitalization which cannot be provided at the county jail or county hospital because of lack of adequate detention facilities, or when, because of his past or present behavior, such prisoner presents a serious custodial problem, with the consent of the Director of Corrections, the judge of the superior court may, upon request of the county sheriff, by a written order filed with the county clerk, designate, for the confinement of such prisoner, the nearest prison or correctional facility of this state which would be able to provide the necessary medical treatment or secure confinement of such prisoner, and may at any time modify or vacate such order. The rate of compensation for such medical treatment or confinement within a California state prison or correctional facility shall be established by the Department of Corrections of this state and shall be a charge against the county making the request for such treatment and confinement.

When there are any reasonable grounds to believe that there are prisoners in a county jail who are acting in concert and are likely to be a threat to other persons in the facility, or are likely to cause substantial damage to the facility, with the consent of the Director of Corrections, the judge of the superior court may, upon request of the county sheriff, by a written order filed with the county clerk, designate for the confinement of such persons the nearest state prison or correctional facility of the state which would, subject to space available, be able to secure confinement of such prisoners. The court shall immediately calendar the matter for a hearing to determine if the order shall continue or be rescinded. Such hearing shall be held within 48 hours of the initial order or the next judicial day, whichever occurs later. At such hearing, the prisoner shall be entitled to be present and to be represented by counsel. The court may at any time modify or vacate such order. The rate of compensation for such confinement within a California state prison or correctional facility shall be established by the Department of Corrections and shall be a charge against the county making the request for such confinement.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1729 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 4007 of the Penal Code, and this bill is chaptered after Senate Bill No. 1729, that Section 4007 of the Penal Code as amended by Section 1 of this act shall remain operative until the effective date of Senate Bill No. 1729 and that on the effective date of Senate Bill No. 1729 Section 4007 of the Penal Code, as amended by this act be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 4007 proposed by Senate Bill No. 1729. Therefore, if this bill and Senate Bill No. 1729 are both chaptered and become effective on or before January 1, 1979, and Senate Bill No. 1729 is chaptered before this bill and amends Section 4007, Section 2 of this act shall become operative on the effective date of Senate Bill No. 1729.

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:

Monterey County is currently experiencing serious problems with organized prison gangs held in its detention facilities which were not designed with sufficient security to deal with these organized disruptions. In order to alleviate these problems it is therefore necessary that this act go into immediate effect.

CHAPTER 838

An act to add Sections 1273 and 1301 to the Education Code, relating to county superintendents of schools.

[Approved by Governor September 15, 1978 Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 1273 is added to the Education Code, to read:

1273. The county superintendent of schools, in accordance with rules and regulations adopted by the county board of education, may provide for the reimbursement of any person or persons for the theft, destruction, or damage by arson, burglary or vandalism of personal property brought in to be used in the facilities of the county superintendent of schools. Reimbursement shall be made only when prior approval for the use of the facilities was given, and after the value of the damaged or stolen property is agreed upon by the persons or person bringing in the property and the administrator or representative of the administrator. This determination of value need take place only after the theft, destruction, or damage of the property. The county superintendent of schools may establish a maximum value of reimbursement which will be paid.

SEC. 2. Section 1301 is added to the Education Code, to read:

1301. The county superintendent of schools, in accordance with rules and regulations adopted by the county board of education, may provide for the payment of the costs of replacing or repairing property of an employee, such as eyeglasses, hearing aids, dentures, watches, articles of clothing necessarily worn or carried by the employee, or vehicles when any such property is damaged in the line of duty without fault of the employee or if such property is stolen from the employee by robbery or theft while the employee is in the line of duty. If the property is damaged beyond repair or stolen, the actual value of such property may be paid. The determination of the value of such property shall be equal to its value at the time of the damage, destruction, or theft. Limits may be established for the payment for such damaged or stolen property.

In the event the employee is paid the costs of replacing or repairing such property, or the actual value of such property, the county superintendent of schools shall, to the extent of such payments, be subrogated to any right of the employee to recover compensation for such damaged or stolen property. The county superintendent of schools may file and prosecute an action to enforce its subrogation right in the small claims court if the amount of the claim is within that court's monetary jurisdiction or may enforce its subrogation right in any other court of competent jurisdiction.

CHAPTER 839

An act to amend Sections 3327.5 and 3456 of the Business and Professions Code, relating to hearing aid dispensers, and making an appropriation therefor.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 3327.5 of the Business and Professions Code is amended to read:

3327.5. On and after January 1, 1980, all holders of licenses to sell and fit hearing aids shall continue their education after receiving such license. The committee shall provide by regulation, as a condition to the renewal thereof, that licensees shall submit documentation satisfactory to the committee that they have informed themselves of the developments in the practice occurring since the prior issuance or renewal of their licenses by having pursued courses of study satisfactory to the committee or by other means defined as equivalent by the committee.

SEC. 2. Section 3456 of the Business and Professions Code is amended to read:

3456. The amount of fees and penalties prescribed by this chapter are those fixed in the following schedule:

(a) The fee for applicants applying for the first time for a license is not more than seventy-five dollars ($75) which shall not be refunded, except to applicants who are found to be ineligible to take an examination for a license; those applicants are entitled to a refund of not more than fifty dollars ($50).

(b) The fee for taking the qualifying examination is not more than seventy-five dollars ($75).

(c) The fee for applicants for a license who have failed a previous examination is not more than seventy-five dollars ($75) for each succeeding examination.

(d) The fee for renewal of a license is not more than seventy-five dollars ($75) for each renewal.

(e) The initial license fee is not more than one hundred fifty dollars ($150), unless the initial license is issued on or after July 15th of any year. If it is issued on or after July 15, the initial license fee is seventy-five dollars ($75).

(f) The delinquency fee is twenty-five dollars ($25).

(g) The fee for issuance of a duplicate license for a branch office, or upon loss of an original license or upon change of name authorized by law of a person holding a license under this chapter is fifteen dollars ($15).

(h) The fee for reporting the completion of a continuing education course required for the renewal of a license is not more than fifteen dollars ($15).

CHAPTER 840

An act to add Section 10154 to the Business and Professions Code, relating to real estate license preparation.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 10154 is added to the Business and Professions Code, to read:

10154. The commissioner, in cooperation with the Superintendent of Public Instruction, shall adopt minimum criteria to apply to the course, program of instruction, training or study which purports, in an organized setting, to prepare an applicant for any real estate license examination and which is offered by any person subject to the provisions of the Private Postsecondary Education Act of 1977, Chapter 3 (commencing with Section 94300) of Part 59 of the Education Code. Such criteria shall relate to the quality and content of each course, program of instruction, training or study so as to reasonably and adequately achieve knowledge of the stated objectives of Section 10153 and the provisions of this division.

Six months following the adoption of such minimum criteria by regulation, or any amendment thereto, but not sooner than January 1, 1980, the standards thus adopted shall be the criteria contemplated by paragraph (1) of subdivision (d) of Section 94311 of the Education Code, and shall be implemented, administered and enforced by the Superintendent of Public Instruction under the provisions of Chapter 3 (commencing with Section 94300) of Part 59 of the Education Code.

SEC. 2. Within 60 days following the initial adoption of regulations contemplated by Section 10154, the commissioner shall file a report with the Secretary of the Senate and the Chief Clerk of the Assembly, indicating the scope of the criteria adopted, the extent of cooperation achieved with the Superintendent of Public Instruction, the degree of public input in the development of the criteria, and other pertinent data.

CHAPTER 841

An act to amend Section 9561 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 9561 of the Vehicle Code is amended to read:

9561. When a legal owner or his agent repossesses a vehicle on which renewal fees are due, the department shall waive any renewal penalties that are due for late payment if the fees are paid within 60 days of taking possession.

CHAPTER 842

An act to amend Sections 49406 and 76406 of the Education Code, to amend Section 3450 of the Health and Safety Code, and to amend Section 5163 of the Public Resources Code, relating to tuberculosis tests.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978]

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

SECTION 1. Section 49406 of the Education Code is amended to read:

49406. (a) Except as provided in subdivision (h), no person shall be initially employed by a school district in a certificated or classified position unless the person has submitted to an examination within the past 60 days to determine that he is free of active tuberculosis, by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This examination shall consist of an X-ray of the lungs, or an approved intradermal tuberculin test, which, if positive, shall be followed by an X-ray of the lungs.

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(b) Thereafter all employees shall be required to undergo the foregoing examination at least once each four years or more often if directed by the governing board upon recommendation of the local health officer.

(c) After such examination, each employee shall cause to be on file with the district superintendent of schools a certificate from the examining physician and surgeon showing the employee was examined and found free from active tuberculosis. The county board of education may require, by rule, that all such certificates be filed in the office of the county superintendent of schools or shall require such files be maintained in the office of the county superintendent of schools if a majority of the governing boards of the districts within such county so petition the county board of education, except that in either case a district or districts with a common board having an average daily attendance of 60,000 or more may elect to maintain the files for its employees in that district. "Certificate" as used herein means a certificate signed by the examining physician and surgeon or a notice from a public health agency or unit of the Tuberculosis Association which indicates freedom from active tuberculosis. The latter, regardless of form, will constitute evidence of compliance with this section. Nothing in this section shall prevent the governing board from establishing a rule requiring a more extensive physical examination than required by this section but such rule shall provide for reimbursement on the same basis as hereinafter required.

(d) This examination is a condition of initial employment and the expense incident thereto shall be borne by the applicant unless otherwise provided by rules of the governing board. However, the board may, if an applicant is accepted for employment, reimburse such person in a like manner hereinafter prescribed for employees.

(e) The governing board of each district shall reimburse the employee for the cost, if any, of this examination. The board may provide for the examination required by this section or may establish a reasonable fee for such examination that is reimbursable to employees of the district complying with the provisions of this section.

(f) At the discretion of the governing board this section shall not apply to those employees not requiring certification qualifications who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils.

The governing board may, however, require such examination and may as a contract condition require the examination of persons employed under contract, other than those persons specified in subdivision (a) of this section, if the board believes the presence of such persons in and around school premises would constitute a health hazard to pupils.

(g) If the governing board of a school district determines by resolution, after hearing, that the health of pupils in the district would not be jeopardized thereby, the provisions of this section shall not apply to any employee of the district who files an affidavit stating that he adheres to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depends for healing upon prayer in the

practice of religion and that to the best of his knowledge and belief he is free from active tuberculosis. If at any time there should be probable cause to believe that such affiant is afflicted with active tuberculosis, he may be excluded from service until the governing board of the employing district is satisfied that he is not so afflicted.

(h) A person who transfers his employment from one school or school district to another shall be deemed to meet the requirements of subdivision (a) if such person can produce a certificate which shows that he was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him that it has such a certificate on file.

A person who transfers his employment from a private or parochial elementary school, secondary school, or nursery school to a school or school district subject to this section shall be deemed to meet the requirements of subdivision (a) if such person can produce a certificate as provided for in Section 3450 of the Health and Safety Code which shows that he was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him that it has such a certificate on file.

(i) Any governing board or county superintendent of schools providing for the transportation of pupils under contract authorized by Section 39800, 39801, or any other provision of law shall require as a condition of such contract the examination for active tuberculosis, as provided by subdivision (a) of this section, of all drivers transporting such pupils, provided that private contracted drivers who transport these pupils on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

(j) Examinations required pursuant to subdivision (i) shall be made available without charge by the local health officer.

SEC. 2. Section 76406 of the Education Code is amended to read:

76406. (a) Except as provided in subdivision (h), no person shall be initially employed by a community college district in a certificated or classified position unless the person has submitted to an examination within the past 60 days to determine that he is free of active tuberculosis, by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This examination shall consist of an X-ray of the lungs, or an approved intradermal tuberculin test, which, if positive, shall be followed by an X-ray of the lungs.

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(b) Thereafter all employees shall be required to undergo the foregoing examination at least once each four years or more often if directed by the governing board upon recommendation of the local health officer.

(c) After such examination, each employee shall cause to be on

file with the district superintendent a certificate from the examining physician and surgeon showing the employee was examined and found free from active tuberculosis. The county board of education may require, by rule, that all such certificates be filed in the office of the county superintendent of schools or shall require such files be maintained in the office of the county superintendent of schools if a majority of the governing boards of the districts within such county so petition the county board of education, except that in either case a district or districts with a common board having an average daily attendance of 60,000 or more may elect to maintain the files for its employees in that district. "Certificate" as used herein means a certificate signed by the examining physician and surgeon or a notice from a public health agency or unit of the Tuberculosis Association which indicates freedom from active tuberculosis. The latter, regardless of form, will constitute evidence of compliance with this section. Nothing in this section shall prevent the governing board from establishing a rule requiring a more extensive physical examination than required by this section but such rule shall provide for reimbursement on the same basis as hereinafter required.

(d) This examination is a condition of initial employment and the expense incident thereto shall be borne by the applicant unless otherwise provided by rules of the governing board. However, the board may, if an applicant is accepted for employment, reimburse such person in a like manner hereinafter prescribed for employees.

(e) The governing board of each district shall reimburse the employee for the cost, if any, of this examination. The board may provide for the examination required by this section or may establish a reasonable fee for such examination that is reimbursable to employees of the district complying with the provisions of this section.

(f) At the discretion of the governing board this section shall not apply to those employees not requiring certification qualifications who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with students.

The governing board may, however, require such examination and may as a contract condition require the examination of persons employed under contract, other than those persons specified in subdivision (a) of this section, if the board believes the presence of such persons in and around school premises would constitute a health hazard to students.

(g) If the governing board of a community college district determines by resolution, after hearing, that the health of students in the district would not be jeopardized thereby, the provisions of this section shall not apply to any employee of the district who files an affidavit stating that he adheres to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depends for healing upon prayer in the practice of religion and that to the best of his

knowledge and belief he is free from active tuberculosis. If at any time there should be probable cause to believe that such affiant is afflicted with active tuberculosis, he may be excluded from service until the governing board of the employing district is satisfied that he is not so afflicted.

(h) A person who transfers his employment from one campus or community college district to another shall be deemed to meet the requirements of subdivision (a) if such person can produce a certificate which shows that he was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him that it has such a certificate on file.

A person who transfers his employment from a private or parochial elementary school, secondary school, or nursery school to the community college district subject to this section shall be deemed to meet the requirments of subdivision (a) if such person can produce a certificate as provided for in Section 3450 of the Health and Safety Code which shows that he was examined within the past four years and was found to be free of communicable tuberculosis, or if it is verified by the school previously employing him that it has such a certificate on file.

(i) Any governing board of a community college district providing for the transportation of pupils under contract authorized by Section 82300, 82301, or any other provision of law shall require as a condition of such contract the examination for active tuberculosis, as provided in subdivision (a) of this section, of all drivers transporting such pupils, provided that private contracted drivers who transport such pupils on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

(j) Examinations required pursuant to subdivision (i) shall be made available without charge by the local health officer.

SEC. 3. Section 3450 of the Health and Safety Code is amended to read:

3450. (a) Except as provided in Section 3456, no person shall be initially employed by a private or parochial elementary or secondary school, or any nursery school, unless such person produces or has on file with the school a certificate showing that within the last 60 days such person has been examined and has been found to be free of communicable tuberculosis.

(b) Thereafter all employees shall be required to undergo the foregoing examination at least once each four years or more often if directed by the school upon recommendation of the local health officer.

(c) At the discretion of the governing authority of a private school, this section shall not apply to employees who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils. The governing authority may, however, require such examination and may as a contract condition require the examination of persons employed under

contract if the governing authority believes the presence of such persons in and around the school premises would constitute a health hazard to students.

(d) The governing authority of a private school providing for the transportation of pupils under authorized contract shall require as a condition of such contract that every person transporting pupils produce a certificate showing that within the last 60 days such person has been examined and has been found to be free of communicable tuberculosis, except that any private contracted driver who transports pupils on an infrequent basis, not to exceed once a month, shall be excluded from this requirement.

(e) The examination attested to in the certificate required pursuant to subdivision (d) of this section shall be made available without charge by the local health officer.

"Certificate," as used in this chapter, means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency or unit of the Tuberculosis Association which indicates freedom from active tuberculosis.

SEC. 4. Section 5163 of the Public Resources Code is amended to read:

5163. No person shall initially be employed in connection with a park, playground, recreational center, or beach used for recreational purposes by a city or county in a position requiring contact with children, or as a food concessionaire or other licensed concessionaire in such area, unless such person produces or has on file with the city or county a certificate showing that within the last two years such person has been examined and has been found to be free of communicable tuberculosis.

Thereafter, all employees shall be required to undergo a tuberculosis examination at least once each four years or more often upon the recommendation of the local health officer.

"Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

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 843

An act to amend Sections 2005, 4414, 8282, 8283, 14050, 14052, 15111, 16199, 37001, 37250, 41372, 41374, 41377, 42647, 44819, 48273, 49150, 49455, 49456, to repeal Sections 8414, 33361, 37412, 37521, 41373, 44820, 44950, 48272, 49520, 49555, 51835, 52103, 54303, 54523, 54527, 54663, 54666, 56001 and 56002 of, and to repeal Article 4 (commencing with Section 33150) of Chapter 2 of Part 20 of, the Education Code, relating to schools.

[Approved by Governor September 15, 1978. Filed with Secretary of State September 18, 1978.]

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

SECTION 1. Section 2005 of the Education Code is amended to read:

2005. The superintendent of schools of any school district, or the principal of any school, in an adjoining state attended by pupils residing in an adjoining county in this state shall certify to the county superintendent of schools of the county not later than July 2nd of each year the average daily attendance of pupils from the county attending the school and the current expenditure, including transportation, incurred for the education of the pupils.

SEC. 2. Section 4414 of the Education Code is amended to read:

4414. Notwithstanding any other provisions of this code, proposals in a county master plan to form unified school districts providing in part for the division of each of two or more high school districts, and which include two or more existing unified school districts in the proposals, shall be voted upon by the electors of all the territory included in the county master plan at a single election. The results of such election shall in no way change the organizational status of the existing unified school districts. If a majority of votes is cast in favor of the proposals in any of the proposed unified school districts, the unified school district proposed is approved and formed. If a majority of votes is not cast in favor of the proposals in any of the proposed unified school districts, the unified school districts proposed are not approved and formed.

If the proposals are either approved or disapproved at such election, the territory included within the entire county master plan, including the two or more existing unified school districts, shall be subject to the provisions of Sections 41750, 41762, 41763 and 41769, and the provision of Chapter 8 (commencing with Section 42400) of Part 24 of Division 3 of Title 2.

For the purposes of approving proposed new unified school districts under this code section the State Board of Education shall consider subdivisions (a), (c), (d), and (e) of Section 4200.

SEC. 3. Section 8282 of the Education Code is amended to read:

8282. The Department of Education shall administer the pilot

study described within Sections 8280 and 8281. The Superintendent of Public Instruction shall be responsible for conducting continuous evaluation of the study, and providing technical assistance to encourage development of child care resources within the pilot study area.

SEC. 4. Section 8283 of the Education Code is amended to read:

8283. The Director of the Department of Finance and the Secretary of the Health and Welfare Agency or their designees shall serve in an advisory capacity to the Superintendent of Public Instruction for the purpose of reviewing, monitoring and evaluating the pilot study plan, implementation, and progress pursuant to Sections 8280 and 8281.

SEC. 5. Section 14050 of the Education Code is amended to read:

14050. The county superintendent of schools shall on or before April 1st of each year submit to the Superintendent of Public Instruction a budget for the succeeding fiscal year, in such form as the Superintendent of Public Instruction shall prescribe, setting forth all known and estimated revenues of the county school service fund for such fiscal year from all sources, and the proposed expenditures from the county school service fund for such fiscal year. The budget shall be approved by the Superintendent of Public Instruction. When a budget is submitted to the Superintendent of Public Instruction for his approval, he shall make a review of each program prior to approving the budget. No allowance shall be made under Sections 14050 to 14056, inclusive, whichever are in effect, to a county superintendent of schools for any item of current expenses or capital outlay with respect to which the county superintendent has failed to comply with the regulations of the Superintendent of Public Instruction which he is herewith authorized to adopt applicable to such item. The regulations adopted by the Superintendent of Public Instruction hereunder shall not be limited to, but shall, among other matters:

(a) Prescribe procedures relating to budgeting, purchasing and replacing capital outlay items.

(b) Prescribe procedures relating to the purchase, replacement, operation and maintenance of automotive equipment.

(c) Prescribe the conditions under which the county superintendent of schools may provide services to districts by contract.

(d) Prescribe the conditions under which allowances may be made to the county superintendent of schools to contract for the services of special consultants.

(e) Prescribe the conditions under which allowances may be made to the county superintendent of schools to assume functions authorized by law to be performed either by the county superintendent of schools or another public agency.

(f) Prescribe conditions under which allowances will be made to meet conditions of an emergency nature requiring the establishment and maintenance of emergency schools, the providing of emergency

teachers for regular elementary schools, the providing of emergency transportation to regular elementary schools, or emergency apportionments to school districts.

(g) Define county school service fund publications and prescribe the procedures to be followed relating to budgeting, printing and distributing such publications.

Upon the approval of the budget by the Superintendent of Public Instruction, he shall note his approval thereon and transmit one copy thereof to the county superintendent of schools and one copy to the county auditor of the county.

SEC. 6. Section 14052 of the Education Code is amended to read:

14052. The State Board of Education shall establish definitions for publications, and each county superintendent of schools, upon making any publication shall transmit a copy thereof to the State Board of Education.

In evaluating and analyzing justification documents, the Superintendent of Public Instruction shall be advised by an advisory committee composed of county superintendents of schools, which committee the Superintendent of Public Instruction is hereby authorized to appoint.

SEC. 7. Section 15111 of the Education Code is amended to read:

15111. The governing board of each school district or community college district shall, within 30 days after the end of each fiscal year, submit to the county superintendent of schools who has jurisdiction over the school district or community college district a report containing the following information, concerning any election held pursuant to Sections 4152, 15120, 15121, and 16058 for the approval of the issuance of bonds or the assumption of any bonded indebtedness or other indebtedness:

(1) The total amount of the bond issue, bonded indebtedness or other indebtedness involved.

(2) The percentage of registered electors of the district who voted at the election.

(3) The results of the election, with the percentage of votes cast for and against the proposition involved.

SEC. 8. Section 16199 of the Education Code is amended to read:

16199. The Department of Education may accept applications by school districts for the construction of facilities and the purchase of essential furniture and equipment, under a pilot project to maintain regional programs for physically exceptional children.

The Superintendent of Public Instruction shall establish standards with respect to such regional programs for the pilot project which shall include, among other things, the curriculum to be offered, the area to be served, and the supervision and instruction with respect to the programs. Of the school district applicants which meet the standards established, the Department of Education may designate not more than four school districts to receive apportionments as part of the pilot project to maintain regional programs for physically exceptional children.

The pilot project pursuant to this act shall begin with the 1972–1973 school year and shall terminate at the end of the 1974–1975 school year. The Department of Education shall provide for state evaluation of the pilot project.

With respect to school districts selected as part of the pilot project, the State Allocation Board may approve applications and make apportionments pursuant to Section 16196, notwithstanding that the school district is serving a district or districts with an average daily attendance in excess of 8,000.

In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by such facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if such district had been required to repay 100 percent of the apportionment over such period.

The districts participating in a pilot project may include in interdistrict attendance agreements the cost of making repayments in the same proportion to the total repayment as the number of pupils enrolled from each district bears to the total number of pupils enrolled.

SEC. 8.5. Article 4 (commencing with Section 33150) of Chapter 2 of Part 20 of the Education Code is repealed.

SEC. 9. Section 37001 of the Education Code is amended to read:

37001. Whenever the governing board of a school district is unable to maintain the school or schools in the district because of its inability to secure a teacher or teachers, or because of lack of facilities, the board may, with the approval of the county superintendent of schools having jurisdiction, maintain the school or schools of the district elsewhere than within the district or contract for the education of the pupils of such school or schools with the governing board of another district.

SEC. 10. Section 37250 of the Education Code is amended to read:

37250. The governing board of a district maintaining one or more high schools may maintain a summer school at any of such high schools during the period between the close of one academic year and the beginning of the succeeding academic year in accordance with rules and regulations of the State Board of Education.

SEC. 11. Section 41372 of the Education Code is amended to read:

41372. For purposes of this section:

(a) "Salaries of classroom teachers" and "teacher" shall have the same meanings as prescribed by Section 41011 provided, however, that the cost of all health and welfare benefits provided to the teachers by the school district shall be included within the meaning of salaries of classroom teachers.

(b) "Current expense of education" means the gross total expended (not reduced by estimated income or estimated federal and state apportionments) for the purposes classified in the final budget of a school district (except one which, during the preceding

fiscal year, had less than 101 units of average daily attendance) submitted to and approved by the county superintendent of schools pursuant to Section 42127 for certificated salaries other than certificated salaries for pupil transportation, food services, and community services; classified salaries other than classified salaries for pupil transportation, food services, and community services; employee benefits other than employee benefits for pupil transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for pupil transportation and food services; and community services, contracted services, and other operating expenses other than for pupil transportation, food services, and community services. "Current expense of education," for purposes of this section shall not include those expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the California School Accounting Manual), the amount expended from categorical aid received from the federal or state government which funds were granted for expenditures in a program not incurring any teacher salary expenditures or requiring disbursement of the funds without regard to the requirements of this section, or expenditures for facility acquisition and construction; and shall not include the amount expended pursuant to any lease agreement for plant and equipment or the amount expended from funds received from the federal government pursuant to the "Economic Opportunity Act of 1964" or any extension of such act of Congress.

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

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

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

(c) By a unified school district, 55 percent of the district's current expense of education.

If the county superintendent of schools having jurisdiction over the district determines, on the basis of an audit conducted pursuant to Section 41020, that a school district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, the county superintendent of schools shall, in apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of such apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount so designated by the county superintendent of schools shall be deposited in the county treasury to the credit of the school district, but shall be unavailable for expenditure by the district pending the determination to be made by the county superintendent of schools on any application for exemption which may be submitted to the county superintendent of schools. In the event it appears to the governing board of a school

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

The county superintendent of schools shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end.

SEC. 12. Section 41374 of the Education Code is amended to read:

41374. Notwithstanding any other provision of law to the contrary, Section 41372 shall not apply to any elementary school district, high school district, or unified school district, which maintains no individual class session with pupils in attendance exceeding the numbers, for the particular grade levels, following:

(a) An elementary school district—twenty-eight (28) pupils.

(b) A high school district—twenty-five (25) pupils.

(c) A unified school district—twenty-eight (28) pupils in respect to grades kindergarten through 8, inclusive; and twenty-five (25) pupils in respect to grades 9 through 12, inclusive.

As used in this section the phrase "individual class session" shall not include any class session held in grades kindergarten through 8, inclusive, in courses in art, instrumental and vocal music, industrial arts, and physical education. The phrase shall not include any class session held in grades 9 through 12, inclusive, in courses in commercial arts, instrumental and vocal music, industrial arts, vocational arts, and physical education. The phrase "individual class session" shall not include any class session held in grades 9 through 12, inclusive, for which two or more individual class groups which come within the descriptions specified by the first paragraph of this section and subdivision (a) or (b), or both, are assembled together in the same room for joint lectures or demonstrations.

Notwithstanding the provisions of subdivisions (b) and (c), grades

7, 8, and 9 of a junior high school shall be deemed to be high school grades for purposes of this section.

SEC. 13. Section 41377 of the Education Code is amended to read:

41377. During the 1970–1971 fiscal year and the six subsequent fiscal years thereafter, the governing board of a unified school district may apply to the Superintendent of Public Instruction for exemption from the penalty provisions of Section 41376 in order that a pilot program of team instruction in reading or mathematics, or both, may be conducted only in such elementary schools within the district as may be approved by the Superintendent of Public Instruction. The pilot program shall be conducted in such a manner that, insofar as practicable, one certificated employee and necessary instructional aides remain with the same students from kindergarten through grade 6 for instruction in reading or mathematics, or both.

The Superintendent of Public Instruction may grant the exemption pursuant to this section on a yearly basis, but not beyond the 1976–1977 fiscal year, and only after approval by the Superintendent of Public Instruction of justification documents presented by the district relating to the pilot program.

The State Board of Education shall annually review the pilot program.

SEC. 14. Section 42647 of the Education Code is amended to read:

42647. With the approval of the Superintendent of Public Instruction, the governing board of a unified school district, or district with over 10,000 average daily attendance may cause to be drawn all warrants on the county treasurer against all the funds, except debt service, of the district in the county treasury in the payment of the expenses of the district. The warrants shall be issued by a person designated as the district auditor or district disbursing officer for the school district on the county treasurer in favor of the persons entitled thereto in payment of all claims chargeable against the district which have been legally examined, allowed, and ordered paid by the governing board. The district auditor shall issue warrants on the county treasurer for all debts and demands against the district when the amounts are fixed by law. The form of the warrant shall be as prescribed by the governing board and approved by the county auditor or county treasurer having jurisdiction.

Notwithstanding Section 42631 of the Education Code, the cost of printing the warrants shall be borne by the district.

No county officer shall be responsible for producing reports, statements, and other data relating to or based on these payments of the expenses of the districts. Those districts issuing warrants as provided by this section shall provide the county superintendent of schools, in the form prescribed by him, with the data necessary to make retirement reports and other reports required of him by law. All warrants, vouchers, and supporting documents shall be kept by the school districts that draw their own warrants.

Notwithstanding Section 27005 of the Government Code, or any other section requiring orders for warrants or warrants to be signed

by the county superintendent of schools or the county auditor, or both, the county treasurer shall pay the warrant, if money is available.

Notwithstanding Section 41000 of the Education Code, except for assessing and tax collecting, the county auditor and the county treasurer may charge those districts that draw their own warrants for the cost of all fiscal services.

The person authorized by the governing board of the district to issue warrants pursuant to this section shall execute an official bond in an amount fixed by the governing board conditioned upon the faithful performance of his duties under this section. A county superintendent of schools or a county auditor shall not be liable under the terms of their bonds or otherwise for any warrant issued pursuant to this section. It is not intended that this provision shall be applied so as to impair the obligation of any contract in the bond of such officer in effect on the effective date of this section.

A listing of the warrants issued under this section by each school district shall be forwarded to the county auditor having jurisdiction, upon his request, and to the county superintendent of schools having jurisdiction over the district on the same day warrants are issued. The listing, which may be magnetic tape, punched cards, or in other form, shall report, among other things, the warrant number, date of the warrant, amount of the warrant, the name of the payee, and the fund on which drawn.

The form and content of the warrant listing shall be as prescribed by the governing board and approved by the county auditor having jurisdiction.

Each unified school district or district with over 10,000 average daily attendance which issues warrants pursuant to this section shall furnish monthly to the county superintendent of schools and the county auditor of the county of jurisdiction, upon his request, a statement showing for the current fiscal year to date, for each required expenditure classification, the amount budgeted, actual expenditures, encumbances and unencumbered balances.

In order to obtain the approval of the Superintendent of Public Instruction, a unified school district, or district with over 10,000 average daily attendance shall file a written application with the county superintendent of schools of jurisdiction. Upon receipt of an application from the district, the county superintendent of schools shall cause a survey to be made of the district's accounting controls by an independent certified public accountant or public accountant in accordance with standards prescribed by the Department of Finance. The certified public accountant or public accountant shall report his findings and recommendations to the county superintendent, county auditor, and to the applicant district.

SEC. 15. Section 44819 of the Education Code is amended to read:

44819. Each city or district superintendent of schools shall make an annual report of the schools under his jurisdiction to the county superintendent of schools which shall include an affidavit that all

employees in positions requiring certification qualifications were properly certificated for the work performed.

SEC. 16. Section 48273 of the Education Code is amended to read:

48273. The governing board of each school district shall adopt rules and regulations to require the appropriate officers and employees of the district to gather and transmit to the county superintendent of schools the number and types of referrals to school attendance review boards and of requests for petitions to the juvenile court pursuant to Section 48263.

SEC. 17. Section 49150 of the Education Code is amended to read:

49150. An annual report of all permits to work issued during the year shall be made by the issuing authority to the county or city and county superintendents of schools.

SEC. 18. Section 49455 of the Education Code is amended to read:

49455. Upon first enrollment in a California school district of a child at a California elementary school, and at least every third year thereafter until the child has completed the eighth grade, the child's vision shall be appraised by the school nurse or other authorized person under Section 49452. This evaluation shall include tests for visual acuity and color vision; however, color vision shall be appraised once and only on male children, and the results of the appraisal shall be entered in the health record of the pupil. Color vision appraisal need not begin until the male pupil has reached the first grade. Gross external observation of the child's eyes, visual performance, and perception shall be done by the school nurse and the classroom teacher. The evaluation may be waived, if the child's parents so desire, by their presenting of a certificate from a physician and surgeon or an optometrist setting out the results of a determination of the child's vision, including visual acuity and color vision.

The provisions of this section shall not apply to any child whose parents or guardian file with the principal of the school in which the child is enrolling, a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion.

SEC. 19. Section 49456 of the Education Code is amended to read:

49456. (a) When a defect other than a visual defect has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the child, asking the parent or guardian to take such action as will cure or correct the defect. Such report, if made in writing, shall not include any recommendation suggesting or directing the pupil to a designated individual for the purpose of curing or correcting any defect referred to in the report.

(b) When a visual defect has been noted by the supervisor of health or his assistant, a report shall be made to the parent or guardian of the child, asking the parent or guardian to take such action as will correct the defect. Such report, if made in writing, must be made on a form prescribed or approved by the Superintendent

of Public Instruction and shall not include therein any recommendation suggesting or directing the pupil to a designated individual or class of practitioner for the purpose of correcting any defect referred to in the report.

(c) The provisions of this section do not prevent a supervisor of health from recommending in a written report that the child be taken to a public clinic or diagnostic and treatment center operated by a public hospital or by the state, county, or city department of public health.

SEC. 19.5. Section 8414 of the Education Code is repealed.

SEC. 20. Section 33361 of the Education Code is repealed.

SEC. 21. Section 37412 of the Education Code is repealed.

SEC. 22. Section 37521 of the Education Code is repealed.

SEC. 23. Section 41373 of the Education Code is repealed.

SEC. 27.5. Section 44820 of the Education Code is repealed.

SEC. 28. Section 44950 of the Education Code is repealed.

SEC. 29. Section 48272 of the Education Code is repealed.

SEC. 31. Section 49520 of the Education Code is repealed.

SEC. 32. Section 49555 of the Education Code is repealed.

SEC. 34. Section 51835 of the Education Code is repealed.

SEC. 35. Section 52103 of the Education Code is repealed.

SEC. 36. Section 54303 of the Education Code is repealed.

SEC. 37. Section 54523 of the Education Code is repealed.

SEC. 38. Section 54527 of the Education Code is repealed.

SEC. 39. Section 54663 of the Education Code is repealed.

SEC. 40. Section 54666 of the Education Code is repealed.

SEC. 41. Section 56001 of the Education Code is repealed.

SEC. 42. Section 56002 of the Education Code is repealed.

CHAPTER 844

An act to amend Sections 18135, 18135.5, 18136, 22825.1, and 22826 of the Government Code, relating to the state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

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

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

SECTION 1. Section 18135 of the Government Code is amended to read:

18135. As used in this chapter:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time state officer or employee, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers'

Retirement System in compensated employment on and after October 1, 1976. Commencing January 1, 1979, it also means a full-time state officer or employee, whether or not a member of such systems, who is an employee of the Legislature and is not a member of the civil service.

(2) A part-time or intermittent state officer or employee, with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, in compensated employment on or after January 1, 1979.

(3) In addition to those eligible under subdivision (1) of this section, an employee of the trustees of the California State University and Colleges appointed half-time or more for one year of service or one academic year, as defined by the trustees, or more, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, in compensated employment on or after January 1, 1979.

(b) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of his disability.

(c) "Disability" or "disabled" includes both mental or physical illness and mental or physical injury, and to the extent specified in Section 18135.5, pregnancy. An employee is deemed disabled on any day in which, because of his physical or mental condition, he is unable to perform his regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this chapter, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Department" means the Employment Development Department.

(f) "Director" means the Director of Employment Development.

(g) "Appeals board" means the California Unemployment Insurance Appeals Board.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 2. Section 18135.5 of the Government Code is amended to read:

18135.5. Benefits relating to pregnancy shall be paid under this

chapter only in accordance with the following:

(a) Disability benefits shall be paid upon a doctor's certification that the claimant is disabled because of an abnormal and involuntary complication of pregnancy, including, but not limited to: puerperal infection, eclampsia, cesarean section delivery, ectopic pregnancy, and toxemia.

(b) Disability benefits shall be paid upon a doctor's certification that a condition possibly arising out of pregnancy would disable the claimant without regard to the pregnancy, including, but not limited to: anemia, diabetes, embolism, heart disease, hypertension, phlebitis, phlebothrombosis, pyelonephritis, thrombophlebitis, vaginitis, varicose veins, and venous thrombosis.

(c) Disability benefits shall be paid, upon a doctor's certification that the claimant is disabled because of a normal pregnancy, for a period not to exceed three weeks immediately prior to the expected birth of a child, and for a period not to exceed three weeks immediately after the termination date of a normal pregnancy. A normal pregnancy presupposes the birth of a live infant without the abnormal complications specified in subdivision (a) of this section.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 3. Section 18136 of the Government Code is amended to read:

18136. (a) When an employee is disabled, whether temporarily or permanently, the employee shall become entitled, subject to the provisions of this chapter, to receive nonindustrial disability benefits in an amount equal to one-half full pay, but not to exceed one hundred twenty-five dollars ($125) per week, payable monthly for a period not exceeding 26 weeks for any one disability benefit period, but in no case shall benefits be payable for any day on and after death or separation or retirement from state service.

(b) For purposes of this section, the "full pay" of a part-time or intermittent employee only shall be established in accordance with the following:

(1) Where the part-time employment is regularly scheduled and is a fixed proportion of the established work week, the payments shall be determined on the basis of that proportionate part of the monthly rate.

(2) Where employment is intermittent or irregular, the payments shall be determined on the basis of the proportionate part of a monthly rate established by the total hours actually employed in the 18 monthly pay periods immediately preceding the pay period in which the disability begins as compared to the regular rate for a full-time employee in the same group or class.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 4. Section 22825.1 of the Government Code is amended to read:

22825.1. Notwithstanding any other provision of this article, the employer's contribution, 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 survivor of such person, shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan or plans or, if less, thirty-eight dollars ($38) 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, seventy-two dollars ($72) or, for an employee or annuitant so enrolled for self and two or more family members, ninety-two dollars ($92). The annual total compensation report by the State Personnel Board shall recommend adjustments of the dollar amounts herein based on the principle that the employer's contribution for each employee or annuitant shall be an amount equal to 100 percent of the weighted average of the premiums required for basic and related major medical plans with respect to employees or annuitants enrolled for self alone plus 90 percent of the weighted average of the additional premiums required for enrollment of family members in basic and major medical plans as applicable for the level of benefits offered by (1) the statewide service plan contracted by the state; (2) the statewide indemnity plan contracted by the state; (3) the two prepaid comprehensive medical-hospital plans with the largest number of enrollments contracted by the state, as determined by the board, whichever is less. There shall be only one such contribution with respect to all annuitants receiving allowances as survivors of the same employee or annuitant.

The employer's contribution under this section for each employee shall commence on the effective date of his enrollment.

The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him under the plan or plans less the portion thereof to be contributed by the employer.

The Board of Administration of the Public Employees' Retirement System shall report to the Governor and each house of the Legislature by May 31, 1979 on: (1) the effect of the increased state contributions for health insurance provided by the 1978 amendments to this section on the distribution of enrollments in the several health insurance plans offered under this act; (2) the feasibility and cost of providing rebates for the amount of the difference between the

health plan premium and the state contribution to those employees who select a plan with a premium less than the state contribution; and (3) on considerations for improvement and economy in the delivery of health care services.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 5. Section 22825.1 of the Government Code is amended to read:

22825.1. (a) Notwithstanding any other provision of this article, the employer's contribution, 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 survivor of such person, shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan or plans or, if less, thirty-eight dollars ($38) 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, seventy-two dollars ($72) or, for an employee or annuitant so enrolled for self and two or more family members, ninety-two dollars ($92). The annual total compensation report by the State Personnel Board shall recommend adjustments of the dollar amounts herein based on the principle that the employer's contribution for each employee or annuitant shall be an amount equal to 100 percent of the weighted average of the premiums required for basic and related major medical plans with respect to employees or annuitants enrolled for self alone plus 90 percent of the weighted average of the additional premiums required for enrollment of family members in basic and major medical plans as applicable for the level of benefits offered by (1) the statewide service plan contracted by the state; (2) the statewide indemnity plan contracted by the state; (3) the two prepaid comprehensive medical-hospital plans with the largest number of enrollments contracted by the state, as determined by the board, whichever is less. There shall be only one such contribution with respect to all annuitants receiving allowances as survivors of the same employee or annuitant.

The employer's contribution under this section for each employee shall commence on the effective date of his enrollment.

The contribution of each employee and annuitant shall be the total cost per month of the benefit coverage afforded him under the plan or plans less the portion thereof to be contributed by the employer.

The Board of Administration of the Public Employees' Retirement System shall report to the Governor and each house of the Legislature by May 31, 1979 on: (1) the effect of the increased state

contributions for health insurance provided by the 1978 amendments to this section on the distribution of enrollments in the several health insurance plans offered under this act; (2) the feasibility and cost of providing rebates for the amount of the difference between the health plan premium and the state contribution to those employees who select a plan with a premium less than the state contribution; and (3) on considerations for improvement and economy in the delivery of health care services.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 6. Section 22826 of the Government Code is amended to read:

22826. The State of California shall, in addition to the contributions required by Section 22825, contribute additional amounts necessary to provide funds for the administration of this part, and for the establishment and continuation of the State Employees' Contingency Reserve Fund.

The additional contributions shall be in amounts reasonably adequate to pay the administrative expenses and to establish and maintain the State Employees' Contingency Reserve Fund, as determined by the board, but shall not exceed, for each employee or annuitant, the following amounts:

(1) For administrative expenses—two percent (2%) of the total of the contributions made by the employee or annuitant, and the state on behalf of the employee or annuitant, under a plan.

(2) For the State Employees' Contingency Reserve Fund—three percent (3%) of the total of the contributions made by the employee or annuitant, and the state on behalf of the employee or annuitant, under a plan to and including June 30, 1978, and four percent (4%) thereafter.

SEC. 7. It is the intent of the Legislature that employees of the University of California, Hastings College of the Law, and other state employees not covered by the State Employees' Medical and Hospital Care Act be provided benefits comparable to those included in Section 4 of this act.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill No. 3053 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 22825.1 of the Government Code, and this bill is chaptered after Assembly Bill No. 3053, that Section 22825.1 of the Government Code, as amended by Section 4 of this act, shall remain operative until the effective date of Assembly Bill No. 3053, and that on the effective date of Assembly Bill No. 3053, Section 22825.1 of the Government Code, as amended by Section 4 of this act, be further amended in the form set forth in Section 5 of

this act to incorporate the changes in Section 22825.1 proposed by Assembly Bill No. 3053. Therefore, if this bill and Assembly Bill No. 3053 are both chaptered and become effective on or before January 1, 1979, and Assembly Bill No. 3053 is chaptered before this bill and amends Section 22825.1, Section 5 of this act shall become operative on the effective date of Assembly Bill No. 3053.

SEC. 9. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 10. This act shall become operative on July 1, 1978.

SEC. 11. The sum of thirty-seven million two hundred sixty thousand dollars ($37,260,000) is hereby appropriated for expenditure during the 1978–79 fiscal year to the Department of Finance for allocation to the several state offices, departments, boards, bureaus, commissions, Regents of the University of California, Trustees of the California State University and Colleges, and other state agencies for the cost of the benefits prescribed by this act, as follows:

(a) From the General Fund	$28,433,000
(b) From special funds	$3,891,000
(c) From other funds	$4,936,000

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 duties, obligations, or responsibilities imposed on local government by this act can be accomplished with no additional cost to local government.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order for the employer's contribution for each employee or annuitant for health benefit plans to remain at the present percentage, this act must take effect immediately.

CHAPTER 845

An act to add Section 50087 to the Government Code, relating to Filipino employees.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. The Legislature finds and declares that persons of Filipino ancestry and national origin are being incorrectly classified as either Spanish surname or Asian in the personnel surveys of city and county employees and that such categorization unfairly discriminates against such persons in the operation of a city or county government's equal employment opportunity program. Therefore, it is the intent of the Legislature that any survey or statistical tabulation conducted by a city, county, or city and county which has at least 5,000 residents or in which 5 percent of the population is of Filipino ancestry or ethnic origin, according to the last federal census, to identify the racial or ethnic characteristics of its employees shall separately identify persons of Filipino ancestry or national origin.

SEC. 2. Section 50087 is added to the Government Code, to read:

50087. Every city, county, or city and county which has at least 5,000 residents or in which 5 percent of the population is of Filipino ancestry or ethnic origin, according to the last federal census, and which conducts any survey as to the ancestry or ethnic origin of its employees, or which maintains any statistical tabulation of minority group employees, shall categorize employees whose ancestry or ethnic origin is Filipino as Filipinos in such survey or tabulation.

SEC. 3. There are no state-mandated local costs in this act which require reimbursement under Section 2231 of the Revenue and Taxation Code in 1978–1979. However, there are state-mandated local costs in this act in 1979–1980 and subsequent years that require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular state budget process.

CHAPTER 846

An act to amend, add, and repeal Section 12389 of, and to add Section 12372.5 to, the Insurance Code, relating to title insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 12372.5 is added to the Insurance Code, to read:

12372.5. Notwithstanding the provisions of Section 12372, where a title plant is not being currently maintained, the asset value of such plant shall not exceed its asset value as of the last annual statement date preceding the first month such plant is not currently maintained, less 1/10th thereof for each succeeding year or part

thereof that such plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and (1) the owner thereof continues regularly to obtain and index title record data to such plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of such data, or (2) the owner thereof is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided such owner is contractually entitled to receive a copy of the title record data contained in such jointly used title plant system during the period of such owner's participation therein, either periodically or upon termination of such participation, at a cost not to exceed the actual cost of duplication of such title record data.

SEC. 2. Section 12389 of the Insurance Code is amended to read:

12389. (a) An underwritten title company as defined in Section 12340.5, which shall be a stock corporation, may engage in the business of preparing title searches, title reports, title examinations, certificates or abstracts of title, upon the basis of which a title insurer writes title policies, provided that:

(1) Only domestic corporations may be licensed under this section and no underwritten title company, as defined in Section 12340.5, shall become licensed under this section, or change the name under which it is licensed or operates, unless it has first complied with the provisions of Section 881.

(2) Depending upon the county or counties in which the company is licensed to transact business, it shall maintain required minimum net worth as follows:

Aggregate number of documents recorded and documents filed in the offices of the county recorders in the preceding calendar year in all counties where the company is licensed to transact business.	Amount of required minimum net worth
Less than 10,000	$20,000
10,000 to 50,000	30,000
50,000 to 100,000	60,000
100,000 to 500,000	100,000
500,000 to 1,000,000	150,000
1,000,000 or more	200,000

"Net worth" is defined as the excess of assets over all liabilities and required reserves. It may carry as an asset the actual cost of its title plant provided the value ascribed to such asset shall not exceed the aggregate value of all other assets.

Where a title plant of an underwritten title company is not being

currently maintained, the asset value of such plant shall not exceed its asset value as determined in the preceding paragraph as of the date to which such plant is currently maintained, less 1/10th thereof for each succeeding year or part thereof that such plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and (1) the owner thereof continues regularly to obtain and index title record data to such plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of such data, or (2) the owner thereof is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided such owner is contractually entitled to receive a copy of the title record data contained in such jointly used title plant system during the period of such owner's participation therein, either periodically or upon termination of such participation, at a cost not to exceed the actual cost of duplication of such title record data.

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. Such deposit shall be in any form permitted by Section 12351. 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 or income accruing on the assets in the deposit.

Such deposit shall be returned to the depositor or its lawful successor in interest upon the first to occur of the following:

(A) The filing of a new fidelity bond with the commissioner, provided such bond covers all officers and employees of the company who participated in any escrow transactions handled by the company during the period of such deposit in the State Treasury, and such bond otherwise meets the requirements of this paragraph; or

(B) Upon the filing of a new fidelity bond with the commissioner which affords coverage from the date of issuance, in which case the depositor company shall present to the commissioner an audit covering any escrow transactions handled by the company during the period of such deposit with the State Treasury, made by an independent certified or licensed public accountant approved by the commissioner specifically for such purpose, and verifying that the books and records of the depositor disclose no undischarged liabilities or losses which could result in a claim against such deposit. Such audit shall be conducted in accordance with the rules and regulations adopted by the commissioner; or

(C) 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 a licensee or certificate holder subject to the jurisdiction of the commissioner assumes responsibility for any losses for which the deposit would otherwise act as security; or

(D) Presentation to the commissioner of an audit made by an independent, certified or licensed public accountant approved by the commisioner specifically for this purpose, verifying that (1) the depositor has ceased to engage in the escrow business, (2) not less than one year has elapsed since the closing of the last escrow handled by the depositor, and (3) the books and records of the depositor disclose no undischarged liabilities or losses which could result in a claim against such deposit. The audit shall be conducted in accord

with rules and regulations adopted by the commissioner.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. 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 aggregate value of all other assets.

Where a title plant of an underwritten title company is not being currently maintained, the asset value of such plant shall not exceed its asset value as determined in the preceding paragraph as of the date to which such plant is currently maintained, less 1/10th thereof for each succeeding year or part thereof that such plant is not being currently maintained. For the purposes of this section, a title plant shall be deemed currently maintained so long as it is used in the normal conduct of the business of title insurance, and (1) the owner thereof continues regularly to obtain and index title record data to such plant or to a continuation thereof in a format other than that previously used, including, but not limited to, computerization of such data, or (2) the owner thereof is a participant, in an arrangement for joint use of a title plant system regularly maintained in any format, provided such owner is contractually entitled to receive a copy of the title record data contained in such jointly used title plant system during the period of such owner's participation therein, either periodically or upon termination of such participation, at a cost not to exceed the actual cost of duplication of such title record data.

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 maintain a minimum net worth of not less than one hundred percent (100%) in excess of that prescribed by paragraph (2) of subdivision (a) but in no event less than seventy-five thousand dollars ($75,000); or, it shall obtain and file with the commissioner a letter of indemnity acceptable to the commissioner issued by a title insurer with which the underwritten title company has an underwriting agreement. The letter of indemnity shall name the commissioner as the indemnitee on behalf of all persons who have engaged in escrow transactions with the underwritten title company during the period such letter is in effect. Any such letter of indemnity shall operate to indemnify any person or entity for any financial loss they may incur as a direct result of any fraudulent or dishonest act on the part of an officer or employee of the underwritten title company in connection with their conduct of an escrow. The maximum liability assumed under a letter of indemnity shall be prescribed by the commissioner in an amount not to exceed two hundred thousand dollars ($200,000); or 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. Such deposit shall be in any form permitted by Section 12351. 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 or income accruing on the assets in the deposit.

Such deposit shall be returned to the depositor or its lawful successor in interest upon the first to occur of the following:

(A) The filing of a new fidelity bond with the commissioner, provided such bond covers all officers and employees of the company who participated in any escrow transactions handled by the company during the period of such deposit in the State Treasury, and such bond otherwise meets the requirements of this paragraph; or

(B) Upon the filing of a new fidelity bond with the commissioner which affords coverage from the date of issuance, in which case the depositor company shall present to the commissioner an audit covering any escrow transactions handled by the company during the period of such deposit with the State Treasury, made by an independent certified or licensed public accountant approved by the commissioner specifically for such purpose, and verifying that the books and records of the depositor disclose no undischarged liabilities or losses which could result in a claim against such deposit. Such audit shall be conducted in accordance with the rules and regulations adopted by the commissioner; or

(C) 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 a licensee or certificate holder subject to the jurisdiction of the commissioner assumes responsibility for any losses for which the deposit would otherwise act as security; or

(D) Presentation to the commissioner of an audit made by an independent, certified or licensed public accountant approved by the commissioner specifically for this purpose, verifying that (1) the depositor has ceased to engage in the escrow business, (2) not less than one year has elapsed since the closing of the last escrow handled by the depositor, and (3) the books and records of the depositor disclose no undischarged liabilities or losses which could result in a claim against such deposit. The audit shall be conducted in accord with rules and regulations adopted by the commissioner.

(c) The commissioner shall, whenever it appears necessary, examine the business and affairs of a company licensed under this section. All such examinations shall be at the expense of the company.

(d) At any time that the commissioner determines, after notice and hearing, that a company licensed under this section has willfully failed to comply with any of the provisions of this section, the commissioner shall make his order prohibiting the company from conducting its business for a period of not more than one year.

Any company violating such an order is subject to seizure under Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of

Division 1 is guilty of a misdemeanor and may have its license revoked by the commissioner. Any person aiding and abetting any company in a violation of such an order is guilty of a misdemeanor.

The purpose of this section is to maintain the solvency of the companies subject to this section and to protect the public by preventing fraud and requiring fair dealing. In order to carry out such purposes the commissioner may make reasonable rules and regulations to govern the conduct of its business of companies subject to this section.

The name under which each underwritten title company is licensed shall at all times be an approved name. Each such company shall be subject to the provisions of Article 14 (commencing with Section 1010) and Article 14.5 (commencing with Section 1065.1) of Chapter 1 of Part 2 of Division 1.

Such rules and regulations shall be adopted, amended or repealed in accordance with the procedure provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 12389 of the Insurance Code, as amended by Section 3 of this act shall be operative until June 30, 1979, and on such date shall be repealed. Section 12389 of the Insurance Code, as amended by Section 2 of this act shall become operative on July 1, 1979.

SEC. 5. 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:

Due to the recent adoption of endorsements to standard fidelity bonds issued in this state, which endorsements are unacceptable to the Department of Insurance, underwritten title companies are encountering extreme difficulty in obtaining fidelity coverage which is a necessary prerequisite to their conducting an escrow business. This inability to obtain coverage which is satisfactory to the Department of Insurance has resulted in the issuance of cease and desist orders by the department and may result in the future issuance of similar orders affecting the right of at least 24 underwritten title companies to continue to do business in this state. It is therefore necessary, on an interim basis, to provide an alternative to a fidelity bond so as to permit underwritten title companies to continue to conduct their business in this state. It is therefore necessary that this act take effect immediately.

CHAPTER 847

An act to add Section 5442 to, and to repeal Sections 5442 and 5443 of, the Education Code, and to add Sections 22935 and 23549 to, to repeal Article 5 (commencing with Section 15280) of Chapter 3 of Division 11, Article 6 (commencing with Section 22940) of Chapter 2 of Part 2 of Division 14 of, and Section 23549, and to repeal and add Chapter 13 (commencing with Section 17140) of Division 12 of, the Elections Code, and to amend Section 12172.5 of the Government Code, relating to elections.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 5442 of the Education Code is repealed.

SEC. 2. Section 5442 is added to the Education Code, to read:

5442. Recount of votes in any school district or community college district shall be governed by the provisions of Chapter 13 (commencing with Section 17140) of Division 12 of the Elections Code.

SEC. 3. Section 5443 of the Education Code is repealed.

SEC. 3.5. Article 5 (commencing with Section 15280) of Chapter 3 of Division 11 of the Elections Code is repealed.

SEC. 4. Chapter 13 (commencing with Section 17140) of Division 12 of the Elections Code is repealed.

SEC. 5. Chapter 13 (commencing with Section 17140) is added to Division 12 of the Elections Code, to read:

CHAPTER 13. RECOUNT

Article 1. General Provisions

17140. Except as provided in this chapter, this chapter applies to all elections. The recount of votes cast for candidates for presidential electors shall be governed by the provisions of this chapter.

Article 2. Clerk-Ordered Recounts

17150. If no election contest is pending wherein a recount of the ballots in a precinct has been or will be ordered, the clerk may order that the ballots voted in the precinct be publicly recounted if:

(a) The clerk has reasonable cause to believe the ballots in the precinct have been miscounted and,

(b) The clerk has examined, under oath, the precinct board members or, in the case of ballots counted by a central counting system, the counting board members and they are unable to explain the returns of their respective precincts.

Article 3. Voter-Requested Recounts

17160. Following completion of the official canvass, any voter may, within five days thereafter, file with the clerk responsible for conducting an election a written request for a recount of the votes cast for candidates for any office, for slates of presidential electors, or for or against any measure. The request shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed.

For the purposes of this section "completion of the canvass" shall be presumed to be that time when the clerk signs the certified statement of the results of the election except that, in the case of a city election, if a city council canvasses the returns itself and does not order the clerk to conduct the canvass as permitted by Section 22932.5, "completion of the canvass" shall be presumed to be that time when the governing body declares the persons elected or the measures approved or defeated.

17161. The request may specify the order in which the precincts shall be recounted.

17162. Any time during the conduct of a recount and for 24 hours thereafter, any other voter may request the recount of any precincts in an election for the same office, slate of presidential electors, or measure not recounted as a result of the original request.

17163. The voter filing the request seeking the recount shall, before the recount is commenced and at the beginning of each day following, deposit with the clerk such sum as the clerk requires to cover the cost of the recount for that day. The money deposited shall be returned to the depositor if, upon completion of the recount, the candidate, slate of presidential electors, or the position on the measure (affirmative or negative) for which the declaration is filed is found to have received the plurality of votes cast which it had not received according to the official canvass or, in an election where there are two or more candidates, the recount results in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff election or general election who would not have so appeared in the absence of the recount. The depositor shall be entitled to the return of any money deposited in excess of the cost of the recount if the candidate, slate, or position on the measure has not received the plurality of the votes cast or, in an election where there are two or more candidates, the recount does not result in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff or general election as a result of the recount. Money not required to be refunded shall be deposited in the appropriate public treasury.

17164. The recount shall be conducted under the supervision of the clerk by special recount boards consisting of four voters of the county appointed by the clerk. Each member of a recount board shall receive the same compensation per day as is paid in the jurisdiction within which the recount is being conducted to members of precinct

boards, other than inspectors, to be paid out of the appropriate public treasury.

If the office of the clerk is the subject of the recount, the governing body shall appoint an officer, other than the clerk, to appoint and supervise the special recount boards.

17165. The recount shall be commenced not more than seven days following the request for the recount, and shall be continued daily, Saturdays, Sundays and holidays excepted, for not less than six hours each day until completed.

17166. If in the election which is to be recounted the votes were recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter who files the declaration requesting the recount may select whether the recount shall be conducted manually or by means of the voting system used originally, or both.

17167. Not less than one day prior to commencement of the recount, the clerk shall post a notice as to the date and place of the recount and shall notify the following persons of it:

(a) All candidates for any office the votes for which are to be recounted.

(b) Authorized representatives of presidential candidates to whom electors are pledged if the votes to be recounted were cast for presidential electors.

(c) Proponents of any initiative or referendum or persons filing ballot arguments for or against any initiative, referendum, or measure placed on the ballot by the governing body the votes for which are to be recounted.

(d) The Secretary of State in the case of a recount of the votes cast for candidates for any state office, presidential electors, or delegates to a national convention or on any state measure.

17168. The recount shall be conducted publicly.

17169. All ballots, whether voted or not, and any other relevant material may be examined as part of any recount if the voter filing the declaration requesting the recount so requests.

17170. On recount, ballots may be challenged for incompleteness, ambiguity, or other defects, in accordance with the following procedure:

(a) The person challenging the ballot shall state the reason for the challenge.

(b) The official counting the ballot shall count it as he or she believes proper and then set it aside with a notation as to how it was counted.

(c) The clerk shall, before the recount is completed, determine whether the challenge is to be allowed. The decision of the clerk is final.

17171. In lieu of the returns as reported in the official canvass, upon completion of the recount showing that a different candidate was nominated or elected, that a different presidential slate of electors received a plurality of the votes, or that a measure was

defeated instead of approved or approved instead of defeated, there shall be entered the result of the recount in each precinct affected, which result shall, for all purposes thereafter, be the official returns of those precincts for the office, slates of presidential electors, or measure involved in the recount. The results of any recount which is not completed by counting the votes in each and every precinct in the jurisdiction within which votes were cast on the candidates for the office, on the slates of electors, or on the measure in question shall be declared null and void. If the office, slates of electors, or measure are voted on in more than one county, the results of any recount which is not completed by counting the votes in each and every precinct in the jurisdiction within which votes were cast on the candidates for the office, the slate, or the measure in the county in which the declaration requesting the recount is filed shall be declared null and void.

17172. A copy of the results of any recount conducted pursuant to this chapter shall be posted conspicuously in the office of the clerk.

17173. This chapter does not:

(a) Authorize the opening or recounting of ballots for any precinct except for the purposes specified in this chapter.

(b) Limit other provisions of law regarding an election contest or recount.

Article 4. Court-Ordered Recounts

17180. (a) When requested by the board of supervisors or the grand jury, the district attorney may petition the superior court for an order directing a public recount to be made of ballots tabulated by a voting system in such precincts in the county as it designates for any election occurring not over 25 days before such request. Such request and petition shall be made only on one or more of the following grounds, and such order may be issued only with a finding that there is probable cause to believe that one or more of the grounds exist:

(1) Misconduct by anyone sufficient to make it likely that the result of the election was affected as to the successful candidates or propositions or tie holders, including any of the conduct specified in Section 20021.

(2) Errors or failures, whether electronic, mechanical or otherwise, in the safekeeping, handling, tallying, counting, recording, or certification of the ballots or votes cast, sufficient to make it likely that the result of the election was affected as to the successful candidates or propositions or tie holders, or sufficient to cast substantial doubt on the substantial accuracy of the results without regard to affecting any result.

The petition shall be set for hearing and may be opposed by any interested party.

(b) The court may order such further recounts as it may deem proper based on the results of the recounts provided for in

subdivision (a) or in Section 17190, and shall declare the results of all such recounts, and shall determine and order corrected the results of any election affected by any recount.

(c) The court may order payment of the costs of any such recount in whole or in just proportion by any person or any public agency, or both, who petition for a recount. In the case of public agencies the costs shall be provided for and paid pursuant to Section 15026.

17181. Upon the completion of the counting of the votes as provided in this article, all ballot cards shall be arranged by precincts and shall be kept by the clerk for six months or so long thereafter as any contest involving the vote at the election remains undetermined.

Notwithstanding any other provision of this code, the final disposition of all voted ballot cards shall be determined by the clerk; and sealed ballot containers may be opened if the elections official determines it is necessary in a shredding or recycling process.

17182. Section 15208 shall apply unless a court orders the program held pending the conclusion of litigation challenging the outcome of an election. If court action or an official recount is initiated while the program is on deposit, the Secretary of State shall make the program available to the court or the elections official in whose jurisdiction the court action or recount takes place, upon written request.

17183. Any tape used in programming of vote totals, shall be kept under lock and seal, and if there is a recanvass of votes, the officer entrusted with the tapes shall submit his affidavit stating that they are true tapes used in the election and have not been altered.

Article 5. Automatic Recounts in Voting System Elections

17190. Within 15 days after every election in which a voting system as defined in Section 15009 is used, the officer conducting the election shall conduct a public manual recount of the ballots tabulated by such devices cast in 1 percent of the precincts chosen at random by the clerk. If 1 percent of the precincts should be less than one whole precinct, the recount shall be conducted in one precinct chosen at random by the clerk.

SEC. 5. Section 22935 is added to the Elections Code, to read:

22935. Recount of votes in municipal elections shall be governed by the provisions of Chapter 13 (commencing with Section 17140) of Division 12 of this code.

SEC. 6. Article 6 (commencing with Section 22940) of Chapter 2 of Part 2 of Division 14 of the Elections Code is repealed.

SEC. 7. Section 23549 of the Elections Code is repealed.

SEC. 8. Section 23549 is added to the Elections Code, to read:

23549. Recount of votes in any general district election shall be governed by the provisions of Chapter 13 (commencing with Section 17140) of Division 12 of this code.

SEC. 8.5. Section 12172.5 of the Government Code is amended to read:

12172.5. The Secretary of State is the chief elections officer of the state, and shall administer the provisions of the Elections Code. The Secretary of State shall see that elections are efficiently conducted and that state election laws are enforced. The Secretary of State may require elections officers to make reports concerning elections in their jurisdictions.

If, at any time, the Secretary of State concludes that state election laws are not being enforced, the Secretary of State shall call the violation to the attention of the district attorney of the county or to the Attorney General. In these instances, the Secretary of State may assist the county elections officer in discharging his duties.

In order to determine whether an elections law violation has occurred, and notwithstanding Sections 17132, 17133, and 17135 of the Elections Code, the Secretary of State may examine voted, unvoted, spoiled and canceled ballots, vote-counting computer programs, absent voter envelopes and applications, and supplies referred to in Section 17022 of the Elections Code. The Secretary of State may also examine such other records of elections officials as he or she finds necessary in making such a determination, subject to the restrictions set forth in Section 6253.5.

The Secretary of State may adopt regulations to assure the uniform application and administration of state election laws.

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 of the duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 848

An act to amend Section 52168 of, to add Sections 52164.1, 52164.2, 52164.3, 52164.4, and 52164.5 to, and to repeal and add Section 52164 of, the Education Code, relating to school districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 52164 of the Education Code is repealed.

SEC. 2. Section 52164 is added to the Education Code, to read:

52164. Each school district shall ascertain not later than the first day of March of each year, under regulations prescribed by the State Board of Education, the total number of limited-English-speaking pupils within the district, and shall classify them according to their primary language, age, and grade level. This count shall be known

as the "census of limited-English-speaking pupils" and shall consist of a determination of the primary language of each pupil enrolled in the school district and an assessment of the language skills of all pupils whose primary language is other than English.

The census shall be taken by individual, actual count, and not by estimates or samplings. All limited-English-speaking pupils, including migrant and special education pupils, shall be counted. Special language assessment instruments, designated by the superintendent and in compliance with the requirements of subdivision (i) of Section 56301, may be used for special education pupils. The results of this census shall be reported to the Department of Education not later than the 30th day of April of each year. The previous census shall be updated to include new enrollees and to eliminate pupils who are no longer limited-English-speaking pupils and pupils who no longer attend school in the district, and shall be reported pursuant to Section 52164.1. Census data gathered in one school year shall be used to plan the number of bilingual classrooms to be established in the following school year.

SEC. 3. Section 52164.1 is added to the Education Code, to read:

52164.1. The superintendent, with the approval of the State Board of Education, shall prescribe census-taking methods, applicable to all school districts in the state, which shall include, but need not be limited to, the following:

(a) A determination of the primary language of each pupil enrolled in the school district. The primary language of new pupils shall be determined as they enroll. Once determined, the primary language need not be redetermined unless the parent or guardian claims there is an error. The primary language of each pupil enrolled in each district shall be determined not later than September 15, 1978, and kept current thereafter, as new pupils enroll. Home language determinations resulting from the 1977 home language survey need not be redone.

(b) An assessment of the language skills of all pupils whose primary language is other than English.

(1) The English language proficiency of each previously untested new enrollee, whose primary language is other than English, shall be assessed. This assessment may be conducted pursuant to paragraph (2) of this subdivision, or as set forth in this subdivision. If the district decides not to follow the procedures in paragraph (2), each previously untested new enrollee, whose primary language is other than English, shall be evaluated using the instrument designated by the Department of Education. This assessment shall be completed within 30 days after the date of the pupil's enrollment unless the temporary identification prescribed in Section 52164.4 is used. In cases where there is reasonable doubt by school authorities as to whether the pupil is limited English speaking within the meaning of subdivision (d) of Section 52163, or request is made for further assessment pursuant to Section 52164.3, an English language proficiency assessment shall be undertaken to evaluate the pupil's

English language skills. The instruments used shall be consistent with state standards as adopted by the State Board of Education. This second level of assessment shall be completed within 60 days after the date of the pupil's enrollment. The assessment of all pupils whose primary language is other than English shall be completed no later than March 1 of each year. Tests, materials, and procedures to determine proficiency in English shall be selected and administered so as not to be racially, culturally, or sexually discriminatory.

The Department of Education shall designate the instruments to be used by school districts, and such instruments shall be available by July 1 of the year preceding the date the census report is due, commencing July 1, 1979, and each year thereafter.

The assessments shall be conducted by persons who speak and understand the primary language of the limited-English-speaking pupils, who are adequately trained and prepared to evaluate cultural and ethnic factors, and who shall follow procedures formulated by the superintendent to determine which pupils are limited-English-speaking pupils, as defined in subdivision (d) of Section 52163. The superintendent may waive the requirement that the assessment be conducted by persons who can speak and understand the pupil's primary language where the primary language is spoken by a small number of pupils and the district certifies that it is unable to comply. This certification shall be accompanied by a statement from the district superintendent that the chairperson of the district advisory committee on bilingual education has been consulted and was unable to assist in the effort to locate appropriate individuals to administer the assessment.

(2) Any district may elect to follow federal requirements regarding the census so long as the language skills described in subdivision (d) of Section 52163 are assessed. So long as such a federally approved census procedure is followed on a districtwide basis and is consistent with Section 52164, the district shall be exempt from the state census procedures described in subdivision (a) and paragraph (1) of this subdivision.

SEC. 4. Section 52164.2 is added to the Education Code, to read:

52164.2. The Department of Education shall review the results of the census each year. Where the information provided by a school district appears to be inaccurate, the department shall audit the district's census through an onsite visit. Where the census has been incorrectly taken, or the results appear to be inaccurate, the department shall require another census to be taken and the corrected information to be provided.

SEC. 5. Section 52164.3 is added to the Education Code, to read:

52164.3. (a) Each school district shall reassess pupils whose primary language is other than English, whether they are designated as non-English speaking, limited English speaking, or fluent English speaking, when a parent or guardian, teacher, or school site administrator claims that there is a reasonable doubt about the accuracy of the pupil's designation.

(b) In all such cases of reassessment, the parent or guardian of the pupil shall be notified of the result. This notice shall be given orally when school personnel have reason to think that a written notice will not be understood.

SEC. 6. Section 52164.4 is added to the Education Code, to read:

52164.4. If a kindergarten or previously untested first grade pupil enrolling in a school for the first time speaks a language other than English in the home, such pupil may be enrolled as a limited-English-speaking pupil in a bilingual program pursuant to subdivision (a), (b), or (c) of Section 52163 at least until the census procedure for that year is completed.

SEC. 7. Section 52164.5 is added to the Education Code, to read:

52164.5. Pertinent information from the assessment of language skills for each pupil whose primary language is other than English shall be retained by the school district as long as the pupil is enrolled in the district. Each school district shall report annually to the Department of Education, and the department shall report to the State Board of Education, the number of pupils whose primary language is other than English, the number of pupils who are non-English speaking, and the number of pupils who are limited English speaking. Each school district shall further report the total number of pupils whose primary language is other than English who are enrolled in classes defined in subdivision (a), (b), or (c) of Section 52163, the number of such pupils who have become bilingual and literate in English and in their primary language, and the number of such pupils who have demonstrated adequate proficiency to be placed in mainstream classes.

SEC. 8. Section 52168 of the Education Code is amended to read:

52168. (a) The maximum allocation allowable for the 1977–78 and subsequent school years to school districts providing instruction pursuant to Section 52165 shall not exceed the maximum allowances established by the superintendent and the district pursuant to Section 3932 of Title 5 of the California Administrative Code, for each limited-English-speaking pupil who receives instruction in a program pursuant to Section 52165. This amount per pupil shall include all state and local categorical aid funds allocated to districts providing programs under Section 52165 which are wholly or partially allocated on the basis of the educational needs of limited-English-speaking pupils. The superintendent shall ensure that funds appropriated pursuant to this article supplement and do not supplant categorical funds allocated from other local or state sources in meeting the needs of limited-English-speaking pupils.

(b) School districts may claim funds appropriated pursuant to this article for expenditures in the following categories only:

(1) The employment of bilingual-crosscultural teachers and aides; however, funds are available for employment expenditures only to the extent such personnel are employed in providing bilingual services to eligible pupils. School districts applying for these funds shall submit an assurance that personnel hired for this program only

supplement and do not supplant district personnel.

(2) The purchase and development of special bilingual-bicultural teaching materials;

(3) The costs of special in-service training to develop bilingual-crosscultural instructional skills with preference given to teachers and teacher aides employed as part of the bilingual-bicultural program; and

(4) Reasonable expenses (which may include transportation, child care, meals, and training) of parent advisory groups on bilingual-bicultural education, at the school and school district level, in the course of their duties as members of the parent advisory groups. The State Board of Education shall adopt rules and regulations defining reasonable expenses.

(5) Health and auxiliary services to the extent that they meet the direct needs of eligible pupils.

(6) Reasonable district administrative expenses allowed pursuant to regulations of the board.

(c) Nothing contained in this section shall be interpreted to authorize school districts to reduce per pupil expenditures from local, state, or federal sources for the education of limited-English-speaking pupils.

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 there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

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 eliminate unnecessary confusion and to assist school districts in the effective implementation of bilingual education programs in the 1978–79 school year, it is necessary for this act to take immediate effect.

CHAPTER 849

An act to amend Sections 2892.5 and 4511 of the Business and Professions Code, relating to licensed vocational nurses and psychiatric technicians.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 2892.5 of the Business and Professions Code is amended to read:

2892.5. (a) Each person renewing his license under the provisions of this chapter shall submit proof satisfactory to the board that, during the preceding two-year period, he has informed himself of developments in the vocational nurse field or in any special area of vocational nurse practice, occurring since the issuance of his certificate, or the last renewal thereof, whichever last occurred, either by pursuing a course or courses of continuing education approved by the board in the vocational nurse field or relevant to the practice of such licensee, and approved by the board; or by other means deemed equivalent by the board.

(b) For purposes of this section, the board shall, by regulation, establish standards for continuing education. The standards shall be established in a manner to assure that a variety of alternative forms of continuing education are available to licensees including, but not limited to, academic studies, in-service education, institutes, seminars, lectures, conferences, workshops, extension studies, and home study programs. The standards shall take cognizance of specialized areas of practice. The continuing education standards established by the board shall not exceed 30 hours of direct participation in a course or courses approved by the board, or its equivalent in the units of measure adopted by the board.

(c) This section shall not apply to licensees during the first two years immediately following their graduation from vocational nursing school.

(d) The board may, in accordance with the intent of this section, make exceptions from continuing education 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, 1980.

SEC. 2. Section 4511 of the Business and Professions Code is amended to read:

4511. An applicant for a psychiatric technician's license shall have the following qualifications:

(a) Be at least 18 years of age.

(b) Have successfully completed an approved general education course of study through the 12th grade or the equivalent thereof as determined by the board.

(c) Have successfully completed (1) a prescribed course of study and training of at least 12 months in length in a school accredited by the board, which course of study and training shall combine the nursing knowledge and skills necessary for the care of any ill person and in addition those special skills necessary for the care of the mentally disabled and the developmentally disabled, or (2) a course of study and training which, together with previously acquired training or experience, is determined by a school accredited by the board to be equivalent in academic credits to its regular program for psychiatric technician training, or (3) have completed a course of

study and training which in the opinion of the board is equivalent to the minimum requirements of an accredited program for psychiatric technicians in the state. Clinical inpatient experience shall be an integral part of any such prescribed or equivalent course of study and training. Such experience shall be obtained in a state hospital, except where the board finds that such requirement is not feasible due either to the distance of a state hospital from the school, or the unavailability, as determined by the State Department of Health, of state hospital clinical training placements.

(d) Have committed no act which, if committed by a licensed psychiatric technician, would be ground for disciplinary action.

CHAPTER 850

An act to amend Sections 25124 and 36933 of the Government Code, relating to publication of county and city ordinances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 25124 of the Government Code is amended to read:

25124. (a) Before the expiration of 15 days after the passage of an ordinance it shall be published once, with the names of the members voting for and against the ordinance, in a newspaper published in the county if there is one, and if there is no newspaper published in the county, the ordinance shall be posted at the courthouse door within the 15-day period and remain posted thereafter for at least one week. The local agency, at its option, may include in an ordinance reclassifying land either a brief description accompanied by a map of the boundaries of the property, as recited in the notice of hearing, or a complete metes and bounds description accompanied by a map depicting the reclassified property and adjacent properties. A certificate of the clerk or order entered in the minutes of the board that the ordinance has been duly published or posted is prima facie proof of the publication or posting.

(b) The publication or posting of ordinances, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The county board of supervisors may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. Such summary shall be prepared by an official designated by the board of supervisors. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the county clerk at least five days prior to the board of supervisors meeting at which the

proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, the board of supervisors shall publish a summary of the ordinance or amendment and the county clerk shall post in the office of the county clerk a certified copy of the full text of such adopted ordinance or amendment along with the names of those supervisors voting for and against the ordinance or amendment; or

(2) If the county official designated by the board of supervisors determines that it is not feasible to prepare a fair and adequate summary of the proposed or adopted ordinance or amendment, and if the board of supervisors so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the county shall be published at least five days prior to the board of supervisors meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of such ordinance or amendment.

SEC. 2. Section 36933 of the Government Code is amended to read:

36933. (a) Within 15 days after its passage, the city clerk shall cause each ordinance to be published at least once in a newspaper of general circulation published and circulated in the city, or if there is none, he shall cause it to be posted in at least three public places in the city or published in a newspaper of general circulation printed and published in the county and circulated in the city. In cities incorporated less than one year, the city council may determine whether ordinances are to be published or posted. Ordinances shall not be published in a newspaper if the charge exceeds the customary rate charged by the newspaper for publication of private legal notices, but such ordinances shall be posted in the manner and at the time required by this section.

(b) Except as provided in Section 36937, an ordinance shall not take effect or be valid unless it is published or posted in substantially the manner and at the time required by this section.

(c) The publication or posting of ordinances, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The city council may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. Such summary shall be prepared by an official designated by the city council. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the city clerk at least five days prior to the city council meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, the city council shall publish a

summary of the ordinance or amendment and the city clerk shall post in the office of the city clerk a certified copy of the full text of such adopted ordinance or amendment along with the names of those city council members voting for and against the ordinance or amendment; or

(2) If the city official designated by the city council determines that it is not feasible to prepare a fair and adequate summary of the proposed or adopted ordinance or amendment, and if the city council so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the city shall be published at least five days prior to the city council meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of such ordinance or amendment.

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 counties and cities may, at the earliest possible time, realize the cost savings made possible by this act, it is necessary that this act take effect immediately.

CHAPTER 851

An act to add Section 4.5 to Chapter 603 of the Statutes of 1977, relating to metric conversion.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 4.5 is added to Chapter 603 of the Statutes of 1977, to read:

Sec. 4.5. In addition to the functions set forth in Section 4, the council shall:

(a) Investigate the extent to which conversion to metric weight and volume in packaging of consumer products may permit absolute price increases to the consumer; specifically, where a product is packaged by metric weight or volume in a container which is visually substantially similar to a container in which the product was previously sold by avoirdupois weight or United States dry or liquid measure of volume, but which contains less weight or volume

absolutely than the former container, yet is sold at retail at a price per unit higher than the former price per unit;

(b) In the course of such investigation, hold hearings to take testimony concerning any such practices, with particular regard to consumer products on which minimum retail prices are set with approval or review of state agencies or other public entities;

(c) Publicize, in an appropriate manner, the findings made during such investigation; and

(d) Report annually on such investigation to the Legislature and the Governor.

CHAPTER 852

An act to amend Sections 5604, 5604.5, 5606, 5606.6, 5763, 5764, 5764.5, 5765, and 5766 of, and to add Sections 5604.1, 5606.1, 5606.2, 5766.1, and 5766.2 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. 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 from a city or county Short-Doyle program or any of its contract agencies, a state hospital, or any public or private nonprofit mental health agency. 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 mental health professions: psychology, social work, nursing, marriage and family counseling, psychiatric technology, and hospital or community mental health facility administration. No more than one appointee from each of such professions shall be selected. Persons in the professions of education, law, criminal justice, and fiscal management may be considered as representatives of the general public. For members 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 chair 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 or more local agencies jointly establish a community mental 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 for each additional agency, one of whom shall be the chair of the governing body or a person who does not qualify as a professional member under this section designated by the governing body and the second of whom shall be a 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. 2. Section 5604.1 is added to the Welfare and Institutions Code, to read:

5604.1. (a) There is hereby established an Organization of Mental Health Advisory Boards, consisting of the respective chairpersons or designees of the individual boards.

(b) The Organization of Mental Health Advisory Boards shall discuss common problems, exchange information, improve coordination and advise the Citizens Advisory Council and the Legislature.

SEC. 3. Section 5604.5 of the Welfare and Institutions Code is amended to read:

5604.5. The board of supervisors may pay from any available funds the actual and necessary expenses of the members of the advisory board of a community mental health service incurred incident to the performance of their official duties and functions. Such expenses may include travel, lodging, child care, and meals for the members of such an advisory board while on official business as may be approved by the director of the local mental health program.

SEC. 4. Section 5606 of the Welfare and Institutions Code is amended to read:

5606. The local mental health advisory board shall:

(a) Review and evaluate the community's mental health needs, services, facilities, and special problems.

(b) Review the county Short-Doyle plan.

(c) Advise the governing body and the local mental health director as to any aspect of the local mental health program.

(d) Review and approve the procedures used to insure citizen and professional involvement at all stages of the planning process as specified in Section 5651.

(e) Submit an annual report to the governing body.

(f) Make recommendations regarding the appointment of a local director of mental health services.

SEC. 5. Section 5606.1 is added to the Welfare and Institutions Code, to read:

5606.1. The composition of the mental health advisory board shall reflect the minority population found in the county. If underrepresentation exists, a statement shall be included in the 1979–80 mental health plan and continuously thereafter as to the ways equitable representation will be achieved and a timetable for achieving equitable representation.

SEC. 6. Section 5606.2 is added to the Welfare and Institutions Code, to read:

5606.2. Notwithstanding any provision of this section, members serving on the mental health advisory boards on the operative date of the amendments made to this section during the 1977–78 legislative session, may continue to serve until expiration of their terms. The Legislature intends that changes in the composition of the mental health advisory boards required by such amendments apply to future vacancies.

SEC. 7. Section 5606.6 of the Welfare and Institutions Code is amended to read:

5606.6. The board of supervisors may pay from any available funds the actual and necessary expenses of the members of a county advisory committee on drug abuse incurred incident to the performance of official duties and functions. Such expenses may include travel, lodging, child care, and meals for advisory committee members while on official business as may be approved by the board of supervisors.

SEC. 8. Section 5763 of the Welfare and Institutions Code is amended to read:

5763. There is a Citizens Advisory Council to advise and assist the Legislature and the Director of Mental Health in carrying out the provisions of this division. The State Department of Mental Health shall cooperate fully with the Citizens Advisory Council by rendering efficient accounting, financial management, personnel, and other reasonable support services when requested by the council in the performance of its powers and duties.

The attachment of the Citizens Advisory Council to the State Department of Mental Health shall not limit the council's scope of concern to mental health programs or limit the council's responsibilities or functions regarding all other pertinent state and local programs, as defined in subdivision (c) of Section 5764.

The administrative attachment of the council to the State Department of Mental Health shall not be construed to interfere in any way with the provisions of Section 5766.2 requiring all personnel employed by the council to be responsible to the council.

The council shall consist of fifteen (15) appointed voting members. There shall be one member who shall be a member of the California Conference of Local Mental Health Directors. There shall be five members chosen from among the following professions: general medicine, psychiatry, psychology, social work, sociology, nursing, and mental health administration. No more than one appointee from each of these categories shall be selected. Nine members shall be representative of the public interest in mental health of which at least four shall be consumers or the parent, spouse, or adult offspring of persons who have received mental health services from a city or county Short-Doyle program or any of its contract agencies, a state hospital or any other public or private nonprofit mental health agency. At least one of the public interest members shall be a local mental health advisory board member at the time of appointment; one shall be a member of a county board of supervisors; one shall be a lawyer and one shall be an expert in fiscal management. No public interest members shall be members of the professions named above.

Appointments shall reflect a balance of geographic, ethnic, racial, age, linguistic, socioeconomic and sexual factors. Appointees shall have a demonstrated interest in and knowledge of statewide mental health services.

The Governor shall appoint the following nine (9) members of the council: two professional members who are not psychiatrists, and four members of the public who are persons or the parent, spouse, or adult offspring of persons who have received mental health services and three public members who are not consumers. The Chair of the Senate Rules Committee shall appoint the following three (3) members of the council: one psychiatrist; one professional member who is not a psychiatrist; and one member of the general public who is not a consumer. None of the members or the spouse of a member shall be an employee of a state department within the Health and Welfare Agency. The Speaker of the Assembly shall appoint the following three (3) members of the council: two (2)

professional members and one (1) member of the general public who is not a consumer. Each member shall hold office for three years.

If prior to the expiration of a term a member ceases to retain the status which qualified him or her for appointment on the council, his or her membership on the council shall terminate and there shall be a vacancy on the council.

Notwithstanding any provision of this section, members serving on the Citizens Advisory Council on the effective date of the amendments made to this section during the 1977–78 legislative session, shall continue to serve until expiration of their terms. The changes in the composition of the council required by such amendments apply only to future vacancies.

The members of the Citizens Advisory Council 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 chapter.

The Citizens Advisory Council shall meet at least quarterly, and on call of the council chairman as often as necessary to fulfill its duties. All meetings and records of the Citizens Advisory Council shall be open to the public.

The Citizens Advisory Council shall, by majority vote of the voting members, elect its own chair from among the 15 appointed members, and shall establish such committees as it deems necessary or desirable. The council chair shall appoint all members of committees of the Citizens Advisory Council.

SEC. 9. 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 review shall include comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with mental disabilities, including the Departments of Education, Rehabilitation, Health Services, Transportation, Social Services, Developmental Services, Employment, Youth Authority, Corrections, and Parks and Recreation and the Office of Statewide Health Planning and Development and may include public hearings. 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 the coordination 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 Citizen Advisory Council, subject to the approval of the Department of Finance.

(j) To act as the state council required by Public Law 94-63 to advise the Director of Mental Health on the development of the Community Mental Health Services Plan. For the purposes of implementing this function of the Citizens Advisory Council only, the Director of Mental Health or his designee and the Secretary of the Health and Welfare Agency or his designee shall serve on the council. Additional functions of the council under this section shall include: (1) to develop and implement procedures for conducting the annual review of and for publicizing the Community Mental Health Services Plan; and (2) to submit as part of the state plan, the council's report resulting from such annual review.

(k) To provide coordination, consultation and training for local mental health advisory boards.

SEC. 10. 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. 11. 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 Citizens Advisory Council and the Advisory Health Council or its successor for review and recommendations as to conformance with California's comprehensive statewide health plan. The state three-year mental health plan shall be submitted for review and recommendations prior to amendments or changes thereto.

SEC. 12. Section 5766 of the Welfare and Institutions Code is amended to read:

5766. The Citizens Advisory Council may utilize such staff of the State Department of Mental Health as are available, and such staff of all other public or private agencies which have an interest in the mental health of the public and which are able and willing to provide such services.

SEC. 13. Section 5766.1 is added to the Welfare and Institutions Code, to read:

5766.1. Within the limit of funds allotted for such purposes, the Citizens Advisory Council chair, with the concurrence of a majority of the Citizens Advisory Council shall appoint such staff as it may require.

SEC. 14. Section 5766.2 is added to the Welfare and Institutions Code, to read:

5766.2. The state council may contract for additional technical assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. All personnel employed by the Citizens Advisory Council shall be solely responsible, organizationally and administratively, to the state council. The state council shall have responsibility for the selection, hiring, and supervision of all such personnel.

SEC. 15. 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 853

An act to amend Sections 2869, 2882, and 2892.4 of the Business and Professions Code, relating to vocational nurses.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 2869 of the Business and Professions Code is amended to read:

2869. Not less than two months prior to the date of each examination, the board shall cause a notice thereof to be published in two or more newspapers of general circulation published within the State of California and selected by the board.

SEC. 2. Section 2882 of the Business and Professions Code is amended to read:

2882. The course of instruction of an accredited school of vocational nursing shall consist of not less than the required number of hours of instruction in such subjects as the board may from time to time by regulation determine, together with the required number of hours in the care of medical, surgical, obstetrical patients, sick children, and such other clinical experience as from time to time may be determined by the board.

SEC. 3. Section 2892.4 of the Business and Professions Code is amended to read:

2892.4. A license which is not renewed within four years after its expiration may not be renewed, restored, reissued, or reinstated thereafter, but the holder of the license may apply for and obtain a new license if:

(a) No fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension,

(b) He pays all of the fees that would be required of him if he were then applying for the license for the first time, and

(c) He takes and passes the examination which would be required of him if he were then applying for the license for the first time. No examination shall be required, however, if the expired license was issued without an examination, and the examination may be waived in any case in which the applicant establishes to the satisfaction of the board that, with due regard for the public interest, he is qualified to engage in the practice of vocational nursing.

The board may, by appropriate regulation, provide for the waiver or refund of all or any part of the application fee in those cases in which a license is issued without an examination under this section.

CHAPTER 854

An act to amend Sections 33352 and 33413.5 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 33352 of the Health and Safety Code is amended to read:

33352. Every redevelopment plan submitted by the agency to the legislative body shall be accompanied by a report containing:

(a) The reasons for the selection of the project area.

(b) A description of the physical, social and economic conditions existing in the area.

(c) The proposed method of financing the redevelopment of the project area in sufficient detail so that the legislative body may determine the economic feasibility of the plan.

(d) A method or plan for the relocation of families and persons to be temporarily or permanently displaced from housing facilities in the project area, which method or plan shall include the provision required by Section 33411.1 that no persons or families of low and moderate income shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by such displaced person or family at rents comparable to those at the time of their displacement.

(e) An analysis of the preliminary plan.

(f) The report and recommendations of the planning commission.

(g) The summary referred to in Section 33387.

(h) The report required by Section 65402 of the Government Code.

(i) The report required by Section 21151 of the Public Resources Code.

(j) The report of the county fiscal officer as required by Section 33328.

(k) The report of the fiscal review committee, if any.

(*l*) If the project area contains low- or moderate-income housing, a neighborhood impact report which describes in detail the impact of the project upon the residents of the project area and the surrounding areas, in terms of relocation, traffic circulation, environmental quality, availability of community facilities and services, effect on school population and quality of education, property assessments and taxes, and other matters affecting the physical and social quality of the neighborhood. The neighborhood impact report shall also include (1) the number of dwelling units housing persons and families of low or moderate income expected to be destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, (2) the number of persons and families of low or moderate income expected to be displaced by the project, (3) the general location of housing to be rehabilitated, developed, or constructed pursuant to Section 33413, (4) the number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation, other than replacement housing, (5) the projected means of financing the proposed dwelling units for housing persons and families of low and

moderate income planned for construction or rehabilitation, and (6) a projected timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives.

(m) An analysis by the agency of the report submitted by the county as required by Section 33328, which shall include a summary of the consultation of the agency, or attempts to consult by the agency, with each of the taxing agencies as required by Section 33328.

SEC. 2. Section 33413.5 of the Health and Safety Code is amended to read:

33413.5. Not less than 30 days prior to the execution of an agreement for acquisition of real property, or the execution of an agreement for the disposition and development of property, or the execution of an owner participation agreement, which agreement would lead to the destruction or removal of dwelling units from the low- and moderate-income housing market, the agency shall adopt by resolution a replacement housing plan. For a reasonable time prior to adopting a replacement housing plan by resolution, the agency shall make available a draft of the proposed replacement housing plan for review and comment by the project area committee, other public agencies, and the general public.

The replacement housing plan shall include (1) the general location of housing to be rehabilitated, developed, or constructed pursuant to Section 33413, (2) an adequate means of financing such rehabilitation, development, or construction, (3) a finding that the replacement housing does not require the approval of the voters pursuant to Article XXXIV of the California Constitution, or that such approval has been obtained, (4) the number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation, and (5) the timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives. A dwelling unit whose replacement is required by Section 33413 but for which no replacement housing plan has been prepared, shall not be destroyed or removed from the low- and moderate-income housing market until the agency has by resolution adopted a replacement housing plan.

Nothing in this section shall prevent an agency from destroying or removing from the low- and moderate-income housing market a dwelling unit which the agency owns and which is an immediate danger to health and safety. The agency shall, as soon as practicable, adopt by resolution a replacement housing plan with respect to such dwelling unit.

CHAPTER 855

An act to amend Sections 222 and 7150 of, and to amend and repeal Sections 3031, 4332, and 7149 of, and to add Sections 710, 711, 712, 713, 3031, 4332, and 7149 to, and to repeal Section 13005 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 222 of the Fish and Game Code is amended to read:

222. A copy of the booklet published pursuant to Section 217 may be given by the issuer of the license to every license purchaser at the time he purchases his license. It shall be the booklet containing the latest regulations so printed applicable to the activity authorized by the license being purchased.

Such booklet shall contain in the front portion the following:

COMMISSION

The Fish and Game Commission, composed of five members who are appointed by the Governor for six-year terms and who are subject to confirmation by the Senate, has been a constitutional body since 1940. It possesses such powers as are delegated to it by the Legislature. In general, the Legislature has granted the commission the power to regulate the taking or possession of game birds (both resident and migratory), mammals (including deer, bear, elk, antelope, rabbits and squirrels), fish, amphibians (frogs) and reptiles. These powers have been delegated for specific intervals by the Legislature. Other regulatory powers pertaining to less significant fish and game matters have been granted on an unrestricted basis. The commission is required to hold public meetings to hear and consider the recommendations of interested citizens and groups before setting fish and game regulations.

As stipulated by the Fish and Game Code, general policies for conduct of the department are formulated by the Fish and Game Commission and the Director of the Department of Fish and Game is responsible for administration of the department in accordance with the policies thus established. Though the department is subject by law to decisions of the commission, the Wildlife Conservation Board and the Marine Research Committee, the director of the department is responsible to the Governor.

WILDLIFE BOARD

The Wildlife Conservation Board was established by the Wildlife Conservation Act of 1947. It consists of the President of the Fish and Game Commission, the Director of the Department of Fish and Game and the Director of Finance. Additionally, three Members of the Senate and three Members of the Assembly meet with the board and participate in its activities. The primary responsibilities of the board consist of selecting and authorizing the acquisition of land and property suitable for recreation purposes and the preservation, protection and restoration of wildlife. The board may authorize construction of facilities on property it has acquired, consistent with the purpose for which the property was purchased. The acquisition and construction program of the board is financed out of the Wildlife Restoration Fund for which, in 1955, the Legislature established a continuing annual appropriation of seven hundred fifty thousand dollars ($750,000) from the state's share of parimutuel revenues derived from wagers on horseracing.

MARINE RESEARCH COMMITTEE

The Marine Research Committee which was established by the Legislature in 1947, consists of nine members: five representing commercial fish interests, at least one member representing organized sportsmen's groups, and at least one representing organized labor. The membership is appointed by the Governor for four-year terms. The committee is empowered to employ personnel or contract for research in the development of commercial fisheries of the Pacific Ocean and financial support for the committee is derived from a special privilege tax on fish dealers and fish packers.

DEPARTMENT

The Department of Fish and Game is charged with the administration and enforcement of the Fish and Game Code. It is organized as a headquarters staff in Sacramento, with six regional managers, each responsible for fish and game operations in his portion of the state, including the offshore area. General policies for the conduct of the department are formulated by the Fish and Game Commission, and the director is responsible for administration of the department in accordance with such policies. The director is the appointing power of all department employees, who are responsible to him for the proper performance of their duties and responsibilities.

Support of Department of Fish and Game activities which are unrelated to sport and commercial fishing and hunting, and which are necessary for the protection and enhancement of California's nongame fish and wildlife, and flora comes from the state's General Fund.

Support of Department of Fish and Game hunting, sport fishing, and commercial fishing activities comes from the Fish and Game Preservation Fund, which derives its revenue from the sale of hunting and fishing licenses, court fines and commercial fishing taxes. One-half of the fines and forfeitures collected as a result of violations of the Fish and Game Code and commission regulations are deposited in the Fish and Game Preservation Fund, and the other one-half goes to the county in which the offense was committed to be expended for the propagation and conservation of fish or game under the direction of the board of supervisors.

There are also grants of federal funds for sport fisheries projects under the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C., Sec. 777, et seq.) and for wildlife projects under the Pittman-Robertson Act (16 U.S.C., Sec. 669, et seq.), allocated to the states from taxes on sporting articles, in ratio to the number of licensed hunters and fishermen and the area involved. The Commercial Fisheries Research and Development Act of 1964 (16 U.S.C., Sec. 779, et seq.) provides federal funds for studies and projects relating to commercial fisheries.

LEGISLATIVE COMMITTEES ON FISH AND GAME

The Assembly Committee on Water, Parks, and Wildlife, and the Senate Committee on Natural Resources and Wildlife are empowered to investigate fish and game problems, hold hearings so that interested citizens may publicly express their views, make recommendations and introduce bills pertaining to fish and game for consideration by the Legislature.

These committees have no administrative powers, and no power to establish regulations. They cannot direct the Fish and Game Commission to establish any regulations or set any season dates. Nor can they require the State Department of Fish and Game or other state agencies to perform any service other than to furnish the committees with data or information required in their deliberations.

SEC. 2. Section 710 is added to the Fish and Game Code, to read:

710. The Legislature finds and declares that the department has in the past not been properly funded. The principal cause has been the fixed nature of the department's revenues in contrast to rising costs resulting from inflation. This lack of funding has prevented proper planning and manpower allocation. The lack of funding has required the department to restrict warden enforcement and to defer essential repairs to fish hatcheries and other facilities. The lack of secure funding for fish and wildlife activities other than sport and commercial fishing and hunting activities has resulted in inadequate nongame fish and wildlife protection programs.

SEC. 3. Section 711 is added to the Fish and Game Code, to read:

711. It is the intent of the Legislature to ensure adequate funding from appropriate sources for the department. To this end, the Legislature finds and declares that:

(a) The costs of nongame fish and wildlife programs and the costs of free hunting and fishing license programs shall be provided annually in the Budget Act by appropriating money from the General Fund and sources other than the Fish and Game Preservation Fund to the department for such purposes.

(b) The costs of commercial fishing programs shall be provided solely out of revenues from commercial fishing taxes, license fees, and other revenues, and from reimbursements and federal funds received for commercial fishing programs.

(c) The costs of hunting and sport fishing programs shall be provided solely out of hunting and sport fishing revenues and reimbursements and federal funds received for hunting and sport fishing programs. Such revenues shall not be used to support commercial fishing programs, free hunting and fishing license programs, or nongame fish and wildlife programs.

(d) Hunting and sport fishing license fees shall be adjusted annually to an amount equal to that computed pursuant to Section 713. However, any substantial increase in the aggregate of hunting and sport fishing programs shall be reflected by appropriate amendments to the sections of this code that establish the base sport license fee levels. The inflationary index provided in Section 713 may not be used to accommodate an increase in the aggregate of hunting and sport fishing programs.

SEC. 4. Section 712 is added to the Fish and Game Code, to read:

712. The Department of Finance shall include in the Governor's Budget sufficient moneys from the General Fund to pay the costs of the department's nongame programs necessary for the protection and enhancement of California's nongame fish and wildlife and their habitat, and the costs of free hunting and fishing license programs.

SEC. 5. Section 713 is added to the Fish and Game Code, to read:

713. By August 1 of each year, the Department of Finance shall submit to the department a factor which reflects changes in an inflationary index developed by the Department of Finance based on the fiscal year 1977–78 costs of the department relating to salaries, staff benefits, and operating expenses. Such factor shall be multiplied by the individual base fee for each license, stamp, or tag, and the product shall be rounded to the nearest twenty-five cents ($0.25).

SEC. 6. Section 3031 of the Fish and Game Code is amended to read:

3031. A hunting license, granting the privilege to take birds and mammals, shall be issued:

(a) To any resident of this state, over the age of 16 years, upon the payment of ten dollars ($10).

(b) To any resident of this state, under the age of 16 years, upon the payment of two dollars ($2).

(c) To any person not a resident of this state, upon the payment of thirty-five dollars ($35).

(d) To any person not a resident of this state, valid for one day and only for the taking of domesticated game birds and pheasants while

on the premises of a licensed pheasant club, or for the taking of domesticated migratory game birds on areas licensed for shooting such birds, upon the payment of five dollars ($5).

(e) To any person not a resident of this state, valid only at an organizational field trial under the provisions of Section 3510, upon the payment of five dollars ($5).

(f) To the spouse of any veteran, as defined in Section 980 of the Military and Veterans Code, upon payment of the fee specified in subdivision (a), even though he or she is an alien.

This section is repealed as of July 1, 1980.

SEC. 7. Section 3031 is added to the Fish and Game Code, to read:

3031. A hunting license, granting the privilege to take birds and mammals, shall be issued:

(a) To any resident of this state, over the age of 16 years, upon the payment of a base fee of ten dollars ($10) plus an amount calculated in accordance with Section 713.

(b) To any resident of this state, under the age of 16 years, upon the payment of a base fee of two dollars ($2) plus an amount calculated in accordance with Section 713.

(c) To any person not a resident of this state, upon the payment of a base fee of thirty-five dollars ($35) plus an amount calculated in accordance with Section 713.

(d) To any person not a resident of this state, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed pheasant club, or for the taking of domesticated migratory game birds on areas licensed for shooting such birds, upon the payment of a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713.

(e) To any person not a resident of this state, valid only at an organizational field trial under the provisions of Section 3510, upon the payment of a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713.

(f) To the spouse of any veteran, as defined in Section 980 of the Military and Veterans Code, upon payment of the fee specified in subdivision (a), even though he or she is an alien.

This section shall become operative July 1, 1980.

SEC. 8. Section 4332 of the Fish and Game Code is amended to read:

4332. Any resident of this state, 12 years of age or over, who possesses a valid hunting license may, upon payment of three dollars ($3), procure one license tag for the taking of one deer by one person during the current license year.

Any nonresident of this state, 12 years of age or over, who possesses a valid hunting license may, upon payment of twenty-five dollars ($25), procure one license tag for the taking of one deer by one person during the current license year.

Upon determining that a surplus of unharvested deer exists in a designated deer herd management unit or group of units, the commission may make available an additional tag (option tag). Any

resident of this state, 12 years of age or over, who possesses a deer tag may purchase for five dollars ($5) an additional tag for the taking of one legal deer by one person during the current license season for such designated deer herd management unit or group of units for which a surplus of deer has been declared. Any nonresident of this state, 12 years of age or over, who possesses a deer tag may purchase for thirty-five dollars ($35) one additional tag for the taking of one legal deer by one person during the current license season for such designated deer herd management unit or group of units for which a surplus of deer has been declared.

This section is repealed as of July 1, 1980.

SEC. 9. Section 4332 is added to the Fish and Game Code, to read:

4332. Any resident of this state, 12 years of age or over, who possesses a valid hunting license may, upon payment of a base fee of three dollars ($3) plus an amount calculated in accordance with Section 713, procure one license tag for the taking of one deer by one person during the current license year.

Any nonresident of this state, 12 years of age or over, who possesses a valid hunting license may, upon payment of a base fee of twenty-five dollars ($25) plus an amount calculated in accordance with Section 713, procure one license tag for the taking of one deer by one person during the current license year.

Upon determining that a surplus of unharvested deer exists in a designated deer herd management unit or group of units, the commission may make available an additional tag (option tag). Any resident of this state, 12 years of age or over, who possesses a deer tag may purchase for a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713 an additional tag for the taking of one legal deer by one person during the current license season for such designated deer herd management unit or group of units for which a surplus of deer has been declared. Any nonresident of this state, 12 years of age or over, who possesses a deer tag may purchase for a base fee of thirty-five dollars ($35) plus an amount calculated in accordance with Section 713 one additional tag for the taking of one legal deer by one person during the current license season for such designated deer herd management unit or group of units for which a surplus of deer has been declared.

This section shall become operative July 1, 1980.

SEC. 10. Section 7149 of the Fish and Game Code is amended to read:

7149. A sport fishing license granting the privilege to take any fish from the ocean waters of this state and amphibia anywhere in this state for purposes other than profit shall be issued:

(a) To any resident of this state, over the age of 16 years, upon the payment of five dollars ($5) for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof.

(b) To any nonresident, over the age of 16 years, upon the payment of twenty dollars ($20) for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof.

(c) To any person, over the age of 16 years, not a resident of this state, upon the payment of eight dollars ($8), for a period of 10 days from the date of issue.

On payment of two dollars ($2) a sport fishing licensee may obtain an inland water license stamp which, if permanently affixed to his license, authorizes him to take all fish, other than trout, steelhead trout, and salmon, anywhere in this state for purposes other than profit.

On payment of three dollars ($3) a sport fishing licensee may obtain a trout and salmon license stamp which if permanently affixed to his license together with the inland water license stamp authorizes him to take all fish anywhere in this state for purposes other than profit.

Any person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code or any person over 62 years of age who has been a resident of the state for the five years immediately preceding and whose total monthly income from all sources, including any old age assistance payments, does not exceed two hundred fifty dollars ($250) for single persons, or five hundred dollars ($500) combined income for married persons, on application to the Department of Fish and Game, Headquarters Office, Sacramento, shall be issued a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit, free of charge.

Sport fishing license stamps shall be sold by license agents in the same manner as sport fishing licenses except that the compensation provided in Section 1055 shall not be paid to the license agent for sale of such stamps.

Reference in this code or any other law to a sport fishing license to be issued to disabled veterans, blind persons, or resident Indians without payment of a license fee means a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit. All other references to a sport fishing license mean such a license with or without license stamps as may be appropriate for the type of fishing involved.

This section is repealed as of January 1, 1980.

SEC. 11. Section 7149 of the Fish and Game Code is amended to read:

7149. A sport fishing license granting the privilege to take any fish from the ocean waters of this state and amphibia anywhere in this state for purposes other than profit shall be issued:

(a) To any resident of this state, over the age of 16 years, upon the payment of five dollars ($5) for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof.

(b) To any nonresident, over the age of 16 years, upon the payment of twenty dollars ($20) for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof.

(c) To any person, over the age of 16 years, not a resident of this state, upon the payment of eight dollars ($8), for a period of 10 days from the date of issue.

On payment of two dollars ($2) a sport fishing licensee may obtain an inland water license stamp which if permanently affixed to his license authorizes the licensee to take all fish, other than trout, steelhead trout, and salmon, anywhere in this state for purposes other than profit.

On payment of three dollars ($3) a sport fishing licensee may obtain a trout and salmon license stamp which if permanently affixed to his license together with the inland water license stamp authorizes the licensee to take all fish anywhere in this state for purposes other than profit.

Upon application to the Department of Fish and Game, Headquarters Office, Sacramento, the following persons shall be issued a sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit, free of charge:

(i) Any person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(ii) Any person over 62 years of age who has been a resident of the state for five years immediately preceding and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12201 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12201 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section.

The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a free license during the following calendar year. All licenses issued pursuant to subdivisions (i) and (ii) shall be valid for the period of a calendar year or, if issued after the beginning of the year, for the remainder thereof.

Sport fishing license stamps shall be sold by license agents in the same manner as sport fishing licenses except that the compensation provided in Section 1055 shall not be paid to the license agent for sale of such stamps.

Reference in this code or any other law to a sport fishing license to be issued to disabled veterans, blind persons, or resident Indians without payment of a license fee means a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit. All other references to a sport fishing license mean such a license with or without license stamps as may be appropriate for the type of fishing involved.

This section is repealed as of January 1, 1980.

SEC. 12. Section 7149 is added to the Fish and Game Code, to read:

7149. A sport fishing license granting the privilege to take any fish from the ocean waters of this state and amphibia anywhere in this state for purposes other than profit shall be issued:

(a) To any resident of this state, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713.

(b) To any nonresident, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of twenty dollars ($20) plus an amount calculated in accordance with Section 713.

(c) To any person, over the age of 16 years, not a resident of this state, for a period of 10 days from the date of issue, upon payment of a base fee of eight dollars ($8) plus an amount calculated in accordance with Section 713.

A sport fishing licensee may obtain an inland water license stamp which, if permanently affixed to his license, authorizes him to take all fish, other than trout, steelhead trout, and salmon, anywhere in this state for purposes other than profit, upon payment of a base fee of two dollars ($2) plus an amount calculated in accordance with Section 713.

A sport fishing licensee may obtain a trout and salmon license stamp which, if permanently affixed to his license together with the inland water license stamp, authorizes him to take all fish anywhere in this state for purposes other than profit, upon payment of a base fee of three dollars ($3) plus an amount calculated in accordance with Section 713.

Any person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code or any person over 62 years of age who has been a resident of the state for the five years immediately preceding and whose total monthly income from all sources, including any old age assistance payments, does not exceed two hundred fifty dollars ($250) for single persons, or five hundred dollars ($500) combined income for married persons, on application to the Department of Fish and Game, Headquarters Office, Sacramento, shall be issued a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit, free of charge.

Sport fishing license stamps shall be sold by license agents in the same manner as sport fishing licenses except that the compensation provided in Section 1055 shall not be paid to the license agent for sale of such stamps.

Reference in this code or any other law to a sport fishing license to be issued to disabled veterans, blind persons, or resident Indians without payment of a license fee means a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit. All other references to a sport fishing license mean such a license with or

without license stamps as may be appropriate for the type of fishing involved.

This section shall become operative January 1, 1980.

SEC. 13. Section 7149 is added to the Fish and Game Code, to read:

7149. A sport fishing license granting the privilege to take any fish from the ocean waters of this state and amphibia anywhere in this state for purposes other than profit shall be issued:

(a) To any resident of this state, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of five dollars ($5) plus an amount calculated in accordance with Section 713.

(b) To any nonresident, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of twenty dollars ($20) plus an amount calculated in accordance with Section 713.

(c) To any person, over the age of 16 years, not a resident of this state, for a period of 10 days from the date of issue, upon payment of a base fee of eight dollars ($8) plus an amount calculated in accordance with Section 713.

A sport fishing licensee may obtain an inland water license stamp which, if permanently affixed to his license, authorizes the licensee to take all fish, other than trout, steelhead trout, and salmon, anywhere in this state for purposes other than profit, upon payment of a base fee of two dollars ($2) plus an amount calculated in accordance with Section 713.

A sport fishing licensee may obtain a trout and salmon license stamp which, if permanently affixed to his license together with the inland water license stamp, authorizes the licensee to take all fish anywhere in this state for purposes other than profit, upon payment of a base fee of three dollars ($3) plus an amount calculated in accordance with Section 713.

Upon application to the Department of Fish and Game, Headquarters Office, Sacramento, the following persons shall be issued a sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit, free of charge:

(i) Any person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(ii) Any person over 62 years of age who has been a resident of the state for five years immediately preceding and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12201 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12201 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section.

The amount in effect on September 1 of each year shall be the

amount used to determine eligibility for a free license during the following calendar year. All licenses issued pursuant to subdivisions (i) and (ii) shall be valid for the period of a calendar year or, if issued after the beginning of the year, for the remainder thereof.

Sport fishing license stamps shall be sold by license agents in the same manner as sport fishing licenses except that the compensation provided in Section 1055 shall not be paid to the license agent for sale of such stamps.

Reference in this code or any other law to a sport fishing license to be issued to disabled veterans, blind persons, or resident Indians without payment of a license fee means a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit. All other references to a sport fishing license mean such a license with or without license stamps as may be appropriate for the type of fishing involved.

This section shall become operative January 1, 1980.

SEC. 14. Section 7150 of the Fish and Game Code is amended to read:

7150. A sport fishing license granting the privilege of taking fish from ocean waters of this state may be issued to any person over the age of 16 years, for a period of three days from the date of issue, upon payment of a fee of four dollars ($4) during the 1979 calendar year and thereafter upon payment of a base fee of four dollars ($4) plus an amount calculated in accordance with Section 713. A sport fishing license stamp may not be purchased for this license.

For the purpose of this section and Section 7149, ocean waters in the San Francisco Bay area are those waters bounded by U.S. Highway 101 commencing at the Golden Gate Bridge, thence northerly toward the City of Petaluma to the junction of U.S. Highway 101 and State Highway Legislative Route 104; thence easterly on State Highway Legislative Route 104 to its junction with State Highway sign route 12; thence southerly on State Highway sign route 12 to its junction with State Highway sign route 37 near the Town of Schellville; thence easterly along State Highway sign route 12 and 37 to its junction with State Highway sign route 29 near the City of Napa; thence southerly along State Highway sign route 29 to its junction with U.S. Highway 40; thence southerly along U.S. Highway 40 to its junction with State Highway sign route 17; thence southerly and westerly on State Highway sign route 17 to its junction with Bypass U.S. 101 near the City of San Jose; thence northerly on Bypass U.S. 101 to the point of beginning.

SEC. 15. Section 13005 of the Fish and Game Code is repealed.

SEC. 16. Section 1 shall not be operative if Senate Bill No. 1768 of the 1977–78 legislative session is chaptered either before or after this bill is chaptered.

SEC. 17. It is the intent of the Legislature, if this bill and Senate Bill No. 1316 are both chaptered and become effective January 1, 1979, both bills amend Section 7149 of the Fish and Game Code, and

this bill is chaptered after Senate Bill No. 1316, that the changes in Section 7149 of the Fish and Game Code proposed in both bills be given effect and incorporated in Section 7149, in the forms set forth in Sections 11 and 13 of this act. Therefore, Sections 11 and 13 of this act shall become operative only if this bill and Senate Bill No. 1316 are both chaptered and become effective January 1, 1979, both bills amend, repeal, and add Section 7149, and this bill is chaptered after Senate Bill No. 1316, in which case Sections 10 and 12 of this act shall not become operative.

CHAPTER 856

An act to amend Section 3041.7 of, and to add Sections 3063.5 and 3063.6 to, the Penal Code, and to add Sections 1767.6 and 3152.5 to the Welfare and Institutions Code, relating to parole, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 3041.7 of the Penal Code is amended to read:

3041.7. At any hearing for the purpose of setting, 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. 2. Section 3063.5 is added to the Penal Code, to read:

3063.5. In parole revocation proceedings, a parolee or his attorney shall receive a copy of any police, arrest, and crime reports pertaining to such proceedings. Portions of such reports containing confidential information need not be disclosed if the parolee or his attorney has been notified that confidential information has not been disclosed.

SEC. 3. Section 3063.6 is added to the Penal Code, to read:

3063.6. Parole revocation proceedings may be conducted by a panel of not less than two persons.

SEC. 4. Section 1767.6 is added to the Welfare and Institutions

Code to read:

1767.6. In parole revocation proceedings, a parolee or his attorney shall receive a copy of any police, arrest, and crime reports pertaining to such proceedings. Portions of such reports containing confidential information need not be disclosed if the parolee or his attorney has been notified that confidential information has not been disclosed.

SEC. 5. Section 3152.5 is added to the Welfare and Institutions Code, to read:

3152.5. In outpatient revocation proceedings, an outpatient or his attorney shall receive a copy of any police, arrest, and crime reports pertaining to such proceedings. Portions of such reports containing confidential information need not be disclosed if the outpatient or his attorney has been notified that confidential information has not been disclosed.

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 persons subject to parole and persons released on outpatient status as narcotics offenders may benefit from the implementation of the provisions of this act, it is necessary that this act go into immediate effect.

CHAPTER 857

An act to amend Sections 248, 251.5, 252, 255, 255.5, 265, 268, and 269 of, and to amend the heading of Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of, the Health and Safety Code, relating to health services to physically handicapped children.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. The Legislature finds that the use of certain descriptive labels which have no medical significance draws negative attention and stigma upon the individual or group concerned, gradually supplants the unique identity and human potential of persons, and injures social values, status, societal mobility, and freedom. Therefore, it is the intent of the Legislature to change the name of the crippled children's program to the California Children's Services Program and to remove all use of the term crippled from the provisions that provide such program in referring to children with physical handicaps. It is further the intent of the Legislature that such change in name shall not be construed as expanding the list

of eligible services available through the program or prohibit the use of existing forms used by the program prior to the use of new forms with the name change.

SEC. 2. The heading of Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code is amended to read:

Article 2. California Children's Services

SEC. 3. Section 248 of the Health and Safety Code is amended to read:

248. This article shall be known and may be cited as the Robert W. Crown California Children's Services Act.

SEC. 4. Section 251.5 of the Health and Safety Code is amended to read:

251.5. "California Children's Services Program," as used in this article, means the program of services etablished and operated pursuant to this article.

SEC. 5. Section 252 of the Health and Safety Code is amended to read:

252. The board of supervisors of each county shall designate the county department of public health or the county department of social welfare as the designated agency to administer the California Children's Services Program. Counties with total population under 200,000 persons may administer the county program independently or jointly with the state department. Counties with a total population in excess of 200,000 persons shall administer the county program independently. Except as otherwise provided in this article, the director shall establish standards relating to the local administration and minimum services to be offered by counties in the conduct of the California Children's Services Program.

SEC. 6. Section 255 of the Health and Safety Code is amended to read:

255. The department shall establish uniform standards of financial eligibility for treatment services under the California Children's Services Program, including a uniform formula for the repayment for services rendered by the program. Necessary medical therapy treatment services under the California Children's Services Program rendered in the public schools shall be exempt from financial eligibility standards and family repayment requirements for such services when rendered to any handicapped child whose educational or physical development would be impeded without such services. All counties shall use the uniform standards for financial eligibility and uniform formula for repayment established by the department. All repayments shall be used in support of the California Children's Services Program.

SEC. 7. Section 255.5 of the Health and Safety Code is amended to read:

255.5. The department and designated agencies shall not deny

eligibility or aid under the California Children's Services Program because an otherwise eligible person is receiving treatment services under a teaching program at an accredited medical school facility, whether or not all or part of such treatment services are performed by the staff at such facility, provided that treatment services at such facility are under the general supervision of a California Children's Services Program panel physician.

SEC. 8. Section 265 of the Health and Safety Code is amended to read:

265. Annually the board of supervisors of each county shall appropriate for services for handicapped children of the county, including diagnosis, treatment, and therapy services for physically handicapped children in public schools, exclusive of administrative costs, a sum of money not less than that represented by a rate of one-tenth of one mill ($0.0001) on each dollar of the assessed valuation of the taxable property in the county, except that whenever the department on or before May 1st of any year certifies to the board of supervisors, a smaller amount needed for such purposes in that county, the latter shall be the minimum amount appropriable for expenditure therefor in that county during the next succeeding fiscal year.

The state shall appropriate funds sufficient to bring each county program to twenty thousand dollars ($20,000) or four-tenths of one mill ($0.0004), whichever is greater, except if the county has appropriated less than one-tenth mill ($0.0001) as provided in this section.

Nothing in this section shall prevent a county board of supervisors from appropriating additional money for services to handicapped children, and the state shall be obligated to match such appropriations in a ratio of three dollars ($3) for one dollar ($1) of county money up to a maximum county appropriation of two-tenths of a mill ($0.0002) of assessed valuation upon a determination by the department that a need based on departmental priorities exists for such supplemental state and county funds. The state department may, upon approval of the Director of Finance, approve a county appropriation in excess of two-tenths mill ($0.0002), upon the county's expression of intent to appropriate additional funds and the state's ability to match such appropriation in a ratio of three dollars ($3) for one dollar ($1) of county money within the current state appropriation for its program.

Expenditures for services shall represent a concurrent obligation against state and county funds according to the method of reimbursement specified in this section.

The state shall reimburse counties quarterly on a 3:1 matching basis for county expenditures, provided that the state quarterly payment shall not exceed by more than 10 percent the total state funds allocated quarterly to each county, except as provided in Section 266.

Expenditures made to reimburse counties for the state's share of

the cost of such services shall be charged to the fiscal year in which the county issues its warrant in payment of such services. Expenditures made by the state on behalf of counties for the costs of such services shall be charged to the fiscal year in which the warrant is issued by the State Controller.

Federal grant funds allocated for the support of the California Children's Services Program shall be used for the purpose of state matching of county appropriations for services except for the costs of the administration of the program by the state department.

State matching dollars for services for handicapped children shall not exceed the amount actually appropriated for the program.

SEC. 9. Section 268 of the Health and Safety Code is amended to read:

268. The state and the counties will share in the cost of administration of the California Children's Services Program at the local level. The director shall establish the standards for administration, staffing and local operation of the program subject to reimbursement by the state. Reimbursable administrative costs, to be paid by the state to counties, shall not exceed 4.1 percent of the gross total expenditures for diagnosis, treatment and therapy by counties as specified in Section 265.

SEC. 10. Section 269 of the Health and Safety Code is amended to read:

269. The state department shall require of participating local governments the provision of program data including, but not limited to, the number of children treated, the kinds of disabilities, and the costs of treatment, to enable the state department, the Department of Finance, and the Legislature to evaluate in a timely fashion and to adequately fund the California Children's Services Program.

CHAPTER 858

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. The sum of six hundred thirty-two thousand ninety-nine dollars and eighty-six cents ($632,099.86) is hereby appropriated from the General Fund to the State Board of Control to pay the claims awarded pursuant to Article 3.5 (commencing with Section 2250) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, during the 1978 calendar year.

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 claims against the state and end hardships to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 859

An act to amend Section 9902.6 of, to add Section 9989.5 to, and to repeal Article 4.5 (commencing with Section 9965) of Chapter 21 of Division 3 of, the Business and Professions Code, relating to employment agencies.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 9902.6 of the Business and Professions Code is amended to read:

9902.6. The provisions of this chapter shall not apply to any person engaged in the business of management consulting and who in the course of said business acts solely on behalf of, and is compensated solely by, an employer to identify, appraise or recommend an individual or individuals for consideration for a management position, provided that:

(a) The minimum first-year starting salary for each such position is at the rate of not less than twenty-five thousand dollars ($25,000) per year.

(b) In no instance is the individual who is identified, appraised, or recommended for consideration for such position charged a deposit, retainer, or fee directly or indirectly in connection with such identification, appraisal, or recommendation, or for registration or for preparation of any resume, or on account of any other personal service performed by the person engaged in the business of management consulting and who in the course of said business is retained by the employer to identify, appraise, or recommend individuals for a management position.

(c) In no instance does the person engaged in management consulting advertise positions for which the minimum first-year starting salary is at the rate of less than twenty-five thousand dollars ($25,000) per year, or that any of the fees mentioned in subdivision (b) are charged by such person.

SEC. 2. Article 4.5 (commencing with Section 9965) of Chapter 21 of Division 3 of the Business and Professions Code is repealed.

SEC. 3. Section 9989.5 is added to the Business and Professions

Code, to read:

9989.5. Within two weeks of employing any employee whose duties include interviewing or referring applicants to prospective employers or soliciting job orders from employers, every employment agency shall provide an in-service training program, approved by the bureau, to such employees. The training program shall include, but not be limited to, instruction on the requirements of this chapter, the Fair Employment Practices Act, applicable provisions of the Labor Code, and accepted and ethical practice and techniques of personnel placement.

CHAPTER 860

An act to amend Sections 13107 and 13108 of the Health and Safety Code, relating to the State Fire Marshal.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 13107 of the Health and Safety Code is amended to read:

13107. (a) The State Fire Marshal shall investigate every explosion or fire occurring in any state institution, state-owned building, or any building which is determined, pursuant to regulations adopted by the State Fire Marshal, to be state occupied, and every explosion or fire occurring in those areas of the state not under the jurisdiction of a legally organized fire department or fire protection district or other public entity, including, but not limited to, the state, which provides fire protection in which there is suspicion that the crime of arson or attempted arson has been committed.

(b) Upon request of the chief fire official of a legally organized fire department, or the governing body thereof, the State Fire Marshal shall, within the limitation of resources and manpower established for such purposes, investigate any explosion or fire occurring within the jurisdiction of the fire department or fire protection district in which there is suspicion that the crime of arson or attempted arson has been committed.

(c) The State Fire Marshal shall cooperate in the establishment of a program for training fire department personnel in arson investigation and detection.

(d) In order to carry out his responsibilities and duties pursuant to this section, the State Fire Marshal shall establish an arson investigation unit within his office, which shall be staffed with necessary personnel to perform the function for which the unit is established.

(e) If there is reason to believe that any fire or explosion investigated by the State Fire Marshal resulted from a crime or that a crime has been committed in connection with it, the State Fire Marshal shall report that fact in writing to the district attorney of the county in which the fire or explosion occurred.

SEC. 2. Section 13108 of the Health and Safety Code is amended to read:

13108. Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code, the State Fire Marshal shall prepare and adopt regulations, not inconsistent with existing laws or ordinances relating to fire protection in the design and construction of, the means of egress and the adequacy of exits from, the installation and maintenance of fire alarm and fire extinguishment equipment or systems in, and the installation and maintenance of equipment and furnishings that present unusual fire hazards in, any state institution or other state-owned building or in any state-occupied building. The State Fire Marshal shall adopt such regulations as are reasonably necessary to define what buildings shall be considered as state-occupied buildings.

The fire chief of any city, county, or fire protection district, or such person's authorized representative, may enter any state institution or any other state-owned or state-occupied building for the purpose of preparing a fire suppression preplanning program or for the purpose of investigating any fire in a state-occupied building.

Except as otherwise provided in this section, the State Fire Marshal shall enforce the regulations adopted by him in all state-owned buildings, state-occupied buildings, and state institutions throughout the state. Upon written request from the chief fire official of any city, county, or fire protection district, the State Fire Marshal may authorize such chief fire official and his authorized representatives, in their geographical area of responsibility, to make fire prevention inspections of state-owned or state-occupied buildings, other than state institutions, for the purpose of enforcing the regulations relating to fire and panic safety adopted by the State Fire Marshal pursuant to this section. Authorization from the State Fire Marshal shall be limited to those fire departments or fire districts which maintain a fire prevention bureau staffed by paid personnel.

Any requirement or order made by any chief fire official pursuant to this section may be appealed to the State Fire Marshal. The State Fire Marshal shall, upon receiving an appeal, determine if the requirement or order made is reasonably consistent with the fire and panic safety regulations adopted by him.

CHAPTER 861

An act to add Sections 55882 and 56621 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 55882 is added to the Food and Agricultural Code, to read:

55882. It is a violation of this chapter if a licensee fails, neglects, or refuses to collect or remit to the director any assessments which have been levied in accordance with the assessment provisions of Article 10 (commencing with Section 58921), Chapter 1, Part 2 of Division 21, Article 12 (commencing with Section 59941), Chapter 2, Part 2 of Division 21, and Article 8 (commencing with Section 64691) of Chapter 2 of Division 22.

SEC. 2. Section 56621 is added to the Food and Agricultural Code, to read:

56621. It is a violation of this chapter if a licensee fails, neglects, or refuses to collect or remit to the director any assessments which have been levied in accordance with the assessment provisions of Article 10 (commencing with Section 58921), Chapter 1, Part 2 of Division 21, Article 12 (commencing with Section 59941), Chapter 2, Part 2 of Division 21, and Article 8 (commencing with Section 64691) of Chapter 2 of Division 22.

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 862

An act to amend Section 2426 of the Health and Safety Code, relating to pest abatement.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 2426 of the Health and Safety Code is amended to read:

2426. (a) The state department may enter into a cooperative agreement with any local district or other public agency engaged in

the work of controlling mosquitoes, gnats, flies, other insects, rodents, or other vectors and pests of public health importance, in such areas and under such terms, conditions, and specifications as the director may prescribe.

(b) Such agreement may provide for financial assistance on behalf of the state and for the doing of all or any portion of the necessary work by either of the contracting parties, except that in no event shall the state department agree that the state's contribution shall exceed 50 percent of the total cost of any acceptable plan.

CHAPTER 863

An act to add Sections 39876 and 39877 to the Education Code, relating to schools.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. The Legislature finds and declares that the proper nutrition of children leads to better health and educational attainment. Proper nutritional habits are learned in the home and in the school. It is important that learning be reinforced by good nutritional practices and that the food available to children in the schools offer the best nutritional values.

It is the intent of the Legislature that nutrition education be offered in all school districts as a regular part of the education program at all grade levels in order to encourage children to make healthful food choices and to establish optimal lifetime eating habits.

There are indications that the foods available in many school districts do not meet adequate nutritional standards and contribute to the development of health problems, such as dental disease, obesity, and other chronically debilitating diseases. These conditions have a lasting impact on both physical and social functioning.

SEC. 2. Section 39876 is added to the Education Code, to read:

39876. The governing board of any school district shall make available for sale choices of nutritious food products in elementary, intermediate, junior high, and high schools where foods are sold through a vending machine, by any means of direct sale, or at any cafeteria or snackbar operated by a school district, student organization, parent organization, teachers organization, or parent-teachers organization during regular school hours. Such nutritious foods shall comprise a minimum of 50 percent of all food items offered for sale and shall include a selection of the following:

(a) Milk and dairy products, including cheese, yogurt, frozen yogurt, and ice cream.

(b) Full-strength fruit and vegetable juices and fruit drinks

containing 50 percent or more full-strength fruit juice, and fruit nectars containing 35 percent or more full-strength fruit juice.

(c) Fresh, frozen, canned, and dried fruits and vegetables.

(d) Nuts, seeds, and nut butters.

(e) Nonconfection grain products, as defined by regulation of the United States Food and Drug Administration, including crackers, bread sticks, tortillas, pizza, pretzels, bagels, muffins, and popcorn.

(f) Meat, poultry, and fish, and their products, including beef jerky, tacos, meat turnovers, pizza, chili, and sandwiches.

(g) Legumes and legume products, including bean burritos, chili beans, bean dip, roasted soy beans, and soups.

(h) Other nutritious foods, as specified by the Department of Education.

For the purposes of this section, "item" shall be defined as any individually packaged product or a variety of a packaged product.

SEC. 3. Section 39877 is added to the Education Code, to read:

39877. The Department of Education shall:

(a) Formulate guidelines for the implementation of the provisions contained in Section 39876.

(b) Further define choices of nutritious foods for purposes of Section 39876.

(c) Adopt rules and regulations for the enforcement of the provisions contained in Section 39876.

CHAPTER 864

An act to amend Sections 9580, 9582, and 9583 of the Business and Professions Code, relating to fabric care, and making an appropriation therefor.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 9580 of the Business and Professions Code is amended to read:

9580. The amount of the fees prescribed by this chapter relating to clothes cleaning establishment licenses and clothes dyeing establishment licenses is that fixed by the following schedule:

(a) The fee for an application for examination shall be twenty dollars ($20).

(b) The renewal fee is two hundred dollars ($200).

(c) The delinquency fee is twenty-five dollars ($25).

(d) The initial license fee is two hundred dollars ($200) if the license is issued not less than one year before the date on which it will expire, and one hundred dollars ($100) if the license is issued less than one year before the date on which it will expire. The board may,

by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

SEC. 2. Section 9582 of the Business and Professions Code is amended to read:

9582. The amount of the fees prescribed by this chapter relating to shop licenses is as follows:

(a) The fee for an application for examination is twenty dollars ($20).

(b) Except as provided in subdivision (e) of this section, the renewal fee is sixty dollars ($60).

(c) The delinquency fee is six dollars ($6).

(d) The initial license fee is sixty dollars ($60) if the license is issued not less than one year before the date on which it will expire, and thirty dollars ($30) if the license is issued less than one year before the date on which it will expire. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(e) The renewal fee for an agency license is two dollars ($2) if at the time the licensee applies for renewal of his license, he establishes by proof satisfactory to the board that the gross receipt from his agency business during the preceding 12-month period did not exceed one hundred fifty dollars ($150).

SEC. 3. Section 9583 of the Business and Professions Code is amended to read:

9583. The amount of the fees prescribed by this chapter relating to certificates of registration is as follows:

(a) The fee for an application for examination is twenty dollars ($20).

(b) The renewal fee is twenty-five dollars ($25).

(c) The delinquency fee is two dollars ($2).

(d) The initial certificate fee is twenty-five dollars ($25) if the certificate is issued not less than one year before the date on which it will expire, and twelve dollars and fifty cents ($12.50) if the certificate is issued less than one year before the date on which it will expire. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

CHAPTER 865

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

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. The sum of five hundred seventy thousand nine hundred seventy-two dollars and forty-four cents ($570,972.44) is hereby appropriated from the General Fund to the State Board of Control to pay the claims awarded pursuant to Article 3.5 (commencing with Section 2250) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code during the 1977 calendar year.

SEC. 2. The Board of Control shall conduct hearings prior to January 1, 1979, to review all claims approved prior to April 1, 1978, which allege state-mandated costs resulting from an executive order by the administrative director of the Division of Industrial Accidents, Department of Industrial Relations, increasing the unit coefficient of the minimum medical fee schedule for workers' compensation effective October 1, 1974. Such review hearings shall be conducted without prejudice as a result of the deletion from this act of the appropriation for the payment of such claims.

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 settle claims against the state and end hardships to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 866

An act to amend Section 206.1 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 206.1 of the Revenue and Taxation Code is amended to read:

206.1. All real property necessarily and reasonably required for the parking of automobiles of persons while attending religious services, or engaged in religious services or worship, or engaged in any religious activity, or a possessory interest in such real property, if such real property is leased by a church or religious denomination or sect from a governmental entity, whether or not the real property is contiguous to the land on which is erected the church or other structure used for the religious service or as the place of worship or

religious activity and which real property or possessory interest is owned by the church or religious denomination or sect using such real property for the parking of automobiles as aforesaid, and which real property or possessory interest is not at other times used for commercial purposes is exempt from taxation. As used in this section, "commercial purposes" does not include the parking of vehicles or bicycles, the revenue of which does not exceed the ordinary and necessary costs of operating and maintaining the property for parking purposes.

SEC. 2. The Controller shall report to the Legislature on the amount of the claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the exemption of property by Section 1 of this act. Such report shall be made on or before the first day of October next following the operative date of this act, in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

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 is an urgency statute necessary for the immediate preservation of the public peace, 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 any church using a possessory interest in real property for the purpose of providing offstreet parking may continue to provide such parking in order to preserve public safety, this act must go into effect immediately.

CHAPTER 867

An act to add Section 702.3 to the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 702.3 is added to the Welfare and Institutions Code, to read:

702.3. Notwithstanding any other provision of the law:

(a) When a minor denies, by a plea of not guilty by reason of insanity, the allegations of a petition filed pursuant to Section 602 of the Welfare and Institutions Code, and also joins with that denial a general denial of the conduct alleged in the petition, he shall first be subject to a hearing as if he had made no allegation of insanity. If the

petition is sustained or if the minor denies the allegations only by reason of insanity, then a hearing shall be held on the question of whether the minor was insane at the time the offense was committed.

(b) If the court finds that the minor was insane at the time the offense was committed, the court, unless it shall appear to the court that the minor has fully recovered his sanity, shall direct that the minor be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the county mental health director, or the court may order the minor to undergo outpatient treatment as specified in Section 1026.1 of the Penal Code. The court shall transmit a copy of its order to the county mental health director or his designee. If the allegations of the petition specifying any of the violent crimes including any enhancements enumerated in Section 1026 of the Penal Code are found to be true, the court shall direct that the minor be confined in a state hospital or other public or private mental health facility approved by the county mental health director for a minimum of 90 days, before such minor may be released on outpatient treatment. Prior to making such order directing that the minor be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the county mental health director or his designee to evaluate the minor and to submit to the court within 15 judicial days of such order his written recommendation as to whether the minor should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall appear to the court that the minor has fully recovered his sanity such minor shall be remanded to the custody of the probation department until his sanity shall have been finally determined in the manner prescribed by law. A minor committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him shall, after notice and hearing, in the manner provided in Section 1026a of the Penal Code, find and determine that his sanity has been restored.

(c) The procedures set forth in Sections 1026, 1026a, 1026.1 and 1027 of the Penal Code shall be applicable to minors pursuant to this section, except that, in cases involving minors, the probation department rather than the sheriff, shall have jurisdiction over the minor.

(d) No minor may be committed pursuant to this section for a period longer than the jurisdictional limits of the juvenile court, pursuant to Section 607.

(e) This section shall not be construed to authorize the determination of sanity in juvenile proceedings to be made by a jury.

CHAPTER 868

An act to amend Sections 12090, 12504, 12679, 13118, 13150, 13151, and 13153 of the Health and Safety Code, and to add Section 34006 to the Vehicle Code, relating to flammable liquids.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 12090 of the Health and Safety Code is amended to read:

12090. There shall not be included in any cargo of explosives any flammable or combustible liquids, acids, or corrosive liquids, oxidizers, or combustible materials, other than the explosives themselves, which may have such characteristics. Blasting caps or detonators shall not be transported upon the same vehicle with other explosives. The foregoing provisions of this section shall be subject to such exceptions as are permitted by the regulations of the United States Department of Transportation.

SEC. 2. Section 12504 of the Health and Safety Code is amended to read:

12504. "Flammable liquid" means any liquid whose flashpoint is 100 degrees Fahrenheit, or less, when tested pursuant to Standard D56-70 of the American Society for Testing and Materials.

SEC. 3. Section 12679 of the Health and Safety Code is amended to read:

12679. It is unlawful for any person to store, sell, or discharge any type of fireworks in or within 100 feet of a location where gasoline or any other flammable liquids are stored or dispensed.

SEC. 4. Section 13118 of the Health and Safety Code is amended to read:

13118. All solvents offered for sale at retail shall be labeled as required by the regulations adopted pursuant to the Federal Hazardous Substances Act (Public Law 86-813; 74 Stats. 372; 15 U.S.C , Sec 1261, et seq.) which are in effect on January 1, 1979, or which are adopted on or after that date.

Any person, firm, or corporation in violation of the provisions of this section shall be guilty of a misdemeanor.

SEC. 5. Section 13150 of the Health and Safety Code is amended to read:

13150. For purposes of this article, "flammable liquids" shall mean any liquid having a flashpoint below 100°F (37.8°C) and a vapor pressure not exceeding 40 pounds per square inch (absolute) at a temperature of 100°F (37 8°C). Flammable liquids may include crude oils and cutback asphalts. "Combustible liquid" shall mean a liquid having a flashpoint at or above 100°F (37.8°C), and below 200°F (93.3°C).

This does not include wine, or any other aqueous solution, having an alcoholic content less than, or equal to, 24 percent by volume. This exemption applies only if the nonalcohol portion of the aqueous solution does not fall within the definition of flammable or combustible liquid.

The provisions of this article also apply to liquids having a flashpoint of 200°F (93.3°C) or higher when such liquids, upon being heated, assume the characteristics of a flammable or combustible liquid.

SEC. 6. Section 13151 of the Health and Safety Code is amended to read:

13151. The State Fire Marshal shall prepare and adopt regulations in accordance with the provisions of the Administrative Procedure Act (commencing with Section 11370) of the Government Code, which in his judgment are designed to promote the safe use of portable internal combustion engine-driven pumps used for the transfer of flammable and combustible liquids.

SEC. 7. Section 13153 of the Health and Safety Code is amended to read:

13153. No person, firm, or corporation shall use, permit, or instruct any other person to use or permit, any portable internal combustion engine-driven pump used for the transfer of any flammable or combustible liquids unless such pump conforms to the regulations adopted by the State Fire Marshal.

SEC. 8. Section 34006 is added to the Vehicle Code, to read:

34006. The provisions of this division shall not apply to "wine," as defined by Section 23007 of the Business and Professions Code, or any other aqueous solution, having an alcoholic content less than, or equal to, 24 percent by volume. This exemption applies only if the nonalcohol portion of the aqueous solution does not fall within the definition of flammable or combustible liquid.

SEC. 9. 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 869

An act to amend Section 19442 of the Business and Professions Code, relating to horseracing, and making an appropriation therefor.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 19442 of the Business and Professions Code is amended to read:

19442. The board shall contract with persons licensed as stewards pursuant to Section 19510 to perform the duties of stewards at horseracing meets. Contracts shall be upon such terms as the parties may mutually agree upon.

Compensation will be set by the board, commensurate with the responsibilities involved. The board will assess each racing association prior to the start of any race meet for an amount equal to the pay and fringe benefits to be paid to the stewards assigned by the board to the race meet. Such funds must be paid to the board by the associations in equal installments at the end of each week, or partial week of racing. The board shall maintain these funds in a separate trust account in the State Treasury, and the board may withdraw advances from the trust account which are sufficient to meet the requirements of the stewards' compensation program but in amounts not to exceed the total of funds assessed for the program. Fringe benefits shall include the retirement program presently available to the stewards or an equivalent program developed by the board.

The board shall establish a committee of two commissioners to meet at least quarterly with representatives of the stewards, so that recommendations of the stewards can be discussed as necessary. These meetings may be scheduled the same day as regular board meetings or at the convenience of the board.

CHAPTER 870

An act to amend Sections 22106, 22302, 23100, 23800, 23911, 23914, 24000, 24003, and 24203, and to add Sections 22231 and 22310 to, and to repeal Sections 22153, 22154, 22808, 22810, 22811, 22812, and 23104 of, the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 22106 of the Education Code is amended to read:

22106. "Annuity" means payments for life derived from the "accumulated annuity deposit contributions" of a member.

SEC. 2. Section 22153 of the Education Code is repealed.

SEC. 3. Section 22154 of the Education Code is repealed.

SEC. 4. Section 22231 is added to the Education Code, to read:

22231. The system may operate a tax-sheltered annuity program for its members which meets the tax qualification requirements of

the Internal Revenue Service of the United States. The board shall adopt rules for governing the operation of the tax-sheltered annuity program.

SEC. 5. Section 22302 of the Education Code is amended to read:

22302. The board shall determine annually the rate of credited interest to be credited to members' accumulated retirement contributions for service performed after June 30, 1935, and the accumulated annuity deposit contributions excluding all accumulated contributions while being paid as allowances under the provisions of Sections 23804 and 24100.

The board shall credit interest to all other accumulated reserves at the actuarially assumed interest rate.

SEC. 6. Section 22310 is added to the Education Code, to read:

22310. There is hereby established in the State Treasury a special trust fund known as the Teacher Tax-Sheltered Annuity Fund. There shall be deposited in that fund tax-sheltered annuity contributions together with interest earnings on the fund. All moneys in the fund are continuously appropriated to the board for disbursement for the purposes of the tax-sheltered annuity program under this part.

Return on investments of the fund shall be collected by the State Treasurer and together with other moneys received for the Teacher Tax-Sheltered Annuity Fund shall be immediately deposited to the credit of that fund and reported forthwith to the system. Money in whatever form received directly by the system dedicated to the Teacher Tax-Sheltered Annuity Fund shall be deposited forthwith in the State Treasury to the credit of that fund.

The board may provide by board rule for optional forms of payment from the Teacher Tax-Sheltered Annuity Fund.

Disbursement of money from the Teacher Tax-Sheltered Annuity Fund of whatever nature shall be made upon claims duly audited in the manner prescribed for the disbursement of other public funds.

SEC. 7. Section 22808 of the Education Code is repealed.

SEC. 8. Section 22810 of the Education Code is repealed.

SEC. 9. Section 22811 of the Education Code is repealed.

SEC. 10. Section 22812 of the Education Code is repealed.

SEC. 11. Section 23100 of the Education Code is amended to read:

23100. Upon the termination of a member's employment by any cause other than death or retirement there shall be paid to him, or if no other benefits are payable under this part upon the death of a member, there shall be paid to the beneficiary nominated by the deceased member:

(a) The accumulated retirement contributions made after June 30, 1935.

(b) The accumulated annuity deposit contributions.

SEC. 12. Section 23104 of the Education Code is repealed.

SEC. 13. Section 23800 of the Education Code is amended to read:

23800. (a) Except as otherwise provided in Section 23804, 24202, or 24203 payment pursuant to subdivision (b) of this section shall be made upon receipt of proof of a member's death which occurred:

(1) Before the effective date of his retirement and within four months after the termination of the member's employment in a position requiring membership in this system, or

(2) While the member was physically or mentally disabled for performance of his duty, if such disability had been continuous from such termination.

(b) There shall be paid to the beneficiary:

(1) The accumulated retirement contributions made after June 30, 1935.

(2) The accumulated annuity deposit contributions.

(3) The sum of two thousand dollars ($2,000), provided the member had at least one year of credited service.

SEC. 14. Section 23911 of the Education Code is amended to read:

23911. When a person who has been granted a disability allowance after June 30, 1972, reaches age 60, or at such later date when there are no eligible children, his disability allowance shall be terminated and thereafter he shall receive the allowance payable for service retirement at that age, calculated on the projected earned salary and projected service. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance.

SEC. 15. Section 23914 of the Education Code is amended to read:

23914. Upon termination of a retirement or disability allowance which began to accrue on or after July 1, 1972, the person's individual account shall be credited with the amount of his accumulated retirement contributions as they were on the effective date of retirement or disability allowance, less the sum of all payments made under subdivision (a) of Section 24000 or Section 24100. The reduction shall not be greater than the total of such accumulated retirement contributions.

Upon the termination of a retirement, the person's accumulated annuity deposit contribution accounts shall be credited with the amounts of such contributions as they were on the date the annuity became payable because of such retirement less the sum of all payments made under subdivision (b) of Section 24000.

SEC. 16. 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, other than one subject to subdivision (d), 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 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 retirement allowance begins to accrue or such later date as provided in Section 23900 shall be used.

SEC. 17. Section 24003 of the Education Code is amended to read:

24003. The minimum unmodified allowance, exclusive of annuities from accumulated annuity deposit contributions payable for service retirement, shall not be less than ten dollars ($10) per month multiplied by the years of credited service. This guaranteed amount shall be reduced by the amount of an unmodified allowance payable from a local system based on service credited by this system. If the retirement 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.

SEC. 18. Section 24203 of the Education Code is amended to read:

24203. Any member who has qualified to make application for retirement allowance under Section 23901 may elect, as provided in Section 24200, and except as provided in Section 24200.1, without right of revocation or change after the effective date of his retirement, to receive an actuarially reduced retirement allowance as of the date of his retirement, of the retirement allowance payable to him when and if he retires for service in a reduced retirement allowance according to the provisions of either Option 2 or Option 3 as stated in Section 24200. If the death of such member occurs after the date upon which the election has been signed, then the election shall be in full force and effect. The election shall be void if not received in the system's office in Sacramento within 30 days after the date of signature.

Upon such member's death, prior to the effective date of his retirement, the beneficiary who was nominated under the option elected and who survives shall receive an allowance calculated under such option, upon the assumption that such member retired on the date of death. The payment of such allowance to the beneficiary shall be in lieu of the family allowance provided in Section 23804 and the payment provided in subdivision (a) of Section 23100 and paragraph (1) of subdivision (b) of Section 23800, except that if the beneficiary dies before all accumulated contributions are paid the balance if any shall be paid to the estate of the person last receiving or entitled to receive the allowance. The accumulated annuity deposit contributions and the amount provided in paragraph (3) of subdivision (b) of Section 23800, shall be paid the designated

beneficiary in a lump sum.

If the member subsequently retires, regardless of whether the beneficiary nominated under the option elected is then living, a reduced retirement allowance computed under Section 23800 and the option elected shall be paid.

The amount of the retirement allowance prior to applying the option factor shall be calculated at the member's age at death before retirement, or age on the last day of the month in which the member requested retirement be effective, as the case may be. The reduction of such retirement allowance under the option elected shall be based on the ages of such member and the beneficiary nominated under such option, at the date the election was signed.

SEC. 19. All sections of this act, except Sections 4 and 6 and this section, shall become operative July 1, 1979.

CHAPTER 871

An act to add Section 215.5 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 215.5 is added to the Streets and Highways Code, to read:

215.5. (a) The department shall develop and implement a system of priorities for ranking the need for installation of noise attenuation barriers along freeways in the California freeway and expressway system. The priority system shall include as criteria the existing and future intensity of sound generated by the freeway.

(b) When all freeways have been ranked in priority order, the department shall, consistent with available funding, recommend in the 6-year plan, and in succeeding 6-year plans, a program of construction of noise attentuation barriers beginning with the highest priority.

(c) Should any city or county construct a sound attenuation barrier along a freeway using public funds prior to the time that such barrier reaches a high enough priority for state funding, then, when the funding priority is reached, the department shall reimburse the city or county without interest for the cost of such construction when constructed, but the reimbursement may not exceed the cost of the department to construct such barriers. Reimbursement shall be made only if the city or county constructs the sound attenuation barrier to the standards approved by department, follows bidding and contracting procedures approved by the department, and the project is approved by the California Transportation Commission.

CHAPTER 872

An act to amend Sections 3023, 3040, 3047, 3053, 3055, and 3128 of, and to repeal Sections 3044.6, 3046, 3048, 3049, 3051, 3121 and 3122 of, the Business and Professions Code, relating to optometry.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Section 3023 of the Business and Professions Code is amended to read:

3023. The board may visit and examine schools, colleges and universities or their divisions or departments in this state which provide optometric education.

For the purposes of this chapter, it shall accredit schools, colleges and universities or their divisions or departments in or out of this state providing optometric education, which it finds giving a sufficient program of study for the preparation of optometrists.

SEC. 2. Section 3040 of the Business and Professions Code is amended to read:

3040. It is unlawful for any person to engage in the practice of optometry or to display a sign or in any other way to advertise or hold himself out as an optometrist without having first obtained a certificate of registration from the board under the provisions of this chapter or under the provisions of any former act relating to the practice of optometry.

In any prosecution for a violation of this section, the use of test cards, test lenses, or of trial frames is prima facie evidence of the practice of optometry.

SEC. 2.5. Section 3044.6 of the Business and Professions Code is repealed.

SEC. 3. Section 3046 of the Business and Professions Code is repealed.

SEC. 4. Section 3047 of the Business and Professions Code is amended to read:

3047. Except as otherwise provided in this chapter and in rules and regulations promulgated by the board after January 1, 1972, each applicant shall show the board by satisfactory evidence that he was graduated from a school, college or university or its division or department which was at that time accredited by the board as provided in Section 3023 prior to the effective date of the amendment to this section at the 1971 Regular Session.

SEC. 5. Section 3048 of the Business and Professions Code is repealed.

SEC. 6. Section 3049 of the Business and Professions Code is repealed.

SEC. 7. Section 3051 of the Business and Professions Code is

repealed.

SEC. 8. Section 3053 of the Business and Professions Code is amended to read:

3053. All examinations shall be practical in character, designed to ascertain applicants' fitness to practice the profession of optometry and conducted in the English language. The board may by rule or regulation accept the examination given by other agencies or organizations which it deems equivalent to the examination required to determine an applicant's fitness to practice optometry.

SEC. 9. Section 3055 of the Business and Professions Code is amended to read:

3055. All applicants, without discrimination, who satisfactorily pass the examination, shall thereupon be registered in the board's register of optometrists and a certificate of registration shall be issued to each one. The certificate shall continue in effect through the date provided in Section 3146 which next occurs after its issuance, when it shall expire unless it is renewed in the manner provided in that section.

SEC. 10. Section 3121 of the Business and Professions Code is repealed.

SEC. 11. Section 3122 of the Business and Professions Code is repealed.

SEC. 12. Section 3128 of the Business and Professions Code is amended to read:

3128. It is unlawful to advertise by displaying a sign or otherwise or hold himself out to be an optometrist without having at the time of so doing a valid unrevoked certificate of registration from the board.

CHAPTER 873

An act relating to guayule.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. The Legislature finds and declares:

(a) During World War II, California was the "Rubber Capital of the World," for it produced tons of rubber for the war effort from a shrub called guayule.

(b) The effort succeeded with the help of thousands of Californians, dedicated ranchers, farmers, researchers, scientists, agronomists, and others, working under harassing conditions to produce a highly important product at a crucial time.

(c) With the increase of synthetic rubber technology and with the war winding down, demand lessened and the effort was ended. The

fields were destroyed and little was done to maintain the research effort which had been started to develop the shrub and its byproducts for any sort of commercial or industrial development.

(d) We are again in a threatening situation today for with the energy crisis we have a shortage of petroleum feed stocks for synthetic rubber and the demand for natural rubber is increasing all over the world and the countries producing it are not keeping up with the demand.

(e) In California, we have all the ingredients to again become the "Rubber Capital of the World" and end our dependence on foreign sources for natural rubber and at the same time create industries within the state for an improved economy with additional jobs.

(f) The semiarid lands needed are available in abundance, trained specialists who know guayule are here, the state and the Los Angeles County Arboretum have been field testing the shrub for three years and other research indicates guayule is a renewable resource which can aid the California economy.

SEC. 2. The Director of Food and Agriculture shall administer a pilot guayule development program conducted on 10 test plots established in suitable growing areas within the state and develop a breeding and selection program to improve rubber yield, expand insect and disease resistance, determine the effects of irrigation on plant growth, rubber yield, and survival potential, determine economic methods for acceptable stands, and study of nursery as well as direct seeding methods. The program shall terminate January 1, 1982.

SEC. 3. Not later than February 1, 1982, the Director of Food and Agriculture shall submit a report to the Governor and to the Legislature, based on the results of the guayule development pilot program, on the feasibility of commercial development. Such study shall set forth findings as to the best extraction methods and manufacturing technologies.

SEC. 4. The Director of Food and Agriculture shall seek federal funding necessary to carry out the provisions of the act.

CHAPTER 874

An act to amend Sections 1798.3, 1798.7, 1798.10, 1798.17, 1798.19, 1798.24, 1798.25, 1798.30, 1798.32, 1798.33, 1798.61, and 1798.70 of, and to add Section 1798.43 to, the Civil Code, relating to records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 1798.3 of the Civil Code is amended to read:

1798.3. As used in this chapter:

(a) The term "confidential information" means any of the following:

(1) Any information in any record maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including efforts of the Department of Justice to prevent, control, or reduce crime or to apprehend criminals if the information is (i) compiled for the purpose of identifying individual criminal offenders and alleged offenders and consists only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; or (ii) compiled for the purpose of a criminal investigation of suspected criminal activities, including reports of informants and investigators, and associated with an identifiable individual; or (iii) contained in any record which could identify an individual and which is compiled at any stage of the process of enforcement of the criminal laws, from the arrest or indictment stage through release from supervision.

(2) Information consisting solely of written testing or examination material, or scoring keys used solely to determine individual qualifications for appointment or promotion in public service, or used to administer a licensing examination, or academic examination, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(3) Information containing medical, psychiatric or psychological material, if the holder of the record determines that disclosure of the information would be medically or psychologically detrimental to the individual. Such information shall, upon written authorization, be disclosed to a physician, psychiatrist or other licensed medical or psychological personnel designated by the data subject.

(4) Information, other than that maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal law, including the Department of Justice, consisting solely of investigative materials maintained by an agency for the purpose of investigating a specific violation of state law, but only so long as an investigation is in progress and such investigative information has not been maintained for a period longer than is necessary to complete a criminal, civil, or administrative prosecution or initiate other remedial action. An agency may keep the source or sources of information used for an investigation under this section confidential so long as it determines that confidentiality is necessary to protect its law enforcement activities.

(5) Records consisting of information used solely for the purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the

Welfare and Institutions Code.

(6) Any information which is required by statute to be withheld from the individual to whom it pertains.

(b) The term "personal information" means any information in any record about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical or employment history. It does not mean information found to be confidential or nonpersonal under subdivision (a) or (c) of Section 1798.3.

(c) The term "nonpersonal information" means all of the following:

(1) Information consisting only of names, addresses, telephone numbers and other limited factual data, which could not, in any reasonable way (i) reflect or convey anything detrimental, disparaging, or threatening to an individual's reputation, rights, benefits, privileges, or qualifications or (ii) be used by an agency to make a determination that would affect an individual's rights, benefits, privileges, or qualifications.

(2) An agency telephone book or directory which is used exclusively for telephone and directory information.

(3) Any card catalog of any library, or the contents of any book listed within such card catalog.

(4) Any mailing list which is used exclusively for the purpose of mailing agency information.

(5) Records required by law to be maintained and used solely as a system of statistical records, but only if such records are maintained for statistical research or reporting purposes only and are not used in whole or in part in making any determination about an identifiable individual.

(6) Records to which an individual has the right of examination pursuant to Article 5 (commencing with Section 11120) of Chapter 1 of Title 1 of Part 4 of the Penal Code.

(d) The term "agency" means every state office, officer, department, division, bureau, board, commission, or other state agency, except that the term agency shall not include:

(1) The California Legislature.

(2) Any agency established under Article VI of the California Constitution.

(3) The State Compensation Insurance Fund, except as to any records which contain personal information about the employees of the State Compensation Insurance Fund.

(e) The term "disclose" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person or entity.

(f) The term "individual" means a natural person acting in the person's individual and private capacity as opposed to public employment or business proprietorship.

(g) The term "maintain" includes maintain, acquire, use, or

disclose.

(h) The term "person" means any natural person, corporation, partnership, firm, or association.

(i) The term "record" means any file or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical or employment history and that contains his or her name, identifying number, symbol, or other identifying particular assigned to the individual, including, but not limited to, a finger or voice print or photograph and is maintained by reference to such an identifying particular.

(j) The term "system of records" means one or more records, which pertain to one or more individuals, which is maintained by any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(k) The term "governmental entity," except as used in Section 1798.26, means any branch of the federal government or of the local government.

SEC. 2. Section 1798.7 of the Civil Code is amended to read:

1798.7. The Office of Information Practices may develop model guidelines to assist departments in the implementation of this chapter and, upon request, shall otherwise assist agencies in preparing regulations and meeting technical and administrative requirements. Every agency requesting such assistance may be charged consulting fees.

SEC. 3. Section 1798.10 of the Civil Code is amended to read:

1798.10. Notices required to be filed by Section 1798.9 shall specify each of the following:

(a) The name of the agency and the division within the agency that is maintaining the records containing personal or confidential information and the name or title of the system of records, if any, in which such information is maintained.

(b) A brief description of the kinds of personal and confidential information contained in the record system, including the categories of individuals and the approximate number of individuals on whom records containing personal or confidential information are maintained in the system

(c) Each major use or purpose within the agency for the personal or confidential information within the system.

(d) Disclosures of the information that will be made pursuant to subdivision (e) or (f) of Section 1798.24.

(e) The legal authority which authorizes the maintenance of personal or confidential information.

(f) Retention and disposal policies for the personal or confidential information.

(g) The general source or sources of the information in the system.

If an agency fails to file such a report, the office promptly shall

inform the agency and if the agency fails to comply within 30 days thereafter, the office shall report on such violation in accordance with subdivision (b) of Section 1798.6.

(h) The title and business address of the agency official responsible for maintaining the records.

(i) The procedures to be followed for an individual to gain access to, and contest the contents of, records containing personal information.

SEC. 3.5. Section 1798.17 of the Civil Code is amended to read:

1798.17. Each agency shall provide with any form used to collect personal or confidential information from individuals the following notice unless the same information is already contained in the form itself or the individual has already received the same information during the previous year at the time of the request:

(a) The name of the agency and the division within the agency that is requesting the information.

(b) The title, business address, and telephone number of the agency official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.

(c) The authority, whether granted by statute, regulation, or executive order which authorizes the maintenance of the information.

(d) With respect to each item of information, whether submission of such information is mandatory or voluntary.

(e) The consequences, if any, of not providing all or any part of the requested information.

(f) The principal purpose or purposes within the agency for which the information is to be used.

(g) Any known or foreseeable interagency or intergovernmental transfer which may be made of the information.

(h) The individual's right of access to records containing personal information which are maintained by the agency. This subdivision shall not apply to any confidential information.

The provisions of this section shall not apply to any enforcement document issued by an employee of a law enforcement agency in the performance of his or her duties wherein the violator is provided an exact copy of the document, or to accident reports whereby the parties of interest may obtain a copy of the report pursuant to Section 20012 of the Vehicle Code.

SEC. 4. Section 1798.19 of the Civil Code is amended to read:

1798.19. Each agency when it provides by contract for the operation or maintenance of records containing personal or confidential information to accomplish an agency function, shall cause, consistent with its authority, the requirements of this chapter to be applied to such records. For purposes of Article 10 (commencing with Section 1798.55) of this chapter, any contractor and any employee of such contractor, if such contract is agreed to on

or after July 1, 1978, shall be considered to be an employee of an agency. Local government functions mandated by the state are not deemed agency functions within the meaning of this section.

SEC. 5. Section 1798.24 of the Civil Code is amended to read:

1798.24. No agency may disclose any personal or confidential information unless the disclosure of such information is:

(a) Pursuant to an unsolicited written request, or an oral request which is accompanied by adequate indication of identity, by the individual to whom the record pertains.

(b) With the prior written voluntary consent of the individual to whom the record pertains, but only if such consent has been obtained not more than 30 days before the disclosure, or in the time limit specified by the individual in the written consent.

(c) To the duly appointed guardian or conservator of the individual or a person representing the individual provided that it can be proven with reasonable certainty through the possession of agency forms, documents or correspondence that such person is the authorized representative of the individual to whom the information pertains.

(d) To those officers, employees or volunteers of the agency which has custody of the information if such disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired.

(e) To a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and such use is compatible with a purpose for which the information was collected and such use or transfer is listed in the notice provided pursuant to Section 1798.9.

(f) To a governmental entity when required by state or federal law.

(g) Pursuant to the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, provided that Section 6253 and subdivision (c) of Section 6254 of the Government Code shall not be interpreted to permit the disclosure of personal information contained in individual employment or medical files, or other personal information which would clearly be disparaging of or threatening to the reputation or rights of an individual other than a state employee acting in his or her official capacity.

(h) To a person who has provided the agency with advance adequate written assurance that the information will be used solely for statistical research or reporting purposes, but only if the information to be disclosed is in a form that will not identify any individual.

(i) Pursuant to a determination by the agency which maintains the information that compelling circumstances exist which affect the health or safety of an individual, if upon such disclosure notification is transmitted to the individual to whom the information pertains at

his or her last known address. Disclosure shall not be made if it is in conflict with other state or federal law.

(j) To the State Archives of the State of California as a record which has sufficient historical or other value to warrant its continued preservation by the California state government, or for evaluation by the Director of General Services or his designate to determine whether the record has further administrative, legal, or fiscal value.

(k) To any person pursuant to a subpoena, court order, or other compulsory legal process if, before the disclosure, the agency reasonably attempts to notify such individual to whom the record pertains, and if such notification is not prohibited by law.

(*l*) To any person pursuant to a search warrant.

(m) Pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code.

(n) For the sole purpose of verifying and paying government health care service claims made pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

(o) To a law enforcement agency when required for an investigation of unlawful activity, unless such disclosure is otherwise prohibited by law.

(p) To another person or governmental organization to the extent necessary to obtain information from such person or governmental organization as necessary for an investigation by the agency of a failure to comply with a specific state law which the agency is responsible for enforcing.

(q) Personal information only to the Office of Information Practices when the transfer is necessary for that office to investigate a complaint it has received regarding an alleged violation of any provision of this chapter or to perform its mediation functions, provided that the Office of Information Practices has received the written voluntary consent of the individual to whom the information pertains for such a transfer.

(r) To an adopted person and is limited to general background information pertaining to the adopted person's natural parents, provided that such information does not include or reveal the identity of the natural parents.

(s) To a committee of the Legislature or to a Member of the Legislature where such Member has permission to obtain the information from the individual to whom it pertains.

(t) To the University of California or a nonprofit educational institution conducting scientific research, provided the request for information includes assurances of the need for personal or confidential information, procedures for protecting the confidentiality of the information and assurances that the personal identity of the subject shall not be further disclosed in individually identifiable form.

The provisions of this article shall not be applied or construed to authorize the disclosure of any personal or confidential information to the individual to whom the information pertains.

SEC. 6. Section 1798.25 of the Civil Code is amended to read:

1798.25. Each agency shall keep an accurate accounting of the date, nature, and purpose of each disclosure of a record made pursuant to subdivision (i), (k), (*l*), (o), or (p), of Section 1798.24. Such accounting shall also be required for disclosures made pursuant to subdivision (e) or (f) of Section 1798.24 unless notice of the type of disclosure has been provided pursuant to the provisions of Sections 1798.9 and 1798.10. The accounting shall also include the name, title, and business address of the person or agency to whom such disclosure was made.

An accounting of disclosures between law enforcement officers actively engaged in duties in the field shall not be required by this article.

SEC. 7. Section 1798.30 of the Civil Code is amended to read:

1798.30. Each agency shall either adopt regulations or publish guidelines specifying procedures to be followed in order fully to implement each of the rights of individuals set forth in this article.

SEC. 8. Section 1798.32 of the Civil Code is amended to read:

1798.32. Each individual shall have the right to inquire and be notified as to whether the agency maintains a record about himself or herself. Inquiries shall specify the name or title of the system of records as filed under Section 1798.9. Agencies shall allow individuals to review the notices that they have submitted to the Office of Information Practices pursuant to Section 1798.9, and shall take other reasonable steps to assist individuals in making their requests sufficiently specific.

Any such notice sent to an individual which in any way indicates that the agency maintains any such record shall include the title and business address of the agency official responsible for maintaining the records, the procedures to be followed to gain access to the records, and the procedures to be followed for an individual to contest the contents of such records unless the individual has received this notice from the agency during the past year.

In implementing the right conferred by this section, an agency may specify in its rules or regulations reasonable times, places, and requirements for identifying an individual who requests access to a record, and for disclosing the contents of a record.

SEC. 9. Section 1798.33 of the Civil Code is amended to read:

1798.33. Each agency may establish fees to be charged, if any, to an individual for making copies of a record. Such fees shall exclude the cost of any search for and review of the record, and shall not exceed ten cents ($0.10) per page, unless the agency fee for copying is established by statute.

SEC. 10. Section 1798.43 is added to the Civil Code, to read:

1798.43. This article applies to the rights of an individual to whom personal information pertains and not to the authority or right of any other person, agency, other state governmental entity, or governmental entity to obtain such information.

SEC. 11. Section 1798.61 of the Civil Code is amended to read:

1798.61. Nothing in this chapter shall prohibit the release of only names and addresses of persons possessing licenses to engage in professional occupations.

SEC. 12. Section 1798.70 of the Civil Code is amended to read:

1798.70. This chapter shall be construed to supersede any other provision of state law, including Section 6253.5 of the Government Code, or any exemption in Section 6254 or 6255 of the Government Code, which authorizes any agency to withhold from an individual any record containing personal information which is otherwise accessible under the provisions of this chapter.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are.

In order that the provisions of the Information Practices Act of 1977, which became operative July 1, 1978, may be implemented by the agencies affected in a timely manner and consistent with the intention of such act, it is necessary that this act take effect immediately.

CHAPTER 875

An act to amend Section 11628 of the Insurance Code, relating to insurers.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 11628 of the Insurance Code is amended to read:

11628. No admitted insurer, licensed to issue motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, shall fail or refuse to accept an application for such insurance, to issue such insurance to an applicant therefor, or issue or cancel such insurance under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, language, color, religion, national origin, ancestry, or the same geographic area; nor shall race, language, color, religion, national origin, ancestry, or location within a geographic area of itself constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for such insurance.

As used in this section "geographic area" means a portion of this state of not less than 20 square miles defined by description in the rating manual of an insurer or in the rating manual of a rating bureau of which the insurer is a member or subscriber. In order that geographic areas used for rating purposes may reflect homogeneity

of loss experience, a record of loss experience for such geographic area shall include the breakdown of actual loss experience statistics by zip code area (as designated by the United State Postal Service) within each geographic area for family owned private passenger motor vehicles and lightweight commercial motor vehicles, under 1½-ton load capacity, used for local service or retail delivery, normally within a 50-mile radius of garaging, and which are not part of a fleet of five or more motor vehicles under one ownership. A record of loss experience for such geographic area, including such statistical data by zip code area, shall be available for examination by the commissioner. Differentiation in rates between geographical areas shall not constitute unfair discrimination.

As used in this section, "language" means the inability to speak, read, write, or comprehend the English language.

SEC. 2. This act shall take effect July 1, 1979.

CHAPTER 876

An act to add Title 2.7 (commencing with Section 1812.200) to Part 4 of Division 3 of the Civil Code, relating to business opportunities.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. Title 2.7 (commencing with Section 1812.200) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 2.7. CONTRACTS FOR SELLER ASSISTED MARKETING PLANS

1812.200. (a) The Legislature finds and declares that the widespread sale of seller assisted marketing plans, often connected with the sale of vending machines, racks or work-at-home paraphernalia, has created numerous problems in California for purchasers which are inimical to good business practice. Often purchasers of seller assisted marketing plans are individuals inexperienced in business matters who use their life savings to purchase the seller assisted marketing plan in the hope that they will earn enough money in addition to retirement income or salary to become or remain self-sufficient. Many purchasers are the elderly who are seeking a way to supplement their fixed incomes. The initial payment is usually in the form of a purchase of overpriced equipment or products. California purchasers have suffered substantial losses when they have failed to receive full and complete information regarding the seller assisted marketing plan, the amount of money they can reasonably expect to earn, and the previous

experience of the seller assisted marketing plan seller. Seller assisted marketing plan sellers have a significant impact upon the economy and well-being of this state and its local communities. The provisions of this title relating to seller assisted marketing plans are necessary for the public welfare.

(b) It is the intent of this title to provide each prospective seller assisted marketing plan purchaser with the information necessary to make an intelligent decision regarding seller assisted marketing plans being offered; to safeguard the public against deceit and financial hardship; to insure, foster and encourage competition and fair dealing in the sale of seller assisted marketing plans by requiring adequate disclosure; to prohibit representations that tend to mislead; and to prohibit or restrict unfair contract terms. This title shall be construed liberally in order to achieve the foregoing purposes.

1812.201. For the purposes of this title, the following definitions shall be used:

(a) "Seller assisted marketing plan" means any sale or lease or offer to sell or lease any product, equipment, supplies or services which requires a total initial payment of an amount exceeding five hundred dollars ($500), but less than twenty-five thousand dollars ($25,000), which will be used by or on behalf of the purchaser to begin or maintain a business when the seller assisted marketing plan seller has advertised or in other manner solicited the purchase or lease of the seller assisted marketing plan and done any of the following acts:

(1) Represented that such purchaser will earn, is likely to earn, or can earn a net profit in excess of the initial payment paid by the purchaser for participation in the seller assisted marketing plan;

(2) Represented that there is a market for the product, equipment, supplies or services; or

(3) Represented that the seller will buy back or is likely to buy back any product made, produced, fabricated, grown or bred by the purchaser using, in whole or in part, the product, supplies, equipment or services which were initially sold or leased or offered for sale or lease to the purchaser by the seller assisted marketing plan seller.

A "seller assisted marketing plan" shall not include a security as defined in the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code).

A "seller assisted marketing plan" shall not include a franchise as defined by the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code).

A "seller assisted marketing plan" shall not include any transaction in which either the seller or purchaser or the lessor or lessee is licensed pursuant to and the transaction is governed by the Real Estate Law, Division 4 (commencing with Section 10000) of the Business and Professions Code.

A "seller assisted marketing plan" shall not include a license

granted by a general merchandise retailer which allows the licensee to sell goods, equipment, supplies, products or services to the general public under the retailers trade mark, trade name or service mark providing that the general merchandise retailer has been doing business in this state continuously for five years prior to the granting of the license and the general merchandise retailer also sells the same goods, equipment, supplies, products or services directly to the general public.

A "seller assisted marketing plan" shall not include a newspaper distribution system distributing newspapers as defined in Section 6362 of the Revenue and Taxation Code.

A "seller assisted marketing plan" shall not include a sale or lease to an existing or beginning business enterprise which also sells or leases equipment, products, supplies or performs services (i) which are not supplied by the seller and (ii) which the purchaser does not utilize with the equipment, products, supplies or services of the seller.

A "seller assisted marketing plan" shall not include the sale of an "ongoing business." An "ongoing business" is one which for at least six months previous to the sale: (i) has been operated from a given specific location, (ii) has been open for business to the general public and (iii) has had all equipment and supplies necessary for operating the business located at the given specific location.

A "seller assisted marketing plan" shall not include a sale or lease or offer to sell or lease to a purchaser: (i) who has for a period of at least six months previously bought products, supplies, services or equipment which were sold under the same trademark or trade name or which were produced by the seller; and (ii) who has received on resale of such product, supplies, services or equipment an amount which is at least equal to the amount of the initial payment.

A "seller assisted marketing plan" shall not include the renewal or extension of an existing seller assisted marketing plan contract.

(b) "Person" includes an individual, corporation, partnership, joint venture or any business entity.

(c) "Seller" is a person who sells or leases or offers to sell or lease a seller assisted marketing plan and:

(1) Has sold or leased or represents or implies that the seller has sold or leased, whether in California or elsewhere, at least five seller assisted marketing plans within 24 months prior to a solicitation; or

(2) Intends or represents or implies that the seller intends to sell or lease, whether in California or elsewhere, at least five seller assisted marketing plans within 12 months following a solicitation.

For purposes of this title, the seller is the person to whom the purchaser becomes contractually obligated. A "seller" does not include a licensed real estate broker or salesman who engages in the sale or lease of a "business opportunity" as such term is used in Sections 10000 to 10030, inclusive, of the Business and Professions Code, or elsewhere in Chapter 1 (commencing with Section 10000),

Chapter 2 (commencing with Section 10050), or Chapter 6 (commencing with Section 10450) of Part 1 of Division 4 of the Business and Professions Code.

(d) "Purchaser" means a person who is solicited to become obligated or does become obligated on a seller assisted marketing plan contract.

(e) "Equipment" includes machines, all electrical devices, video or audio devices, molds, display racks, vending machines, coin-operated game machines, machines which dispense products and display units of all kinds.

(f) "Supplies" includes any and all materials used to produce, grow, breed or make any product or item.

(g) "Product" includes any tangible chattel, including food or living animals, which the purchaser intends to:

(1) Sell or lease to the general public.

(2) Use to perform a service for the general public.

(3) Resell or attempt to resell to the seller assisted marketing plan seller.

(4) Provide or attempt to provide to the seller assisted marketing plan seller so that the seller assisted marketing plan seller might resell the product to the general public.

(h) "Services" includes any assistance, guidance, direction, work, labor or services provided by the seller to initiate or maintain the seller assisted marketing plan.

(i) "Seller assisted marketing plan contract" or "contract" means any contract or agreement which obligates a purchaser to a seller.

(j) "Initial payment" means the total amount a purchaser is obligated to pay under the terms of the seller assisted marketing plan contract prior to or at the time of delivery of the equipment, supplies, products or services or within six months of the purchaser commencing operation of the seller assisted marketing plan. If the contract sets forth a specific total sale price for purchase of the seller assisted marketing plan which total price is to be paid partially as a downpayment and then in specific monthly payments, the "initial payment" means the entire total sale price.

(k) "Buy-back" or "secured investment" means any representation which implies in any manner that the purchaser's initial payment is protected from loss.

1812.202. (a) An offer to sell or offer to lease a seller assisted marketing plan shall occur in this state whenever:

(1) The offer to sell or offer to lease is made in this state;

(2) The purchaser resides in this state at the time of the offer; or

(3) The offer to sell or offer to lease either originates from this state or is directed by the seller or lessor to this state and received at the place to which it is directed.

(b) A sale or lease of a seller assisted marketing plan shall occur in this state whenever:

(1) The offer to sell or offer to lease is accepted in this state;

(2) The purchaser resides in this state at the time of the sale; or

(3) The acceptance is communicated to a seller situated in this state.

1812.203. The seller of any seller assisted marketing plan shall file with the Secretary of State a copy of the disclosure statements required under Sections 1812.205 and 1812.206, as well as a list of the names and resident addresses of those individuals who sell the seller assisted marketing plan on behalf of the seller, prior to placing any advertisement or making any other representations to purchasers. The disclosure statements on file shall be updated through a new filing whenever material changes occur, but at least once a year. The list of sales people shall be updated through a new filing every six months.

1812.204. In selling, leasing or offering to sell or lease a seller assisted marketing plan in this state, sellers shall not:

(a) Use the phrase "buy-back" or "secured investment" or similar phrase orally or in writing when soliciting, offering, leasing, or selling a seller assisted marketing plan if the "security" is the value of the equipment, supplies, products or services supplied by the seller to the purchaser.

(b) Use the phrase "buy-back" or "secured investment" or similar phrase orally or in writing when soliciting, offering, leasing, or selling a seller assisted marketing plan unless there are no restrictions or qualifications whatsoever preventing or limiting a purchaser from being able to invoke the "buy-back" or "secured" portion of the seller assisted marketing plan contract at any time the purchaser desires during the one-year period following the contract date. Upon invocation of the "buy-back" or "security" provision, the minimum amount a purchaser shall be entitled to have returned to him is the full amount of his initial payment, less the amount actually received by him from the operation of the seller assisted marketing plan. The "amount actually received" means either the amount the purchaser actually obtained from the seller for any product resold to the seller or the amount of money the general public pays for use of the purchaser's product, equipment, supplies or services, less any amount the purchaser has paid the owner or manager of the location at which the purchaser's products, equipment, supplies or services are placed.

(c) Represent that a purchaser's initial payment is "secured" in any manner or to any degree or that the seller provides a "buy-back" arangement unless the seller has, in conformity with subdivision (b) of Section 1812.214, either obtained a surety bond issued by a surety company admitted to do business in this state or established a trust account.

(d) Represent that the seller assisted marketing plan provides income or earning potential of any kind unless the seller has data to substantiate the claims of income or earning potential and discloses this data to the purchaser at the time the claim is made, if made in person, or if made through written or telephonic communication, at the first in-person communication thereafter and, when disclosed,

the data is left with the purchaser. A mathematical computation of the number of sales multiplied by the amount of profit per sale to reach a projected income figure is not sufficient data to substantiate an income or earning potential claim. The data left by the seller must, at a minimum, disclose:

(1) The length of time the seller has been selling the particular seller assisted marketing plan being offered;

(2) The number and percentage such number represents of the total number of purchasers who form the basis for the income or earning potential representation; and

(3) The number of purchasers known to the seller to have made at least the same sales, income or profits as those represented.

(e) Use the trademark, service mark, trade name, logotype, advertising or other commercial symbol of any business which does not either control the ownership interest in the seller or accept responsibility for all representations made by the seller in regard to the seller assisted marketing plan, unless the nature of the seller's relationship to such other business entity is set forth immediately adjacent to and in type size equal to or larger than that used to depict the commercial symbol of such other business. If a member of a trade association, the seller may use the logo or registration mark of the trade association in advertisements and materials without regard to this subdivision.

(f) Place or cause to be placed any advertisement for a seller assisted marketing plan which does not include the actual business name of the seller, and if it differs, the name under which the seller assisted marketing plan is operated and the street address of the principal place of business of the seller.

1812.205. In the first in-person communication with a potential purchaser or in the first written response to an inquiry by a potential purchaser wherein the seller assisted marketing plan is described, the seller shall provide the prospective purchaser a written document, the cover sheet of which is entitled in at least 16-point boldface capital letters "DISCLOSURE REQUIRED BY CALIFORNIA LAW." Under the title shall appear in boldface of at least 10-point type, the statement: "The State of California has not reviewed and does not approve, recommend, endorse or sponsor any seller assisted marketing plan. The information contained in this disclosure has not been checked by the state. If you have any questions about this purchase, see an attorney or other financial adviser before you sign a contract or agreement." Nothing shall appear on the cover sheet except the title and the statement required above. The disclosure document shall contain the following information:

(a) The name of the seller, the name under which the seller is doing or intends to do business and the name of any parent or affiliated company that will engage in business transactions with purchasers or accept responsibility for statements made by the seller.

(b) A statement of the initial payment charged, or when not

known, a statement of approximate initial payment charged; a statement of the amount of the initial payment to be paid to a person inducing, directly or indirectly, a purchaser to contract for the seller assisted marketing plan.

(c) A full and detailed description of the actual services the seller will undertake to perform for the purchaser.

(d) When the seller makes any statement concerning earnings or range of earnings that may be made through the seller assisted marketing plan, he must set forth in complete form in this disclosure statement the following:

"No guarantee of earnings or ranges of earnings can be made. The number of purchasers who have earned through this business an amount in excess of the amount of their initial payment is at least _____, which represents _____ percent of the total number of purchasers of this seller assisted marketing plan."

(e) If training of any type is promised by the seller, a complete description of the training and the length of the training.

(f) If the seller promises services to be performed in connection with the placement of the equipment, product or supplies at a location from which they will be sold or used, the full nature of those services as well as the nature of the agreements to be made with the owner or manager of the location at which the purchaser's equipment, product or supplies will be placed, must be set forth.

(g) If the seller represents orally or in writing when soliciting or offering for sale or lease or selling or leasing a seller assisted marketing plan that there is a "buy-back" arrangement or that the initial payment is "secured," the entire and precise nature of the "buy-back" or "security" arrangement shall be completely and clearly disclosed.

1812.206. At least 48 hours prior to the execution of a seller assisted marketing plan contract or agreement or at least 48 hours prior to the receipt of any consideration, whichever occurs first, the seller shall provide to the prospective purchaser in writing a document entitled "SELLER ASSISTED MARKETING PLAN INFORMATION SHEET." The seller may combine the information required under this section with the information required under Section 1812.205 and, if done, shall utilize the single title "DISCLOSURES REQUIRED BY CALIFORNIA LAW," and the title page required by Section 1812.205. If a combined document is used, it shall be given at the time required by Section 1812.205, provided that such time meets the 48-hour test of this section. The information sheet required by this section shall contain the following:

(a) The name of and the office held by the seller's officers, directors, trustees and general or limited partners, as the case may be, and the names of those individuals who have management responsibilities in connection with the seller's business activities.

(b) A statement whether any person identified in subdivision (a):

(1) Has been convicted of a felony or misdemeanor or pleaded nolo contendere to a felony or misdemeanor charge if such felony or

misdemeanor involved fraud, embezzlement, fraudulent conversion or misappropriation of property.

(2) Has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment if the civil action alleged fraud, embezzlement, fraudulent conversion or misappropriation of property or the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property or the use of unfair, unlawful or deceptive business practices.

(3) Is subject to any currently effective injunction or restrictive order relating to business activity as the result of an action brought by a public agency or department, including, but not limited to, action affecting any vocational license.

The statements required by this subdivision shall set forth the court, the date of the conviction or of the judgment and, when involved, the name of the governmental agency that brought the action resulting in the conviction or judgment.

(c) The length of time the seller:

(1) Has sold seller assisted marketing plans.

(2) Has sold the specific seller assisted marketing plan being offered to the purchaser.

(d) If the seller is required to secure a bond or establish a trust account pursuant to the requirements of Section 1812.204, the information sheet shall state either:

(1) "Seller has secured a bond issued by

_____,

(name and address of surety company)

a surety company admitted to do business in this state. Before signing a contract to purchase this seller assisted marketing plan, you should check with the surety company to determine the bond's current status," or

(2) "Seller has deposited with the office of the Secretary of State, State Capitol, Sacramento, California 95814, information regarding its trust account. Before signing a contract to purchase this seller assisted marketing plan, you should check with the Secretary of State to determine the current status of the trust account."

(e) A copy of a recent, not more than 12 months old, financial statement of the seller, together with a statement of any material changes in the financial condition of the seller from the date thereof. Such financial statement shall either be audited or be under penalty of perjury signed by one of the seller's officers, directors, trustees or general or limited partners. The declaration under penalty of perjury shall indicate that to the best of the signatory's knowledge and belief the information in the financial statement is true and accurate. Provided, however, that where a seller is a subsidiary of another corporation which is permited by generally accepted accounting standards to prepare financial statements on a consolidated basis, the above information may be submitted in the same manner for the parent if the corresponding financial statement of the seller is also

provided and the parent absolutely and irrevocably has agreed to guarantee all obligations of the seller.

(f) An unexecuted copy of the entire seller assisted marketing plan contract.

1812.207. Every contract for sale or lease of a seller assisted marketing plan in this state shall be in writing and shall be subject to the provisions of this title. A copy of the fully completed contract and all other documents the seller requires the purchaser to sign shall be given to the purchaser at the time they are signed.

1812.208. The purchaser shall have the right to cancel a seller assisted marketing plan contract for any reason at any time within three business days of the date the purchaser and the seller sign the contract. The notice of the right to cancel and the procedures to be followed when a contract is canceled shall comply with Section 1812.209.

1812.209. Every seller assisted marketing plan contract shall set forth in at least 10-point type or equivalent size if handwritten, all of the following:

(a) The terms and conditions of payment including the initial payment, additional payments, and downpayment required.

(b) Immediately above the place at which the purchaser signs the contract the following notification, in boldface type, of the purchaser's right to cancel the contract:

"You have three business days in which you may cancel this contract for any reason by mailing or delivering written notice to the seller assisted marketing plan seller. The three business days shall expire on

_____ ;

(last date to mail or deliver notice) and notice of cancellation should be mailed to

_____ .

(seller assisted marketing plan seller's name and business street address)

If you choose to mail your notice, it must be placed in the United States mail properly addressed, first-class postage prepaid, and postmarked before midnight of the above date. If you choose to deliver your notice to the seller directly, it must be delivered to him by the end of his normal business day on the above date. Within five business days of receipt of the notice of cancellation, the seller shall return to the purchaser all sums paid by the purchaser to the seller pursuant to this contract. Within five business days after receipt of all such sums, the purchaser shall make available at his address or at the place at which they were caused to be located, all equipment, products and supplies provided to the purchaser pursuant to this contract. Upon demand of the seller, such equipment, products and supplies shall be made available at the time the purchaser receives full repayment by cash, money order or certified check."

(c) A full and detailed description of the acts or services the seller will undertake to perform for the purchaser.

(d) The seller's principal business address and the name and the address of its agent in the State of California authorized to receive service of process.

(e) The business form of the seller, whether corporate, partnership or otherwise.

(f) The delivery date or, when the contract provides for a staggered delivery of items to the purchaser, the approximate delivery date of those products, equipment or supplies the seller is to deliver to the purchaser to enable the purchaser to begin or maintain his business and whether the products, equipment or supplies are to be delivered to the purchaser's home or business address or are to be placed or caused to be placed by the seller at locations owned or managed by persons other than the purchaser.

(g) A complete description of the nature of the "buy-back" or "security" arrangement, if the seller has represented orally or in writing when selling or leasing, soliciting or offering a seller assisted marketing plan that there is a "buy-back" or that the initial payment is "secured."

(h) A statement which accurately sets forth a purchaser's right to void the contract under the circumstances and in the manner set forth in subdivisions (a) and (b) of Section 1812.215.

1812.210. (a) No seller assisted marketing plan contract shall require or entail the execution of any note or series of notes by the purchaser which, when separately negotiated, will cut off as to third parties any right of action or defense which the purchaser may have against the seller.

(b) If the contract referred to in Section 1812.209 provides for a downpayment to be paid to the seller, the downpayment shall not exceed 20 percent of the initial payment amount. In no event shall the contract payment schedule provide for the seller to receive more than 20 percent of the initial payment before delivery to the purchaser, or to the place at which they are to be located, the equipment, supplies or products, unless all sums in excess of 20 percent are placed in an escrow account which cannot be released until the purchaser notifies the escrow agent in writing of the delivery of such equipment, supplies or products. Notification of delivery by the purchaser to the escrow agent shall not be unreasonably withheld.

1812.211. Any assignee of the seller assisted marketing plan contract or the seller's rights is subject to all equities, rights and defenses of the purchaser against the seller.

1812.212. No seller shall make or authorize the making of any reference to its compliance with this title.

1812.213. Every seller shall at all times keep and maintain a complete set of books, records and accounts of seller assisted marketing plan sales made by the seller. All documents relating to each specific seller assisted marketing plan sold or leased shall be maintained for four years after the date of the seller assisted marketing plan contract.

1812.214. (a) Every seller of seller assisted marketing plans other than a California corporation shall file with the Secretary of State an irrevocable consent appointing the Secretary of State or his successor in office to act as his attorney to receive service or any lawful process in any noncriminal suit, action or proceeding against him or his successor, executor or administrator, which may arise under this title. When such service is made upon the Secretary of State, it shall have the same force and validity as if served personally on the seller. Service may be made by leaving a copy of the process in the office of the Secretary of State, but it shall not be effective unless:

(1) The plaintiff forthwith sends by first-class mail a notice of the service upon the Secretary of State and a copy of the process to the defendant or respondent at his last address on file with the Secretary of State; and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return date of the process, if any, or within such further time as the court allows.

(b) If, pursuant to subdivision (c) of Section 1812.204, a seller must obtain a surety bond or establish a trust account, the following procedures apply:

(1) If a bond is obtained, a copy of it shall be filed with the office of the Secretary of State; if a trust account is established, notification of the depository, the trustee and the account number shall be filed with the office of the Secretary of State.

(2) The bond or trust account required shall be in favor of the State of California for the benefit of any person who is damaged by any violation of this title or by the seller's breach of a contract subject to this title or of any obligation arising therefrom. The bond or trust account shall also be in favor of any person damaged by such practices.

(3) Any person claiming against the bond or trust account for a violation of this title may maintain an action at law against the seller and the surety or trustee, except that the surety or trustee shall be liable only for actual damages and not the punitive damages permitted under Section 1812.218. The aggregate liability of the surety or trustee to all persons damaged by a seller's violation of this title shall in no event exceed the amount of the bond or trust account.

(4) The bond or the trust account shall be in an amount equal to the total amount of the "initial payment" section of all seller assisted marketing plan contracts the seller has entered into during the previous year or three hundred thousand dollars ($300,000), whichever is less, but in no case shall the amount be less than fifty thousand dollars ($50,000). The amount required shall be adjusted twice a year, no later than the tenth day of the first month of the seller's fiscal year and no later than the tenth day of the seventh month of the seller's fiscal year. A seller need only establish a bond or trust account in the amount of fifty thousand dollars ($50,000) at the commencement of business and during the first six months the seller is in business. By the tenth day of the seller's seventh month

in business, the amount of his bond shall be established as provided for herein as if he had been in business for a year.

1812.215. (a) If a seller uses any untrue or misleading statements to sell a seller assisted marketing plan, or fails to give the disclosure documents or disclose any of the information required by Sections 1812.205 and 1812.206, or the contract does not comply with the requirements of this title, then within one year of the date of the contract at the election of the purchaser upon written notice to the seller, the contract shall be voidable by the purchaser and unenforceable by the seller or his assignee as contrary to public policy and the purchaser shall be entitled to receive from the seller all sums paid to the seller when the purchaser is able to return all equipment, supplies or products delivered by the seller; when such complete return cannot be made, the purchaser shall be entitled to receive from the seller all sums paid to the seller less the fair market value at the time of delivery of the equipment, supplies or products not returned by the purchaser, but delivered by the seller. Upon the receipt of such sums, the purchaser shall make available to the seller at the purchaser's address or at the places at which they are located at the time the purchaser gives notice pursuant to this section, the products, equipment or supplies received by the purchaser from the seller. Provided, however, if the seller inadvertently has failed to make any of the disclosures required by Section 1812.205 or 1812.206 or the contract inadvertently fails to comply with the requirements of this title, the seller may cure such inadvertent defect by providing the purchaser with the correct disclosure statements or contract if at the time of providing such correct disclosures or contract the seller also informs the purchaser in writing that because of the seller's error, the purchaser has an additional 15-day period after receipt of the correct disclosures or contract within which to cancel the contract and receive a full return of all moneys paid in exchange for return of whatever equipment, supplies or products the purchaser has. If the purchaser does not cancel the contract within 15 days after receipt of the correct disclosures or contract, he may not in the future exercise his right to void the contract under this section due to such noncompliance with the disclosure or contract requirements of this title.

(b) If a seller fails to deliver the equipment, supplies or product within 30 days of the delivery date stated in the contract, unless such delivery delay is beyond the control of the seller, then at any time prior to delivery or within 30 days after delivery, at the election of the purchaser upon written notice to the seller, the contract shall be voidable by the purchaser and unenforceable by the seller or his assignee as contrary to public policy.

The rights of the purchaser set forth in this section shall be cumulative to all other rights under this title or otherwise.

1812.216. Any waiver by a purchaser of the provisions of this title shall be deemed contrary to public policy and shall be void and unenforceable. Any attempt by a seller to have a purchaser waive

rights given by this title shall be a violation of this title.

1812.217. Any person, including, but not limited to, the seller, a salesman, agent or representative of the seller or an independent contractor who attempts to sell or lease or sells or leases a seller assisted marketing plan, who willfully violates any provision of this title or employs, directly or indirectly, any device, scheme or artifice to deceive in connection with the offer or sale of any seller assisted marketing plan, or willfully engages, directly or indirectly, in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person in connection with the offer, purchase, lease or sale of any seller assisted marketing plan shall, upon conviction, be fined not more than ten thousand dollars ($10,000) for each unlawful transaction, or imprisoned in the state prison, or imprisoned in county jail for not more than one year, or be punished by both such fine and imprisonment.

1812.218. Any purchaser injured by a violation of this title or by the seller's breach of a contract subject to this title or of any obligation arising from the sale or lease of the seller assisted marketing plan may bring any action for recovery of damages. Judgment shall be entered for actual damages, plus reasonable attorney's fees and costs, but in no case shall the award of damages be less than the amount of the initial payment provided the purchaser is able to return all the equipment, supplies or products delivered by the seller; when such complete return cannot be made, the minimum award shall be no less than the amount of the initial payment less the fair market value at the time of delivery of the equipment, supplies or products that cannot be returned but were actually delivered by the seller. An award, if the trial court deems it proper, may be entered for punitive damages.

1812.219. The provisions of this title are not exclusive. The remedies provided herein for violation of any section of this title or for conduct proscribed by any section of this title shall be in addition to any other procedures or remedies for any violation or conduct provided for in any other law.

Nothing in this title shall limit any other statutory or any common law rights of the Attorney General, any district attorney or city attorney, or any other person. If any act or practice proscribed under this title also constitutes a cause of action in common law or a violation of another statute, the purchaser may assert such common law or statutory cause of action under the procedures and with the remedies provided for in such other law.

1812.220. If any provision of this act or if any application thereof to any person or circumstance is held unconstitutional, the remainder of the title and the application of such provision to other persons and circumstances shall not be affected thereby.

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 cost to local governmental entities which, in the aggregate, do not result in significant and identifiable cost changes.

CHAPTER 877

An act to add Chapter 9 (commencing with Section 2821) to Part 2 of Division 1 of the Public Utilities Code, relating to telephones.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. Chapter 9 (commencing with Section 2821) is added to Part 2 of Division 1 of the Public Utilities Code, to read:

CHAPTER 9. TELEPHONE CORPORATIONS

Article 1. Automatic Dialing-Announcing Devices

2821. As used in this article, "automatic dialing-announcing device" means any automatic equipment which incorporates a storage capability of telephone numbers to be called or a random or sequential number generator capable of producing numbers to be called and the capability, working alone or in conjunction with other equipment, to disseminate a prerecorded message to the telephone number called.

2822. (a) The connection of automatic dialing-announcing devices to a telephone line is subject to the provisions of this article and to the jurisdiction, control, and regulation of the commission.

(b) No person shall operate an automatic dialing-announcing device except in accordance with the provisions of this article. The use of such a device by any person, either individually or acting as an officer, agent, or employee of a person or corporation operating automatic dialing-announcing devices, is subject to the provisions of this article.

2823. Automatic dialing-announcing devices may be used to place calls over telephone lines only pursuant to a prior agreement between the persons involved, whereby the person called has agreed that he or she consents to receive such calls from the person calling, or as specified in Section 2824.

2824. Whenever telephone calls are placed through the use of an automatic dialing-announcing device, such device shall be operated by a person who shall do all of the following:

(a) State the nature of the call and the name, address, and telephone number of the business or organization being

represented, if any.

(b) Inquire whether the person called consents to hear the prerecorded message of the person calling.

(c) Disconnect the automatic dialing-announcing device from the telephone line upon the termination of the call by either the person calling or the person called.

2825. No person shall connect any automatic dialing-announcing device to any telephone line without first making written application to the telephone corporation within whose service area telephone calls through the use of such device are proposed to be placed. In such application, the person shall provide information as to the type of automatic dialing-announcing device proposed to be connected, the time of day such telephone calls are proposed to be placed using such device, the anticipated number of calls proposed to be placed during the specified calling period, the average length of a completed call, and such additional information as the corporation or the commission may require. Upon receiving such an application for service, the corporation shall review the furnished information and, if it appears that calling patterns would create a traffic overload condition or the service would be detrimental to the services of other customers of the corporation, it may deny the application or modify the application and grant the application as so modified.

SEC. 2. It is the intent of the Legislature that this act shall apply to any automatic dialing-announcing devices connected to any telephone line both prior and subsequent to the effective date of this act.

CHAPTER 878

An act to add and repeal Section 6371 of the Revenue and Taxation Code, relating to sales and use taxes, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 6371 is added to the Revenue and Taxation Code, to read:

6371. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption of, medical alert tags furnished by an organization which is exempted from taxes under Section 23701.

(b) For purposes of this section, "medical alert tags" includes any tag worn by a person for the purpose of alerting other persons that the wearer of such tag has a medical disability or allergic reaction to certain treatments.

SEC. 2. The sum of one thousand six hundred dollars ($1,600) is hereby appropriated to the Controller from the State General Fund to make the payments to counties and cities required by Section 2230 of the Revenue and Taxation Code to reimburse them for revenue losses caused by Section 1 of this act in the initial fiscal year in which this act is effective. The appropriation made by this section shall be allocated in the manner specified in Section 2230.

SEC. 3. This act shall remain in effect for only two years after its effective date and as of that date is repealed, unless a later enacted statute, which is chaptered before two years after its effective date, deletes or extends such date.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect; however, it shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 879

An act to amend Section 30304 of the Public Resources Code, relating to coastal resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 30304 of the Public Resources Code is amended to read:

30304. Any member of a regional commission or the commission may, subject to the confirmation of his or her appointing power, appoint an alternate member to represent him or her at any regional commission or commission meeting. An alternate may serve prior to confirmation for a period not to exceed 90 days from the date of appointment unless and until confirmation is specifically refused. The alternate shall serve at the pleasure of the member who appointed him or her and shall have all the powers and duties as a member of the regional commission or the commission, except that the alternate shall only participate and vote in meetings in the absence of the member who appointed him or her.

An alternate shall not be eligible for appointment to the commission as a regional commission representative to the commission.

All provisions of law relating to conflicts of interest that are applicable to a member shall apply to an alternate member. Whenever a member has, or is known to have, a conflict of interest on any matter, such member's alternate shall not be eligible to vote

on that matter.

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 heavy workload of the regional and state coastal commissions requires that they meet often and for long hours every month. Because many commissioners have other duties and responsibilities, it is often not possible for them to attend all or substantial portions of every commission meeting. Many agenda items require an affirmative vote of a majority of the appointed members. Thus, time constraints, conflicting duties, and voting requirements have led to absenteeism and caused hardships for permit applicants and interested members of the public. Because there is an immediate need to alleviate the commissions' backlog of work and to avoid unnecessary hardship, it is necessary that this act take effect immediately.

CHAPTER 880

An act relating to handicapped persons and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. The sum of one hundred sixty-six thousand dollars ($166,000) is hereby appropriated from the General Fund in the State Treasury to the State Librarian to provide partial support for a Southern California Regional Library for the blind, physically handicapped and reading disabled as designated by the Library of Congress.

The amounts appropriated by this act shall be used exclusively to provide regional library services for the blind, physically handicapped and reading disabled in Southern California. Such services must meet established standards set by the Library of Congress for regional libraries for the blind, physically handicapped and reading disabled and shall be reviewed regularly by the State Librarian.

SEC. 2. It is the intent of the Legislature that the appropriation of funds provided for by this act shall be based on actual operating costs of providing regional library service for the blind, physically handicapped and reading disabled in Southern California, in accordance with national standards set for regional libraries by the Library of Congress and shall become a regular program item in the

annual budget act. It is also the intent of the Legislature that funds be phased in over three fiscal years to provide full state support for the Southern California regional library for the blind, physically handicapped and reading disabled, as designated by the Library of Congress.

SEC. 3. The Legislature acknowledges the value of volunteer services that have been provided in Southern California to the blind, physically handicapped, and reading disabled. It is the intent of the Legislature in enacting this measure that, to the maximum extent possible, these services should continue. The State Librarian shall monitor the level of volunteer services provided by the regional library to the blind, physically handicapped, and reading disabled, in Southern California and administer the program in a manner which will encourage a level of volunteer activity which at least equals that which existed prior to the enactment 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:

This bill must be given immediate effect in order to maintain the existing level of services of the Southern California Regional Library for the blind without interruption.

CHAPTER 881

An act to add and repeal Division 22 (commencing with Section 32000) to the Public Resources Code, relating to public resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Division 22 (commencing with Section 32000) is added to the Public Resources Code, to read:

DIVISION 22. VEGETATION MANAGEMENT REPORTS

32000. The Legislature hereby finds and declares that vegetation management programs can result in modifications to the plant and animal communities associated with such vegetation that are beneficial both to man and the environment alike.

32001. The Legislature further finds and declares that vegetation management may potentially increase forage for livestock, increase the diversity and quality of wildlife habitat, improve water yield, reduce the hazard of wildland fire and its attendant suppression costs and economic losses, lead to decreased soil erosion and flood losses,

and restore and maintain viable plant communities and recreation opportunities.

32002. The Legislature further finds and declares that properly executed vegetation management programs may provide savings to taxpayers, economic stimulation by providing employment opportunities, and increased production of food and fiber, as well as enhancement of the environment.

32003. The Legislature further finds and declares that there are many instances of state action and inaction on vegetation management programs which may not always reflect the overall public interest. Consequently, the preparation of reports by the appropriate state agencies is necessary so that the Legislature may properly evaluate current and potential vegetation management policies in light of the best available scientific, technical, economic, and social information.

32004. The Legislature further finds and declares that it is the policy of the state to actively promote the planning for and study of vegetation management practices by interested public agencies and private parties.

32005. "Vegetation management" means the intentional manipulation of growing or dead vegetation for the purpose of altering, increasing, decreasing, maintaining, or protecting the composition of the plant community and its environment.

32006. The Department of Food and Agriculture, the Air Resources Board, the California Coastal Commission, the Department of Conservation, the Employment Development Department, the Department of Fish and Game, the Department of Forestry, the Office of Planning and Research, the Parks and Recreation Department, the State Solid Waste Management Board, the Department of Transportation, the Department of Water Resources, the California Conservation Corps, the Colorado River Board, the Reclamation Board, the State Lands Commission, the State Water Resources Control Board, the San Francisco Bay Conservation and Development Commission, and the State Coastal Conservancy shall each submit a report on vegetation management to the Legislature by March 1, 1979. Such reports shall be assembled by the Senate Office of Research and shall be available for inspection by the general public. Each report shall include:

(a) A description of present policy on the agency's support or use of vegetation management.

(b) A description of the agency's present activity and programs on vegetation management.

(c) A description of the agency's regulatory programs affecting vegetation management.

(d) A description of any activities of the agency that prohibit, promote, or otherwise influence the ability of private landowners to undertake vegetation management programs.

(e) A description of which of the agency's existing programs would be affected by an active vegetation management program in its

agency or by another agency.

(f) A copy or a summary description of any research or reports on or relating to vegetation management prepared by or for the agency.

32007. Information submitted pursuant to subdivisions (a), (b), (c), (d) and (e) of Section 32006 shall include the statutory authority for the activities described.

An agency is not required to submit a separate report on vegetation management if its report is included in the report of another agency.

32008. The agencies listed in Section 32006 and the Legislature shall seek the advice of the State University and Colleges and the University of California in the preparation and review of the reports.

32009. Where the information is readily available, the Senate Office of Research shall prepare a descriptive inventory of the vegetation management activities of local governments and private landowners for each county where such programs exist and for federal agency vegetation management activity undertaken in California by the Bureau of Land Management, the United States Forest Service, the Bureau of Reclamation, the Department of Defense, the Bureau of Indian Affairs, the Army Corps of Engineers, and the National Park Service.

The Senate Office of Research shall prepare by April 1, 1979, a report containing a summary of the reports received pursuant to this division which includes any impacts of the vegetation management programs on the economy, fire suppression and other costs of government, natural resources, soil, wildlife, the environment, private landowners, food and fiber production, employment, and recreation.

32010. This division shall remain in effect only until January 1, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1980, deletes or extends such date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 vegetation management programs can further necessary conservation policies by reducing the fire hazard, increasing wildlife habitat areas and forage for livestock, and protecting viable plant communities, while at the same time providing jobs which aid the economy of the state. The information necessary to develop such policies will be elicited through the reports mandated by this act and preparation should begin as soon as possible. Thus, in order that existing policies can be evaluated, it is necessary that this act take effect immediately.

CHAPTER 882

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. The sum of two million one hundred sixty-six thousand three hundred sixty dollars and twenty-two cents ($2,166,360.22) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund	$1,992,451.41
State Transportation Fund	
Motor Vehicle Account	3,152.47
State Highway Account	619.25
Transportation Tax Fund	
Motor Vehicle Account	13,087.00
Motor Vehicle License Fee Account	8,936.00
Health Care Deposit Fund	127,994.88
Professions and Vocations Fund	40.00
Real Estate Fund	75.00
Unemployment Administration Fund	18,259.57
Unemployment Compensation Disability Fund	400.43
Water Resources Revolving Fund	220.00
State Banking Fund	1,124.21
Total	$2,166,360.22

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 claims against the state and end a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 883

An act to amend Section 4 of Chapter 295 of the Statutes of 1978, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. The Superintendent of Public Instruction shall determine which school districts have not received all allowances which could have been made to such districts pursuant to the early childhood education program conducted pursuant to Chapter 6 (commencing with Section 52000) of Part 28 of the Education Code, or its predecessor, during the 1974–75 and 1975–76 fiscal years.

SEC. 2. The sum of three hundred seventy-five thousand dollars ($375,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the purpose of allowing to each school district the amount determined by the superintendent to be payable to such district pursuant to Section 1 of this act.

SEC. 3. Section 4 of Chapter 295 of the Statutes of 1978 is amended to read:

Sec. 4. Notwithstanding any other provisions of law, during the 1978–79 fiscal year each of the deadlines specified in Sections 1623, 1624, 42100, 42127, 85000, and 85023 of the Education Code requiring the taking of particular action involving the adoption of budgets shall be extended by one month.

Notwithstanding Sections 42103 and 85003 of the Education Code, publication of the publication budget during the 1978–79 fiscal year shall occur no later than the last week in August, and the public hearing required by Sections 42103 and 85003 of the Education Code shall occur no later than the first week in September, provided that publication of the publication budget shall occur no later than five days after the adoption of the publication budget pursuant to subdivision (c) of Section 42127 or subdivision (c) of Section 85023 of the Education Code, and that the public hearing shall occur no earlier than seven days after the publication of the publication budget.

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 permit the funds made available to school districts pursuant to this act to be made available by the beginning of the 1978–79 fiscal year, and so permit the orderly planning of 1978–79 fiscal year budgets, it is necessary that this act take effect immediately.

CHAPTER 884

An act to add Chapter 6.5 (commencing with Section 50660) to Part 2 of Division 31 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. Chapter 6.5 (commencing with Section 50660) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 6.5. DEFERRED-PAYMENT REHABILITATION LOANS

50660. The Legislature finds and declares that the rehabilitation of existing housing is necessary to the continued viability of neighborhoods, the elimination of health and safety hazards, and the continued availability of a dwindling stock of low-cost housing. Economic conditions have not provided sufficient incentive to home improvement and elimination of substandard conditions, and financial assistance in the form of deferred-payment rehabilitation loans is necessary for those owners of residential real property who would otherwise be unable to obtain sufficient public or private financing to bring their properties into compliance with rehabilitation standards. Deferred-payment loans provide a means of financing rehabilitation which the owner could not otherwise afford. Such assistance is particularly necessary where local agencies are undertaking concentrated or systematic enforcement programs to require compliance with rehabilitation standards, and where persons or families of low or moderate income are affected.

50661. There is hereby created in the State Treasury the Housing Rehabilitation Loan Fund. All interest or other increment resulting from the investment of moneys in the Housing Rehabilitation Loan Fund shall be deposited in such fund, notwithstanding Section 16305 7 of the Government Code. All money in such fund is continuously appropriated to the department for making deferred-payment rehabilitation loans for financing all or a portion of the cost of rehabilitating existing housing to meet rehabilitation standards as provided in this chapter and for related administrative expenses of the department.

50662. The department shall adopt regulations establishing terms upon which deferred-payment rehabilitation loans may be made. The amount of a deferred-payment rehabilitation loan shall in no case exceed the costs of meeting rehabilitation standards. The amount, when combined with other financing provided, shall in no case exceed the combined costs of meeting rehabilitation standards

and refinancing existing indebtedness. Except for loans made to local agencies pursuant to Section 50664, deferred-payment rehabilitation loans shall bear interest at the rate of 3 percent per annum on the original principal balance. In the discretion of the department, which may differentiate among the types of programs specified in Section 50663, such interest shall either be payable periodically as it accrues during the term of the loan or payment of interest shall be deferred until payment of the principal is due. However, regulations of the department may provide for waiver of interest payments when a local agency contracting pursuant to Section 50663 remits to the department in advance on behalf of the borrower a sum equal to not less than 15 percent of the original principal balance, which may be in lieu of interest. The regulations of the department may also provide for payment of interest as accrued, in circumstances determined appropriate by the department to serve the purposes of this chapter. In the case of a deferred-payment rehabilitation loan to an elderly person who is the owner of an owner-occupied one-to-four family residence, the note and deed of trust securing the loan shall require payment of the obligation upon transfer of the property. In the case of a deferred-payment rehabilitation loan to a nonelderly person who is the owner of an owner-occupied one-to-four family residence, payment shall be required after five years or upon transfer of the property, whichever first occurs. However, the loan may be renewed for additional five-year terms so long as the property is not transferred and the owner is unable to refinance the obligation when the debt comes due. In the case of a deferred-payment rehabilitation loan to an owner of a residence other than an owner-occupied one-to-four family residence, payment shall be required after five years, but the loan may be renewed for up to three additional five-year terms so long as persons of low income residing in the residence will benefit. The department shall establish standards and determine eligibility for renewal.

50663. The department may contract with a local agency to provide any portion of uncommitted funds in the Housing Rehabilitation Loan Fund for making deferred-payment rehabilitation loans through the local agency in aid of a rehabilitation loan program conducted in a concentrated rehabilitation area designated pursuant to Section 51302, or in aid of a residential rehabilitation financing program conducted pursuant to Part 13 (commencing with Section 37910) of Division 24, or in aid of a systematic enforcement program for which the California Housing Finance Agency has allocated funds for mortgage loans pursuant to Section 51311, or in aid of a code enforcement agency repairing substandard dwellings following the owner's failure to commence work following a final notice or order from the enforcement agency. Eligibility for such loans shall be governed by the provisions of Sections 50664, 50665, 50666, and 50667.

50664. Deferred-payment loans may be made to local agencies for repair of substandard dwellings through a master agreement and

fund commitment. Such agreements shall limit the amount of deferred-payment rehabilitation loans to actual rehabilitation costs to the local agency, shall require that the full amount of rehabilitation costs be made a special assessment against the property involved, and shall require that the full amount collected, including any interest attributable to delinquency, be promptly repaid to the Housing Rehabilitation Loan Fund. However, loans made pursuant to this section shall not otherwise bear any interest.

50665. In residential rehabilitation areas designated pursuant to Section 37921, or in conjunction with financing of residential rehabilitation outside such areas as provided in Section 37922.1 or 37924.5, a person or family of low or moderate income that is the owner of an owner-occupied one-to-four dwelling unit property may receive a deferred-payment rehabilitation loan for the excess of the cost of meeting rehabilitation standards over the amount of financing the local agency is able to provide without exceeding the owner's ability to afford the monthly payments required. Owners of rental residences may receive deferred-payment rehabilitation loans if they have agreed to limit rent increases as provided in Section 37922.5, and if such loans are necessary in addition to financing otherwise provided in order to avoid increases in monthly debt service which would result in rent increases causing permanent displacement of persons of low income residing in the residence prior to rehabilitation. Such owners may also receive deferred-payment rehabilitation loans in the amount, if any, necessary to avoid such increases in monthly debt service as would make it economically infeasible to accept subsidies available to provide affordable rents to persons of low income, if the owner agrees to accept such subsidies.

50666. In concentrated rehabilitation areas designated pursuant to Section 51302, a person or family of low or moderate income who is the owner of an owner-occupied residential structure of one to four units may receive a deferred-payment rehabilitation loan for the excess of the cost of meeting rehabilitation standards over the amount of the neighborhood improvement loan the administering agency, local public entity, or qualified mortgage lender is able to provide without exceeding the owner's ability to afford the monthly payments required. Owners of rental housing may receive deferred-payment rehabilitation loans if necessary to avoid increases in monthly debt service which would result in rent increases causing permanent displacement of persons of low income residing in the residential structure prior to rehabilitation and if the owner contracts during the term of the loan not to raise residential rentals except as permitted by regulations of the agency pursuant to subdivision (g) of Section 51307. Owners of rental housing may also receive deferred-payment rehabilitation loans in the amount, if any, necessary to avoid such increases in monthly debt service as would make it economically infeasible to accept subsidies available to provide affordable rents to persons of low income, if the owner agrees to accept such subsidies.

50667. In those counties and cities in which the California Housing Finance Agency has allocated funds for mortgage loans for rehabilitation of housing developments pursuant to Section 51311, a person or family of low or moderate income who is the owner of an owner-occupied housing development may receive a deferred-payment rehabilitation loan for the excess of the cost of meeting rehabilitation standards over the amount of mortgage-loan financing the agency is able to provide without exceeding the owner's ability to afford the monthly payments required. Owners of rental housing developments in such counties and cities may receive deferred payment loans if necessary to avoid increases in monthly debt service which would result in rent increases causing permanent displacement of persons of low income residing in the housing development prior to rehabilitation, and if the owner accepts a mortgage loan from the agency with its limitation of rents and profits. Owners of rental housing developments in such counties and cities may also receive deferred-payment rehabilitation loans in the amount, if any, necessary to avoid such increases in monthly debt service as would make it economically infeasible to accept subsidies available to provide affordable rents to persons of low income if the owner agrees to accept such subsidies.

50668. Except as provided in Section 50664, deferred-payment loans may be made only through agreements between the local agency which has received a fund commitment and the owner of the residence, residential structure, or housing development. Such agreements shall regulate contractor selection, work to be done, and the schedule of contractor payments, and shall require that the loan be secured by a deed of trust. Agreements regarding housing other than owner-occupied one-to-four family dwellings shall have the prior approval of the department.

All moneys received by the department in repayment of loans made pursuant to this chapter, including interest and payments in advance in lieu of future interest, shall be deposited in the Housing Rehabilitation Loan Fund.

SEC. 2. The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund for transfer to the Housing Rehabilitation Loan Fund created by Section 50661 of the Health and Safety Code, as added by 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:

Housing-rehabilitation programs exist in the state under the Zenovich-Moscone-Chacon Housing and Home Finance Act and the Marks-Foran Residential Rehabilitation Act of 1973. Many persons and families of low or moderate income cannot afford to take advantage of the rehabilitation funds available under these programs for rehabilitation.

There is an urgent need to make available housing rehabilitation

funds for persons and families of low or moderate income who would otherwise be unable to obtain sufficient public or private financing to bring their properties into compliance with rehabilitation standards. In order that such funds be made available without unnecessary delay, this act must go into immediate effect.

CHAPTER 885

An act to add Article 8 (commencing with Section 32370) to Chapter 3 of Part 19 of the Education Code, to amend Section 68042 of the Government Code, and to amend Section 42652 of the Revenue and Taxation Code, relating to the recycling of paper.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Article 8 (commencing with Section 32370) is added to Chapter 3 of Part 19 of the Education Code, to read:

Article 8. Recycling Paper

32370. The Legislature finds and declares that it is the policy of the state to conserve and protect its resources. The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.

The Legislature further finds and declares that the volume of solid waste generated within the state coupled with an increased rate in the consumption of paper products and the absence of adequate programs and procedures for the reuse of these materials threaten the quality of the environment and well-being of the people of California.

In making these findings the Legislature declares that the policy and intent of this article is to increase the public's awareness of the value of recycling and the need to recycle, and to improve environmental quality by the recycling of paper products.

32371. The following definitions govern the interpretation of this article:

(a) "Educational agency" means any school district, county office of education, community college district, or campus of the California State University and Colleges.

(b) "Paper recycling program" means, (1) the provision of specially marked containers which are intended to receive either all grades or only some grades of postconsumer wastepaper but which are not intended to receive other forms of postconsumer waste, (2) publicity directed at all persons who frequent buildings with such containers encouraging those persons to deposit wastepaper in the

containers, and (3) the collection of all paper deposited in the containers for the purpose of recycling.

(c) "Postconsumer waste" means a finished material which would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(d) "Recycled paper" means all paper and woodpulp products with not less than 50 percent of its total weight consisting of secondary and postconsumer waste and with not less than 10 percent of its total weight consisting of postconsumer waste.

(e) "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and includes postconsumer waste, but does not include mill broke, wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

32372. (a) Each school district may, and is encouraged to, establish and maintain a paper recycling program in all classrooms, administrative offices, and other areas owned or leased by the school district where a significant quantity of wastepaper is generated or may be collected.

(b) Each community college district and each campus of the California State University and Colleges may, and is encouraged to, establish and maintain a paper recycling program in administration offices and other areas owned or leased by the district or campus, including areas frequented by students, where a significant quantity of wastepaper is generated or may be collected.

(c) In establishing paper recycling programs, school districts, community college districts, and campuses of the California State University and Colleges shall attempt to cooperate with existing paper recycling programs.

(d) Nothing in this article shall limit or supersede any other requirement of law imposing a paper recycling program on school districts, community college districts, or the California State University and Colleges.

32373. (a) Each educational agency is encouraged to purchase recycled paper if the supplier of recycled paper offers the paper at a cost which does not exceed by more than 5 percent the lowest offer of nonrecycled paper of comparable quality.

(b) Whenever an educational agency purchases recycled paper, the educational agency shall purchase the paper with the highest percentage of postconsumer waste, if the price and quality of the recycled paper are otherwise equal.

(c) Whenever it is practical to do so, each educational agency shall revise its procurement specifications to eliminate discrimination against recycled paper and to give preference to the purchase of recycled paper.

(d) Each educational agency shall make all reasonable efforts to eliminate the purchase of paper and paper products which are deemed potential contaminants of the educational agency's paper recycling program.

(e) When contracting with any educational agency for the sale of a paper product, the contractor shall certify in writing to the contracting officer or the officer's representative the precentage of secondary and postconsumer waste in the paper product and whether or not such percentages meet the minimum percentages specified in subdivision (d) of Section 32371. Such certification shall be furnished under penalty of perjury.

32375. The State Solid Waste Management Board, in conjunction with the Department of Education and other state agencies which the board and the Department of Education deem appropriate in order to carry out the purposes of this article, shall coordinate the implementation of this article and shall provide materials, technical assistance, and other resources as it deems necessary to aid and encourage educational agencies to establish paper recycling programs.

The State Solid Waste Management Board may enter into agreements with other agencies for the purpose of the administration and implementation of this article.

32376. The State Solid Waste Management Board, in conjunction with the Department of Education and other agencies which the board and the Department of Education deem to be appropriate in order to carry out the purposes of this article, shall develop and distribute curriculum material relating to paper recycling, conservation of resources, and topics relating to the implementation of the program established by this article.

32377. The State Solid Waste Management Board shall submit a report on the progress of its efforts to aid and encourage the establishment of paper recycling programs in educational agencies to the Legislature on or before January 1, 1980.

SEC 2. Section 68042 of the Government Code is amended to read:

68042. (a) The board shall grant funds from the State Litter Control, Recycling, and Resource Recovery Fund to eligible public agencies or private entities which have submitted applications for such funds when the board determines that the plan submitted by any such agency or entity is qualified and suitable for the purposes of the program.

(b) The board shall adopt guidelines for the determination of eligibility of public agencies and private entities and the determination of qualification and suitability of plans submitted by such agencies or entities. Such guidelines shall be consistent with the policy and provisions of this chapter.

(c) It is the intent of the Legislature that the money in the fund be substantially expended each year, with the total commitments to each of the various classes of expenditure in this article adhering as closely to the specified percentages as is consistent with efficient and prudent administration

(d) It is the intent of the Legislature that funds made available by this chapter shall be used to supplement and not replace existing

funding for the same purposes.

(e) Notwithstanding any other provisions of this section, the board may also carry out the provisions of Article 8 (commencing with Section 32370) of Chapter 3 of Part 19 of the Education Code, including, but not limited to, the encumbering of funds from the State Litter Control, Recycling, and Resource Recovery Fund upon appropriation therefor by the Legislature as specified in Section 42652 of the Revenue and Taxation Code. The board shall not, however, encumber more than two hundred thousand dollars ($200,000) during the 1978–79 fiscal year. The Legislature finds and declares that such provisions promote and carry out the purposes set forth in Section 68002 and in this article.

SEC. 2.5. Section 68042 of the Government Code, as amended by Section 12 of Senate Bill 1855, is amended to read:

68042. (a) The board shall disburse funds from the State Litter Control, Recycling, and Resource Recovery Fund to eligible public agencies or private entities that have submitted applications for such funds when the board determines that the plan submitted by any such agency or entity is qualified and suitable for the purposes of the program.

(b) The board shall adopt guidelines for the determination of eligibility of public agencies and private entities and the determination of qualification and suitability of plans submitted by such agencies or entities. Such guidelines shall be consistent with the policy and provisions of this chapter.

(c) It is the intent of the Legislature that the money in the fund be substantially expended each year, with the total commitments to each of the various classes of expenditure in this article adhering closely to the specified percentages. Any money in the fund not encumbered in the year received shall be retained in the class of expenditure to which it was allocated and shall be available for encumbrance in the next year for that same purpose.

(d) It is the intent of the Legislature that funds made available by this chapter shall be used to supplement and not replace existing funding for the same purposes.

(e) Notwithstanding any other provisions of this section, the board may also carry out the provisions of Article 8 (commencing with Section 32370) of Chapter 3 of Part 19 of the Education Code, including, but not limited to, the encumbering of funds from the State Litter Control, Recycling, and Resource Recovery Fund upon appropriation therefor by the Legislature as specified in Section 42652 of the Revenue and Taxation Code. The board shall not, however, encumber more than two hundred thousand dollars ($200,000) during the 1978–79 fiscal year. The Legislature finds and declares that such provisions promote and carry out the purposes set forth in Section 68002 and in this article.

SEC. 3. Section 42652 of the Revenue and Taxation Code, as added by Chapter 87 of the Statutes of 1978, is amended to read:

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; provided, such money shall not be expended for purposes of Article 8 (commencing with Section 32370) of Chapter 3 of Part 19 of the Education Code, and as provided in Section 68042 of the Government Code, without appropriation therefor by the Legislature.

SEC. 4. Section 42652 of the Revenue and Taxation Code, as added by Chapter 87 of the Statutes of 1978, is amended to read:

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; provided, such money shall not be expended for purposes of Article 8 (commencing with Section 32370) of Chapter 3 of Part 19 of the Education Code, and as provided in Section 68042 of the Government Code, without appropriation therefor by the Legislature; and provided further, such money shall not be expended for purposes of Section 66786.4 of the Government Code, and as provided in Section 68046.5 of the Government Code, without appropriation therefor by the Legislature.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill No. 1855 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 68042 of the Government Code, and this bill is chaptered after Senate Bill No. 1855, that Section 68042 of the Government Code, as amended by Section 12 of Senate Bill No. 1855 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 68042 proposed by this bill. Therefore, Section 2.5 of this act shall become operative only if this bill and Senate Bill No. 1855 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 68042, and this bill is chaptered after Senate Bill No. 1855, in which 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.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 3012 are both chaptered and become effective January 1, 1979, both bills amend Section 42652 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 3012, that the amendments to Section 42652 proposed by both bills be given effect

and incorporated in Section 42652 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 3012 are both chaptered and become effective January 1, 1979, both amend Section 42652, and this bill is chaptered after Assembly Bill No. 3012, in which case Section 3 of this act shall not become operative.

SEC. 7. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to 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 886

An act to amend Sections 12734 and 12799.3 of the Business and Professions Code, relating to weighmasters.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 12734 of the Business and Professions Code is amended to read:

12734. In all cases where farm products are delivered to a processing establishment or sold to or purchased by agents, brokers, commission merchants, dealers, factors or processors on the basis of weight, such products shall be weighed by a weighmaster licensed under the provisions of this chapter. Where farm products are delivered, but are not sold, to a processing establishment and the processing charges are not based upon weight, a grower may request that such products be weighed by a licensed weighmaster prior to the processing of such products.

Such products shall be weighed, prior to processing, by a licensed weighmaster and the original certificate as to such weight issued by the weighmaster shall be delivered to the seller or owner by the weighmaster, agent, broker, commission merchant, dealer, factor or processor, and settlement for such product shall be based on the weight shown thereon. When the processing fees are based upon the weight of the finished product, the finished product shall be weighed by a licensed weighmaster and a second weight certificate shall be delivered to the seller or owner.

A grower whose product is delivered, but is not sold, to a processor for processing, may waive, in writing, his right to have his product weighed when the processing establishment is operated by a producer of farm products and the processing is incidental to the production of farm products. As used in this paragraph, "incidental"

means that the income derived from the processing operation represents not more than 25 percent of the total income of the producer operating the processing establishment.

This section does not apply to any nonprofit cooperative association which is organized and operating pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, except as to that portion of activities which involves the handling or dealing in any farm product of any nonmember of such an association.

The term "farm products" as used in this chapter includes all agricultural, horticultural and viticultural and vegetable products of the soil, flaxseed and cottonseed, but shall not include timber, timber products, milk and milk products.

SEC. 2. Section 12799.3 of the Business and Professions Code is amended to read:

12799.3. In all cases where farm products are delivered to a processing establishment or sold to or purchased by agents, brokers, commission merchants, dealers, factors or processors on the basis of weight, such products shall be weighed by a weighmaster licensed under the provisions of this chapter. Where farm products are delivered but are not sold to a processing establishment and the processing charges are not based upon weight, a grower may request that such products be weighed by a licensed weighmaster prior to the processing of such products.

Such products shall be weighed, prior to processing, by a licensed weighmaster and the original certificate as to such weight issued by the weighmaster shall be delivered to the seller or owner by the weighmaster, agent, broker, commission merchant, dealer, factor or processor, and settlement for such products shall be based on the weight shown thereon. When the processing fees are based upon the weight of the finished product, the finished product shall be weighed by a licensed weighmaster and a second weight certificate shall be delivered to the seller or owner.

A grower whose product is delivered, but is not sold, to a processor for processing, may waive, in writing, his right to have his product weighed when the processing establishment is operated by a producer of farm products and the processing is incidental to the production of farm products. As used in this paragraph, "incidental" means that the income derived from the processing operation represents not more than 25 percent of the total income of the producer operating the processing establishment.

This section does not apply to any nonprofit cooperative association which is organized and operating pursuant to Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, except as to that portion of activities which involves the handling or dealing in any farm product of any nonmember of such an association.

The term "farm products" as used in this chapter includes all agricultural, horticultural and viticultural and vegetable products of

the soil, flaxseed and cottonseed, but shall not include timber, timber products, milk and milk products.

CHAPTER 887

An act to add and repeal Chapter 5 (commencing with Section 41701) to Division 16 of the Food and Agricultural Code, relating to fruit, nut, and vegetable standards, and making an appropriation therefor.

[Approved by Governor September 18, 1978. Filed with Secretary of State September 19, 1978.]

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

SECTION 1. Chapter 5 (commencing with Section 41701) is added to Division 16 of the Food and Agricultural Code, to read:

CHAPTER 5. STANDARDS FOR GARLIC AND ONIONS FOR DEHYDRATION

Article 1. Definitions

41701. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

41702. "Dehydrating garlic or onions" means garlic or onions which are suitable for dehydration purposes.

41703. "Dehydration purposes" means the commercial dehydration of garlic and onions.

Article 2. General Provisions

41711. The director shall initially adopt the American Dehydrated Onion and Garlic Association quality standards for garlic and onions suitable for dehydration purposes. Such standards shall be subject to subdivision (a) of Section 41865.

41712. Except as otherwise provided in Section 41713, quality standards which are established pursuant to this chapter are the only standards of quality for dehydrating garlic or onions. The provisions of any contract entered into on or after January 1, 1979, to sell dehydrating garlic or onions, or to deliver such garlic or onions on consignment, which prescribe other or different quality or maturity requirements, are ineffective, and in such contracts the quality standards which are prescribed pursuant to this chapter shall be implied by law.

41713. The quality standards which are established pursuant to this chapter shall be considered as a grade under Chapter 1 (commencing with Section 40501). If a marketing order is issued

pursuant to Chapter 1 (commencing with Section 58601) of Part 2 of Division 20, which established uniform grading and inspection for dehydrating garlic and onions, then and so long as it is effective, the provisions of such marketing order shall control and the provisions established by regulations are ineffective as to garlic or onions which are covered by such marketing order.

Article 3. Regulations

41721. The director by regulation may do all of the following:

(a) Prescribe methods of selecting samples of lots, loads, or containers of garlic and onions for dehydration purposes which shall be reasonably calculated to produce by such sampling fair representations of the entire lot, load, or container sampled.

(b) Prescribe the methods and procedures for determination of moisture content in deliveries of garlic or onions for dehydration purposes.

(c) Establish and record on the certificate items or conditions affecting lots, loads, or containers of garlic or onions for dehydration purposes, other than those defects established by regulation.

(d) Adopt and enforce such other regulations as are reasonably necessary for the enforcement of this chapter.

Article 4. Powers of the Director

41731. The director may, for the purpose of inspection, enter any place where garlic or onions for dehydration purposes may be found and take for inspection such representative samples as may be necessary to determine whether or not any uncertified lot or load of garlic or onions complies with the quality standards which are established pursuant to this chapter and the percentage of garlic or onions which are not suitable for dehydration purposes. The director may subject such samples of garlic or onions to any method of inspection or testing prescribed by regulation.

41732. The director may cause the prosecution of any person violating any provision of this chapter, and may seize and hold such portion of any lot or load of garlic or onions for dehydration purposes involved in such a violation, as may in the director's judgment be necessary as evidence.

Article 5. Weighing, Inspection, and Certification

41751. By mutual agreement between the grower and the dehydrator, deliveries of garlic or onion for dehydration purposes may be weighed by a certified weighmaster and issued a valid weight certificate in the area of production. Cost of weighing and transportation involved in moving such deliveries to and from the weigh station shall be shared equally by the grower and dehydrator. The weight shall be for the grower's information and shall not be in

lieu of any contractual provision between grower and dehydrator concerning delivered weights at the dehydrator's plant or receiving station.

41752. The director shall inspect all sale or contract deliveries of garlic or onions for dehydration purposes. Upon inspection of each such delivery the director shall issue a certificate which shows both of the following:

(a) The percentage of garlic or onions for dehydration purposes which conform to the quality standards prescribed pursuant to this chapter and are, thereby, suitable for dehydration purposes.

(b) The percentage of garlic or onions for dehydration purposes, separately, which does not conform to the quality standards prescribed pursuant to this chapter and are, thereby, not suitable for dehydration, and the percentage of all defects.

41753. The director may adopt regulations concerning the place of inspection and location of inspection stations after notice and public hearing. In adopting such regulations, the director shall consider all of the following:

(a) The proximity to the area of production.

(b) The distance to alternative inspection facilities or dehydrators.

(c) Any burden imposed upon growers, dehydrators, or the inspection service.

(d) Any equity which may be advanced between growers and dehydrators.

Until such time as the director does adopt regulations concerning the location of inspection stations, except as otherwise provided in Sections 41754, 41755, and 41756, inspection shall be performed at the dehydrator or at a receiving station which is established or designated by the operator of the dehydrator.

41754. The director may review the operation of any inspection station which is not located at a dehydrator during a period beginning November 1st of any year and ending not less than 30 days before the date inspection began at such station in the preceding year and, if the director determines that the interest and economy and efficient operation of the inspection service would be served, the director may, with the consent of each operator of a dehydrator that is involved, terminate inspection at such place.

41755. If the operators of dehydrators do not consent to such termination prior to the date which is set forth in Section 41754, the director may hold a hearing to consider the termination of inspection at such place. At the hearing testimony of the operators of dehydrators and growers that use such station shall be heard.

41756. The director may announce to all of the parties of record, that will be affected by such action, that inspection is terminated for the ensuing season at an inspection station which is not located at a dehydrator if the director makes all of the following findings:

(a) Termination of inspection at such station will satisfactorily accomplish the objectives of the inspection service and tend to provide economical and efficient operation.

(b) No unreasonable burden will be imposed upon dehydrators or growers.

(c) Garlic or onions which are normally inspected at such station will not have to be hauled an unreasonable distance to be inspected at another point.

41757. The director is not required to perform inspection at any place where adequate inspection facilities are not provided.

41758. The inspection certificate which is issued pursuant to this chapter is prima facie evidence of the percentage of defects according to the definition of such defects in this chapter or in the regulations adopted pursuant to this chapter. The presumption established by this section is a presumption affecting the burden of proof, but it does not apply in a criminal action.

Article 6. Fees

41801. The director shall adopt a schedule of uniform fees to defray the cost of the inspection and of the certification which are required by Article 4 (commencing with Section 41731).

41802. Each operator of a dehydrator that receives deliveries of garlic or onions for dehydration purposes is hereby designated as the authorized agent of the director to collect the inspection and certification fees which are chargeable to such dehydrator and to each grower that delivers such garlic or onions.

41803. The cost of such inspection shall be borne equally by both the operator of a dehydrator and the grower.

41804. Any money which is collected pursuant to the provisions of this article shall be remitted to the director weekly during the garlic and onions dehydration season for deposit into the Department of Agriculture Fund to be used in carrying out the purposes of this chapter.

41805. Except as provided in this article, any money which is so collected and not used for the purposes of this chapter shall be returned to the operators of dehydrators from whom it was received for distribution to the operators of dehydrators and growers from whom the money was originally collected, in proportion to their several interests.

41806. If the director determines, as to any such money heretofore or hereafter collected as inspection and certification fees, that the return of the money with respect to any dehydration season is impracticable because of the smallness of the amounts returnable, or for any other reason, the money so collected shall not be so returned but shall remain in the Department of Agriculture Fund and be available for expenditure for the purposes of this chapter in any subsequent year.

Article 7. Violations

41831. It is unlawful for any person to make delivery or for any person to accept delivery of garlic or onions for dehydration purposes, or to process any garlic or onions, which have not first been inspected and certified as provided in Article 4 (commencing with Section 41731) and Article 5 (commencing with Section 41751).

41832. Until each such shipment or delivery of garlic or onions for dehydration purposes has been weighed and samples have been taken for inspection purposes in accordance with regulations adopted pursuant to this chapter, it shall be unlawful for any person to transfer garlic or onions from one lot, load, or container to another, unless each such lot, load, or container is owned by the same grower.

Article 8. Garlic and Onion Dehydrator Advisory Committee

41861. As used in this article, "committee" means the Garlic and Onion Dehydrator Advisory Committee.

41862. There is in the department the Garlic and Onion Dehydrator Advisory Committee, which consists of 11 members. The director shall appoint five members who shall be growers of garlic or onions for dehydrating, five members who shall be representatives of handlers engaged in the dehydrating of garlic or onions, and one public member who has no direct economic interest in the growing or dehydrating of garlic or onions.

41863. In making his selection of the membership of the committee, the director shall take into consideration the recommendations of organizations and associations of producers of garlic and onions for dehydrating and of handlers of garlic or onions for dehydrating.

41864. The term of office of the members of the committee is three years. Appointment of the first members of the committee shall be so made that the terms of office of three of such members, of which one shall be a public member, shall expire at the end of one year, four at the end of two years, and four at the end of three years. Thereafter appointments shall be for full three-year terms. Any vacancies which occur during an unexpired term shall be filled by appointment for the unexpired term.

41865. The committee shall be advisory to the director on all matters pertaining to quality standards for garlic and onions for dehydrating purposes. The committee may do any of the following:

(a) Recommend to the director the adoption or amendment of the quality standards for garlic or onions suitable for dehydration purposes.

(b) Recommend to the director administrative regulations which relate to methods and procedures of selecting samples of lots, loads or containers of garlic or onions for dehydrating purposes.

(c) Recommend to the director administrative regulations which relate to the methods and procedures for the determination of

moisture content in deliveries of garlic or onions for dehydration purposes.

(d) Recommend to the director administrative regulations which relate to the administration and enforcement of this chapter.

(e) Recommend to the director administrative regulations concerning the place of inspection and location of inspection stations.

(f) Recommend to the director the institution and promotion of scientific research.

(g) Recommend to the director whether or not there shall be sampling and inspection for conditions not shown on the certificate of inspection for dehydrated garlic or onions.

(h) Advise the director on all matters pertaining to this chapter including the annual budget and revenue necessary to accomplish the purposes of this chapter.

41866. The committee shall meet at the call of its chairperson or at the request to the director of any three members of the committee. It shall meet at least once each year.

Article 9. Termination

41871. This chapter shall remain in effect only until January 1, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the 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 888

An act to amend Section 739 of the Public Utilities Code, relating to utility rates.

[Approved by Governor September 18, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the

minimum energy needs of the average residential user for the following end uses: space and water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season.

(b) The commission shall also develop a schedule which designates a lifeline volume of gas and a lifeline quantity of electricity necessary to supply the minimum energy needs of customers dependent on life support equipment including, but not limited to, emphysema and pulmonary patients. A customer dependent on life support equipment shall be given a higher energy allocation than the average residential user in accordance with the type of equipment that he or she uses. Consideration shall be given to the energy requirements of the specific type of equipment used and the frequency and duration of its usage.

"Life support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life support equipment", as used in this subdivision, includes the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

The schedule shall also include a higher lifeline energy allocation for paraplegic and quadriplegic persons than for the average residential user, in consideration of the increased heating needs of these persons.

(c) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing lifeline rates. The lifeline rates shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rates until the average system rate in cents per kilowatt-hour or cents per therm has increased 25 percent or more over the January 1, 1976, level.

(d) Nothing shall preclude the commission from reducing any rate established pursuant to subdivision (a) or (b) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(e) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every other category of end use other than wholesale.

(f) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(g) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules

for the purpose of achieving energy conservation.

SEC. 2. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space heating and cooling, water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season.

(b) The commission shall also develop a schedule which designates a lifeline volume of gas and a lifeline quantity of electricity necessary to supply the minimum energy needs of customers dependent on life support equipment including, but not limited to, emphysema and pulmonary patients. A customer dependent on life support equipment shall be given a higher energy allocation than the average residential user in accordance with the type of equipment that he or she uses. Consideration shall be given to the energy requirements of the specific type of equipment used and the frequency and duration of its usage.

"Life support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life support equipment", as used in this subdivision, includes the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

The schedule shall also include a higher lifeline energy allocation for paraplegic and quadriplegic persons than for the average residential user, in consideration of the increased heating needs of these persons.

(c) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing lifeline rates. The lifeline rates shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rates until the average system rate in cents per kilowatt-hour or cents per therm has increased 25 percent or more over the January 1, 1976, level.

(d) Nothing shall preclude the commission from reducing any rate established pursuant to subdivision (a) or (b) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(e) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every

other category of end use other than wholesale.

(f) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(g) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules for the purpose of achieving energy conservation.

SEC. 3. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space and water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season.

(b) The commission shall also develop a schedule which designates a lifeline volume of gas and a lifeline quantity of electricity necessary to supply the minimum energy needs of customers dependent on life support equipment including, but not limited to, emphysema and pulmonary patients. A customer dependent on life support equipment shall be given a higher energy allocation than the average residential user in accordance with the type of equipment that he or she uses. Consideration shall be given to the energy requirements of the specific type of equipment used and the frequency and duration of its usage.

"Life support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life support equipment", as used in this subdivision, includes the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

The schedule shall also include a higher lifeline energy allocation for paraplegic and quadriplegic persons than for the average residential user, in consideration of the increased heating needs of these persons.

(c) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing lifeline rates. The lifeline rates shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rates until the average system rate in cents per kilowatt-hour or cents per therm has increased 25 percent or more over the January 1, 1976, level.

(d) Nothing shall preclude the commission from reducing any

rate established pursuant to subdivision (a) or (b) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(e) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every other category of end use other than wholesale, except that it shall include all living units in facilities providing housing for the aged and licensed as community care facilities under the provisions of the California Community Care Facilities Act, Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(f) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(g) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules for the purpose of achieving energy conservation.

SEC. 4. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space heating and cooling, water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season.

(b) The commission shall also develop a schedule which designates a lifeline volume of gas and a lifeline quantity of electricity necessary to supply the minimum energy needs of customers dependent on life support equipment including, but not limited to, emphysema and pulmonary patients. A customer dependent on life support equipment shall be given a higher energy allocation than the average residential user in accordance with the type of equipment that he or she uses. Consideration shall be given to the energy requirements of the specific type of equipment used and the frequency and duration of its usage.

"Life support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life support equipment", as used in this subdivision, includes the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

The schedule shall also include a higher lifeline energy allocation for paraplegic and quadriplegic persons than for the average residential user, in consideration of the increased heating needs of

these persons.

(c) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing lifeline rates. The lifeline rates shall be not greater than the rates in effect on January 1, 1976. The commission shall authorize no increase in the lifeline rates until the average system rate in cents per kilowatt-hour or cents per therm has increased 25 percent or more over the January 1, 1976, level.

(d) Nothing shall preclude the commission from reducing any rate established pursuant to subdivision (a) or (b) either specifically or pursuant to any general restructuring of all electrical or gas rates, charges, and classifications.

(e) As used in this section, the term "residential" means domestic human needs end use and excludes industrial, commercial, and every other category of end use other than wholesale, except that it shall include all living units in facilities providing housing for the aged and licensed as community care facilities under the provisions of the California Community Care Facilities Act, Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(f) Wholesale electrical or gas purchases and the rates charged therefor shall be exempt from the provisions of this section.

(g) Nothing contained in this section shall be construed to prohibit experimentation with alternative electrical rate schedules for the purpose of achieving energy conservation.

SEC. 5. It is the intent of the Legislature that if this bill and Assembly Bill No. 2273 or Assembly Bill No. 2503, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 739 of the Public Utilities 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. 2273 are both chaptered and become effective January 1, 1979, both bills amend Section 739 of the Public Utilities Code, but Assembly Bill No. 2503 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2273, the amendments proposed by both bills shall be given effect and incorporated in Section 739 in the form set forth in Section 2 of this act. Therefore, if this bill and Assembly Bill No. 2273 are both chaptered and become effective January 1, 1979, both bills amend Section 739, this bill is chaptered after Assembly Bill No. 2273, and Assembly Bill No. 2503 is not chaptered or as chaptered does not amend that section, Section 2 of this act shall be operative and Sections 1, 3, and 4 of this act shall not become operative.

(2) If this bill and Assembly Bill No. 2503 are both chaptered and become effective January 1, 1979, both bills amend Section 739 of the Public Utilities Code, but Assembly Bill No. 2273 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2503, the amendments proposed by both bills shall be given effect and incorporated in Section 739 in the form set forth in Section 3 of this act. Therefore, if this bill and Assembly Bill

No. 2503 are both chaptered and become effective January 1, 1979, both bills amend Section 739, this bill is chaptered after Assembly Bill No. 2503, and Assembly Bill No. 2273 is not chaptered or as chaptered does not amend that section, Section 3 shall be operative and Sections 1, 2, and 4 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 2273 and Assembly Bill No. 2503 are all chaptered and become effective January 1, 1979, all three bills amend Section 739 of the Public Utilities Code, and this bill is chaptered after Assembly Bill No. 2273 and Assembly Bill No. 2503, the amendments proposed by all three bills shall be given effect and incorporated in Section 739 in the form set forth in Section 4 of this act. Therefore, if this bill and Assembly Bill No. 2273 and Assembly Bill No. 2503 are all chaptered and become effective January 1, 1979, all three bills amend Section 739 of the Public Utilities Code, and this bill is chaptered after Assembly Bill No. 2273 and Assembly Bill No. 2503, Section 4 of this act shall be operative and Sections 1, 2, and 3 of this act shall not become operative.

CHAPTER 889

An act to add Article 8 (commencing with Section 1567) to Chapter 3 of Division 2 of the Health and Safety Code, relating to community care facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Article 8 (commencing with Section 1567) is added to Chapter 3 of Division 2 of the Health and Safety Code, to read:

Article 8. Community Care Facilities for Wards of the Juvenile Court

1567. It is the intent of the Legislature that each county be encouraged to provide, in the county, a number and variety of licensed community care facilities, as defined in Sections 1502 and 1503 of the Health and Safety Code, commensurate to the needs of minors adjudged wards of the juvenile court pursuant to Section 601 or 602 of the Welfare and Institutions Code, hereinafter in this article referred to as wards of the juvenile court, who are residents of the county.

1567.1. It is further the intent of the Legislature that, where city or county zoning restrictions unreasonably impair the ability of a county to serve the needs of its residents who are wards of the juvenile court, the removal of these restrictions is hereby

encouraged and is a matter of high state interest.

1567.2. As used in this article, the term "wards of the juvenile court" shall include minors who have been found by the juvenile court to be described by Section 601 or 602 of the Welfare and Institutions Code, as well as minors who are described by Section 601 or 602 of the Welfare and Institutions Code who have been diverted from formal juvenile court proceedings. It is further the intent of the Legislature to encourage that wards of the juvenile court be placed in licensed community care facilities within their county of residence, unless an individual ward has identifiable needs requiring specialized care which cannot be provided in a local facility, or unless the needs of the individual ward dictate physical separation from his family.

1567.3. The Department of the Youth Authority shall conduct a study of the placement of wards of the juvenile court in community care facilities. The study shall include but not be limited to the number and type of community care facilities currently accepting wards of the juvenile court for placement, the number and type of wards of the juvenile court currently residing in community care facilities, the number of wards of the juvenile court who are residents of the county, and who are placed in a licensed community care facility located outside of the county, the location of the out-of-county facility in which the ward has been placed and the reasons therefor, the public agencies licensing the facilities, the extent to which community care facilities are located in close proximity to other community care facilities that accept wards of the juvenile court, the types of care needed by wards, and the suitability of available facilities located in each county for meeting such needs of wards.

Notwithstanding this section, the Legislature does not intend with this act to establish a specific precedent for statewide legislation mandating a minimum distance between community care facilities for wards of the juvenile court.

The department shall report its findings and recommendations to the Legislature by August 31, 1979.

1567.4. The Department of Social Services shall provide, at cost, annually to each county and to each city, a roster of all licensed community care facilities located in the county, which provide services to wards of the juvenile court, including information as to whether each facility is licensed by the state or the county, the type of resident served, and the licensed bed capacity of each such facility.

1567.5. A license for a proposed community care facility for wards of the juvenile court shall be denied if the proposed facility is located within 300 feet, measured from property boundary line to property boundary line, of an existing community care facility for wards of the juvenile court. The county or any city in the county may adopt an ordinance requiring the distance between its respective property boundary lines of facilities for wards of the juvenile court to be greater than 300 feet, but, in no case, more than one mile, if such a

standard is more appropriate to local conditions; provided, that the required distance shall be uniform for all residential zones in the city or county; and, provided further, that the required distance does not impair the ability of the city or county to provide a number and variety of licensed facilities commensurate to the needs of wards of the juvenile court who are residents of the county. The county or any city in the county may require the local planning director to make a finding, as a precondition of licensure, as to whether the location of the proposed facility would be in violation of this section or of the distance standard in the local ordinance adopted under this section. The application for city or county planning approval shall be deemed approved if no action is taken within 60 days after the application is filed with the local planning director. Each city and each county shall notify the State Department of Social Services of the approval or disapproval of each application pursuant to this section.

This section applies only to Los Angeles, Santa Clara, and Riverside counties.

This section shall remain in effect only for two years from its effective date and on such date is repealed.

1567.6. The governing body of the county or of any city in the county may require that existing licensed community care facilities for wards of the juvenile court which have not already obtained local zoning approval, obtain approval from the local planning director within one year from the effective date of this section.

(a) Local zoning approval may be denied where the governing body finds that:

(1) The applying facility is located within 300 feet, measured from property boundary line to property boundary line, of another existing community care facility for wards of the juvenile court; and

(2) The presence of the applying facility at its present location has resulted in the surrounding neighborhood having to sustain a disproportionate and unreasonable level of vandalism, violence, or other acts of disruption

(b) The State Department of Social Services, county probation departments, and local law enforcement agencies shall make their records available to, and shall make reasonable efforts to assist, the agents or representatives of the local planning director who is seeking to determine whether the presence of an existing facility at its present location has resulted in the surrounding neighborhood having to sustain a disproportionate and unreasonable level of vandalism, violence, or other acts of disruption.

(c) The county and any city may adopt an ordinance requiring the distance between the respective boundary lines of community care facilities for wards of the juvenile court to be greater than 300 feet, but in no case more than one mile, if such a standard is more appropriate to local conditions, provided that the following conditions are met:

(1) The required distance shall be uniform for all residential zones in the county or the city; and

(2) The required distance does not unreasonably impair the ability of the city or county to provide a number and variety of licensed community care facilities commensurate to the needs of wards of the juvenile court who originate from the county.

(d) The application for city or county planning approval shall be deemed approved if no action is taken during the period of one year after the effective date of this section.

(e) A decision to deny local zoning approval for an existing facility may be challenged through the routine permit appeals process of the county or city.

This section applies only to Los Angeles, Santa Clara, and Riverside counties.

This section shall remain in effect only for two years from its effective date and on such date is repealed.

1567.7. This article shall not apply to existing community care facilities for wards of the juvenile court which have received city or county zoning approval prior to the effective date of this article.

1567.8. A community care facility for wards of the juvenile court, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other single family dwellings are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1567.9, local bond assessments, and other fees, charges, and assessments to which other single family dwellings are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to community care facilities for wards of the juvenile court which serve six or fewer persons.

1567.9. Whether or not unrelated persons are living together, a community care facility for wards of the juvenile court which serves six or fewer persons shall be considered a residential use of property for the purposes of all local zoning ordinances. The residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property.

For the purpose of all local ordinances, a community care facility for wards of the juvenile court which serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the residential facility is a business run for profit or differs in any other way from a single family residence.

The provisions of this section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a community care facility for wards of the juvenile court which serves

six or fewer persons, as long as such restrictions are identical to those applied to other single family residences.

The provisions of this section shall not be construed to forbid the application to a community care facility for wards of the juvenile court of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity; provided, that such ordinance does not distinguish community care facilities for wards of the juvenile court which serve six or fewer persons from other single family dwellings; and, provided further, that such ordinance does not distinguish residents of such community care facilities for wards of the juvenile court from persons who reside in other single family dwellings.

A local ordinance which distinguishes or has the effect of distinguishing community care facilities for wards of the juvenile court which serve six or fewer persons from other single family dwellings shall be void and of no effect, as applied to such facilities.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a community care facility for wards of the juvenile court which serves six or fewer persons which is not required of a single family residence in the same zone, except as provided in Sections 1567.5 and 1567.6.

This section applies only to Los Angeles, Santa Clara, and Riverside counties.

This section shall remain in effect only for two years from its effective date and on such date is repealed.

SEC. 2. The sum of sixty-two thousand two hundred dollars ($62,200) is hereby appropriated from the General Fund to the Department of the Youth Authority to carry out the study prescribed by Section 1567.3 of the Health and Safety Code, as enacted by this act.

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

SEC. 4. The Legislature hereby finds and declares that there exist only in Los Angeles County, Santa Clara County, and Riverside County serious impaction problems involving community care facilities for wards of the juvenile courts that could not be resolved by legislation of statewide application but only by the special legislation embodied in this act.

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

In order to relieve the overconcentration of community care

facilities serving wards of the juvenile court in certain communities, and to ensure that each community bears a fair share of the responsibility for providing appropriate community care facilities for wards of the juvenile court who are residents of the county, it is necessary that this bill go into effect immediately.

CHAPTER 890

An act to amend Sections 42907 and 42950 of, to repeal Chapter 12 (commencing with Section 42950) of Part 24 of, and to repeal and add Section 42951 of, the Education Code, relating to special education programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 19, 1978]

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

SECTION 1. The Legislature hereby finds and declares: that educational programs should be designed and provided on the basis of individual pupil needs; that identification of pupils within the school system because they are nonimmigrants or noncitizens without immigration status is not only irrelevant but is socially harmful; and that current statutory authority to levy countywide taxes based on the numbers of such pupils is an unfair burden on local taxpayers.

It is the intent of the Legislature in enacting this act to eliminate identification of nonimmigrant, noncitizen pupils and to eliminate an unfair countywide tax.

SEC. 2. Section 42907 of the Education Code is amended to read:

42907. The district maintaining such school or classes pursuant to Section 42902 shall forward its claim on forms prescribed by the Superintendent of Public Instruction not later than the 15th day of July of each year to the county superintendent of schools of the county, or city and county, wherein the district is located. The county superintendent shall determine if pupils for whom costs are claimed pursuant to subdivisions (b) and (c) of Section 42904 were actually enrolled in the special programs. The county superintendent shall certify and present the claim to the county superintendent of the county, or city and county, of the pupil's residence.

SEC. 2.5. Section 42950 of the Education Code is amended to read:

42950. Any school district that provided education in kindergarten or grades 1 to 12, inclusive, for nonimmigrant children or noncitizen children without immigration status during the 1976–77 school year may increase its revenue limits by an amount per average daily attendance not to exceed the reimbursement received

under a countywide tax levied for the local share of the revenue limit and for the excess cost of providing special programs for such children pursuant to statutes that existed in this code during the 1976–77 school year.

SEC. 3. Section 42951 of the Education Code is repealed.

SEC. 4. Section 42951 is added to the Education Code, to read:

42951. This chapter 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. 5. For the purposes of paragraph (2) of subdivision (b) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, the amount of revenues determined pursuant to Section 2501 of the Education Code shall exclude that portion of revenue in fiscal year 1977–78 levied pursuant to Section 42909 to pay claims prescribed by former Section 42900, as it read prior to July 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 to repeal at the earliest possible time provisions operative July 1, 1978, which provide for the identification of nonimmigrant, noncitizen pupils and for a related unfair countywide tax, it is essential that this act take immediate effect.

CHAPTER 891

An act to amend Section 1502 of, to add Section 1520.5 to, and to add Article 7 (commencing with Section 1566) to Chapter 3 of Division 2 of, the Health and Safety Code, and to amend Sections 5115 and 5116 of the Welfare and Institutions Code, relating to residential care facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 19, 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. As used in this chapter:

(a) "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" which 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" which 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" which 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" which 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.

(5) "Foster family home" which means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 2. Section 1520.5 is added to the Health and Safety Code, to read:

1520.5. (a) The Legislature hereby declares it to be the policy of the state to prevent overconcentrations of residential care facilities which impair the integrity of residential neighborhoods. Therefore, the director shall deny an application for a new residential care facility license if the director determines that the location is in such proximity to an existing residential care facility as would result in overconcentration.

(b) As used in this section, "overconcentration" means that if a new license is issued, there will be residential care facilities which are separated by a distance of 300 feet or less, as measured from any point upon the outside walls of the structures housing such facilities. Based on special local needs and conditions, the director may approve a separation distance of less than 300 feet with the approval of the city or county in which the proposed facility will be located.

(c) At least 45 days prior to approving any application for a new residential care facility, the director, or county licensing agency, shall notify, in writing, the city or county planning authority in which the facility will be located, of the proposed location of the facility.

(d) Any city or county may request denial of the license applied for on the basis of overconcentration of residential care facilities.

(e) Nothing in this section authorizes the director, on the basis of overconcentration, to refuse to renew a residential care facility license or to refuse to grant a license upon a change of ownership of an existing residential care facility where there is no change in the location of the facility.

(f) Foster family homes and residential care facilities for the elderly shall not be considered in determining overconcentration of residential care facilities, and license applications for such facilities shall not be denied upon the basis of overconcentration.

(g) Within six months of the effective date of this section, the State Department of Developmental Services and the State Department of Mental Health shall jointly develop and implement a statewide program for encouraging the establishment of sufficient numbers and types of living arrangements, both in communities and state hospitals, as necessary to meet the needs of persons served by those departments. The departments shall consult with the following organizations in the development of procedures pursuant to this section:

(1) The League of California Cities, County Supervisors Association of California, and representatives of other local agencies.

(2) Organizations or advocates for clients receiving services in residential care services.

(3) Providers of residential care services.

Each department shall also prepare and transmit to the Legislature on or before March 31 of each year, commencing in 1980, an annual report detailing obstacles to assuring sufficient numbers of living arrangements for persons served by each department, detailing obstacles to providing an adequate quality of care and services to persons served by each department who reside in residential facilities, and containing appropriate recommendations for legislative action.

SEC. 3. Article 7 (commencing with Section 1566) is added to Chapter 3 of Division 2 of the Health and Safety Code, to read:

Article 7. Local Regulation

1566. The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers and types of residential care facilities as are commensurate with local need.

The provisions of this article shall apply equally to any chartered city, general law city, county, city and county, district, and any other local public entity.

For the purposes of this article, "six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

1566.1. Any person licensed under the provisions of this chapter who operates, or proposes to operate a residential facility, the department or other public agency authorized to license such a

facility, or any public or private agency which uses or may use the services of the facility to place its clients, may invoke the provisions of this article.

This section shall not be construed to prohibit any interested party from bringing suit to invoke the provisions of this article.

1566.2. A residential facility, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other single family dwellings are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1566.3, local bond assessments, and other fees, charges, and assessments to which other single family dwellings are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential facilities which serve six or fewer persons.

1566.3. Whether or not unrelated persons are living together, a residential facility which serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

For the purpose of all local ordinances, a residential facility which serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the residential facility is a business run for profit or differs in any other way from a single family residence.

The provisions of this section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential facility which serves six or fewer persons as long as such restrictions are identical to those applied to other single family residences.

The provisions of this section shall not be construed to forbid the application to a residential facility of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity; provided, that such ordinance does not distinguish residential facilities which serve six or fewer persons from other single family dwellings; and provided further, that such ordinance does not distinguish residents of such residential facilities from persons who reside in other single family dwellings.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required of a single family residence

in the same zone.

Use of a single family dwelling for purposes of a residential facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent such sections are applicable to residential facilities providing care for six or fewer residents.

1566.4. No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential facility because of a failure to comply with local ordinances from which such facilities are exempt under Section 1566.3, provided that the applicant otherwise qualifies for such fire clearance, license, permit, or similar authorization.

1566.5. For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

1566.6. The department shall annually prepare, with a quarterly update commencing July 1, 1979, specifying newly licensed facilities, a list or lists of all licensed community care facilities in the state, other than foster family homes, which shall include the information required by Section 1536 and shall additionally specify as to each such facility the licensed capacity of the facility and whether it is licensed by the state department or by another public agency pursuant to Section 1511. Compliance with this section shall also constitute compliance with Section 1536.

SEC. 4. Section 5115 of the Welfare and Institutions Code is amended to read:

5115. The Legislature hereby finds and declares:

(a) It is the policy of this state, as declared and established in this section and in the Lanterman Developmental Disabilities Services Act, Division 4.5 (commencing with Section 4500), that mentally and physically handicapped persons are entitled to live in normal residential surroundings and should not be excluded therefrom because of their disability.

(b) In order to achieve uniform statewide implementation of the policies of this section and those of the Lanterman Developmental Disabilities Services Act, it is necessary to establish the statewide policy that the use of property for the care of six or fewer mentally disordered or otherwise handicapped persons is a residential use of such property for the purposes of zoning

SEC. 5. Section 5116 of the Welfare and Institutions Code is amended to read:

5116. Pursuant to the policy stated in Section 5115, a state-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer mentally disordered or otherwise handicapped persons or dependent and neglected

children, shall be considered a residential use of property for the purposes of zoning if such homes provide care on a 24-hour-a-day basis.

Such homes shall be a permitted use in all residential zones, including, but not limited to, residential zones for single-family dwellings.

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 duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

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 assure that an adequate number of community care facilities is available to serve the needs of the mentally and developmentally disabled in need of such services in each county in the state, and to relieve the overconcentration of facilities serving such persons in certain communities, it is necessary that this bill go into effect immediately.

CHAPTER 892

An act to repeal and add and repeal Article 2.1 (commencing with Section 275) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, and to repeal Section 5 of Chapter 405 of the Statutes of 1977, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 19, 1978]

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

SECTION 1. Article 2.1 (commencing with Section 275) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code is repealed.

SEC. 2. Article 2.1 (commencing with Section 275) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 2.1. Infant Medical Dispatch Centers

275. The Legislature finds that intensive care nurseries for at-risk infants are often at capacity. It further finds that serious delays can

occur in placing critically ill newborn infants in intensive care nurseries due to calls being placed to many hospitals. Additionally, valuable staff time is often taken by a capacity nursery in attempting to find another nursery with an available bed. It is further found that, due to the lack of a centralized dispatch system, at-risk infants are often not placed in the intensive care nursery nearest their homes.

Therefore, the Legislature finds that in order to protect the health of critically ill newborn children and to more efficiently utilize space and staff in intensive care nurseries it is necessary to establish 24-hour-a-day, year-round medical dispatch centers linking all hospitals providing obstetrical services with intensive care nurseries.

276. The state department shall establish two dispatch centers, each to be located at a hospital containing an intensive care nursery that has been approved by the state department.

276.5. One of the centers established pursuant to Section 276 shall be located to serve the region of the state north of the Tehachapi Mountains, and one of the centers shall be located to serve the region south of the Tehachapi Mountains.

277. The centers shall locate bedspace for critically ill newborn infants nearest their homes, locate and dispatch transport for such infants and for appropriate medical personnel, advise the obstetrical nursery regarding maintenance care of the infant until transport is effected, and keep a daily record of the availability of bedspace in all intensive care nurseries.

Nothing in this article shall obligate the state for transport costs other than those already authorized by law.

278. Funds appropriated to carry out the purposes of this article shall be used for leasing or purchasing communication equipment or time; hiring, training, or contracting for personnel and administration of the centers; and for providing a central standardized data base by the Perinatal Health Unit of the state department to obtain statistical information for evaluating the functions of the centers and reporting thereon.

279. Public and private nonprofit health facilities, organizations, and educational institutions are eligible to receive center funds under this article.

280. The State Department of Health Services shall submit a report on the status of the centralized data base for this project to the Joint Legislative Budget Committee and to the appropriate policy and fiscal committees of each house of the Legislature on or before November 1, 1978. The report shall indicate the data base that the state department is using to evaluate the project, how the data is being processed, and any proposed changes to such data base necessary to meet the goals prescribed in Section 277.

The Legislative Analyst shall submit to the Legislature an evaluation of the centers on or before March 1, 1979.

280.5. This article 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 5 of Chapter 405 of the Statutes of 1977 is repealed.

SEC. 4. The following sums are hereby appropriated from the General Fund to the State Department of Health Services in accordance with the following schedule:

(a) For purposes of Article 2.1 (commencing with Section 275) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, as follows:

(1) To the Northern California Infant Medical Dispatch Center	$83,000
(2) To the Southern California Infant Medical Dispatch Center	95,000
(3) To the Department of Health Perinatal Health Unit, or its successor, for providing a central standardized data base to obtain statistical information for evaluating the functions of the infant medical dispatch centers and reporting thereon, pursuant to Section 278 of the Health and Safety Code	106,000
(b) For purposes of conducting a study of the relationship between infant botulism and Sudden Infant Death Syndrome	$25,000

In addition, fifteen thousand dollars ($15,000) of federal money made available to California for biomedical research shall be allocated for the purposes of conducting the study specified in subdivision (b).

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 for infant medical dispatch centers to continue to provide services essential to the public health, and in order to make available without delay money required for the conducting of a study of the relationship between infant botulism and Sudden Infant Death Syndrome to find the causes of these health problems at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 893

An act to amend Sections 1624, 41718.5, 41840, 41841, 42238, 42239, 42241.3, 42610, 42842, 51215, 51217, 52001, 52012, 52022, 52045, 52049, 54001, 54021, 56038, and 60246 of, to amend and renumber the heading of Article 4 (commencing with Section 52045) of Chapter 6 of Part 28 of, to add Sections 37062.5, 41718.6, 41718.7, 42604, and 84727 to, to repeal Section 51226 of, the Education Code, and to amend

Section 87 of Chapter 894 of the Statutes of 1977, relating to financial support for the public schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 19, 1978]

I am deleting the $1.2 million appropriation contained in SECTION 33 of Assembly Bill No 2043 I am also deleting the language contained in SECTION 28 of the bill Funding for this program has already been included in the $2 billion appropriation contained in Senate Bill No 154 Furthermore, the language contained in SECTION 28 would provide for an unjustified increase in state school support

With these deletions, I approve Assembly Bill No 2043

EDMUND G. BROWN JR , Governor

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

SECTION 1. It is the intent of the Legislature to assure an orderly transition from the existing system of school financing to that mandated by the tax limitation-initiative constitutional amendment approved by the electorate on June 6, 1978. Therefore, it is necessary that this legislation be enacted to provide flexibility to school districts permitting use of available funds for critical needs. In addition, this legislation accounts for the effect of reduced levels of available local revenues in allocating funds for local education programs under existing statutorily determined formulas.

SEC. 2. Section 1624 of the Education Code is amended to read:

1624. On or before August 15, the county board of education shall file with the board of supervisors a certified statement showing the amount of money to be raised by a county tax for purposes of this chapter. The board of supervisors shall fix a rate for the county tax sufficient to produce the amount specified in the statement and shall, at the time of levying other county taxes, levy the tax so fixed.

The proceeds of the tax levied pursuant to this section shall be credited to the single county school service fund of the county and any expenses of the county superintendent of schools, the county board of education, and the county committee on school district organization required by any sections of this code shall be paid from the money in the single county school service fund.

SEC. 3. Section 37062.5 is added to the Education Code, to read:

37062.5. For the 1978–79 fiscal year, in addition to the tuition limit computed pursuant to Section 37062, an elementary school district with pupils attending a junior high school maintained by a high school district may pay an amount to the high school which represents the pro rated revenue limit adjustment pursuant to Section 42239 attributable to the decline of enrollment of 7th and 8th graders attending junior high school.

For the 1979–80 fiscal year and all subsequent years, such an elementary school district shall, in addition to the tuition limit computed pursuant to Section 37062, pay an amount to the high school district which represents the pro rata revenue limit adjustment pursuant to Section 42239 attributable to the decline of

enrollment of 7th and 8th graders attending junior high school.

SEC. 4. Section 41718.5 of the Education Code is amended to read:

41718.5. For the 1977–78 fiscal year the Superintendent of Public Instruction shall apportion to each school district which during the 1976–77 fiscal year had a base revenue limit equal to or less than 120 percent of the foundation program for the 1976–77 fiscal year and which during the 1977–78 fiscal year receives equalization aid pursuant to Section 41810 or Section 41811, or would have received equalization aid had it not been subject to the areawide foundation program pursuant to the provisions of Section 41750, an amount computed as follows:

(a) Multiply the factor computed pursuant to subdivision (b) of Section 42238 by forty-five dollars ($45).

(b) Multiply the product computed pursuant to subdivision (a) by the foundation program average daily attendance of the year.

For districts which have a revenue limit in excess of 120 percent of the 1976–77 foundation program the amount in subdivision (a) shall be three dollars ($3), and such computed amounts shall be apportioned to such districts.

The amount computed pursuant to this section shall be apportioned during the 1977–78 fiscal year as if it were part of the first and second principal apportionments.

For the purposes of subdivision (d) of Section 37062 and Sections 46617.5 and 52321, the allowance per unit of average daily attendance pursuant to this section shall be considered as an increase in the revenue limit.

Notwithstanding any other provision of the law to the contrary school district governing boards may budget and expend funds apportioned pursuant to this section during the 1977–78 fiscal year.

SEC. 5. Section 41718.6 is added to the Education Code, to read:

41718.6. (a) For the purpose of computing school district revenue limits pursuant to Section 42238 for the 1978–79 fiscal year, the county superintendent of schools shall recompute school district revenue limits for the 1977–78 fiscal year pursuant to this section.

(b) For school districts which have a 1976–77 revenue limit computed pursuant to Section 42238 equal to or less than 120 percent of the 1976–77 fiscal year foundation program for the appropriate type of district, the 1977–78 fiscal year revenue limit shall be recomputed utilizing one hundred twenty dollars ($120) as the 1977–78 fiscal year foundation program increase. The 1978–79 fiscal year revenue limit shall be computed utilizing one hundred nine dollars ($109) as the 1978–79 fiscal year foundation program increase.

(c) For school districts which have a 1976–77 fiscal year revenue limit computed pursuant to Section 42238 which is more than 120 percent of the 1976–77 fiscal year foundation program for the appropriate type of district, the 1977–78 fiscal year revenue limit shall be recomputed utilizing the amount prescribed in paragraph (2) of subdivision (d) of Section 42238 as the inflation adjustment.

If the 1977–78 fiscal year recomputed revenue limit is more than 120 percent of the sum of the 1976–77 foundation program for the appropriate type of district plus one hundred twenty dollars ($120), the 1978–79 fiscal year revenue limit shall also be computed utilizing the amount prescribed in paragraph (2) of subdivision (d) of Section 42238 as the inflation adjustment. If the 1977–78 fiscal year recomputed revenue limit is less than 120 percent of the sum of the 1976–77 foundation program for the appropriate type of district plus one hundred twenty dollars ($120), the 1978–79 fiscal year revenue limit shall be computed utilizing one hundred nine dollars ($109) as the 1978–79 fiscal year foundation program increase.

(d) Paragraph (2) of subdivision (f) of Section 42238 shall be applicable to recomputed 1977–78 fiscal year revenue limits and 1978–79 fiscal year computed revenue limits determined pursuant to this section.

SEC. 6. Section 41718.7 is added to the Education Code, to read:

41718.7. (a) In the event two school districts meet the criteria specified by this section, the Superintendent of Public Instruction shall compute the allowances pursuant to Section 41718.5 as if the districts were a single unified district. Payments shall be made separately to the two districts.

(b) This section shall apply only to districts which meet all of the following criteria:

(1) Both districts are governed by a common board of education.

(2) The board of education employs one superintendent who is responsible for the operation of both districts.

(3) The salary schedule and salary policies for both classified and certificated employees is the same regardless of district of assignment.

(4) Negotiated contracts under the provisions of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code are commonly effective to unit members regardless of district of assignment.

(c) Notwithstanding any other provision of law to the contrary, districts receiving state aid pursuant to this section shall have their 1977–78 fiscal year recomputed revenue limits and 1978–79 fiscal year revenue limits computed pursuant to subdivision (b) of Section 41718.6.

SEC. 7. Section 41840 of the Education Code is amended to read:

41840. The allowance for each unit of average daily attendance during the 1977–78 fiscal year for adults, as adults are defined in Section 52610, for high school districts shall be the adult foundation program of nine hundred sixteen dollars ($916) less the product of one dollar ($1) multiplied by each one hundred dollars ($100) of the assessed valuation of the district, as modified pursuant to Section 41201, per unit of total regular high school average daily attendance plus adult average daily attendance. The total of state aid shall not be less than one hundred twenty dollars ($120) per unit of average daily attendance.

For subsequent years, the adult foundation program shall be the adult foundation program for the previous fiscal year increased by 6 percent.

SEC. 8. Section 41841 of the Education Code is amended to read:

41841. The Superintendent of Public Instruction shall determine the amount of state equalization aid to be added to the regular high school foundation program apportionments for each school district with adult average daily attendance in the 1976–77 fiscal year as follows:

He shall determine the adult average daily attendance used in computing state aid under the high school foundation program in the 1975–76 fiscal year and compute the 1976–77 fiscal year equalization aid according to the high school foundation program for the 1976–77 fiscal year using that 1975–76 fiscal year average daily attendance.

He shall recompute the equalization aid to the high school foundation program with the adult average daily attendance excluded and shall determine the loss of equalization aid due to excluding adult average daily attendance. To this amount he shall add the state equalization aid for defined adults in the 1975–76 fiscal year. He shall compute the state equalization aid for adults pursuant to Section 41840 and shall deduct this amount from the sum of the state equalization aid for defined adults in the 1975–76 fiscal year and the loss of equalization aid due to excluding adults from the high school foundation program. The remainder shall be added to the equalization aid for the high school foundation program for that district in the 1976–77 fiscal year.

If the adult average daily attendance of the current year is less than the comparable adult average daily attendance determined for 1975–76, the current year adult average daily attendance shall be used in lieu of the 1975–76 adult average daily attendance in determining the amount of state equalization aid to be added to the regular high school program. If there is no adult average daily attendance for the current year this section shall not apply.

The Superintendent of Public Instruction shall make the same computation for the 1977–78 fiscal year utilizing the appropriate 1977–78 foundation program levels.

In order to be eligible for increased state aid computed according to this section, each school district may count no more than the adult average daily attendance as used in determining state equalization aid under the high school foundation program in the 1975–76 fiscal year.

The Superintendent of Public Instruction shall apportion to each school district which received funds pursuant to this section in the 1977–78 fiscal year an amount equal to 75 percent of such amount in the 1978–79 fiscal year, 57 percent of such amount in the 1979–80 fiscal year, 33 percent of such amount in the 1980–81 fiscal year and 23 percent of such amount in the 1981–82 fiscal year.

This section remain effective only until July 1, 1982, and as of such date is repealed, unless a later enacted statute which is chaptered

before July 1, 1982, deletes or extends such date.

SEC. 9. Section 42238 of the Education Code is amended to read:

42238. For the 1974–75 fiscal year and each fiscal year thereafter, (a) the maximum general purpose tax rate for each elementary, high, and unified school district in the county shall be computed pursuant to this section by the county superintendent of schools.

(b) The revenue limit per foundation program unit of average daily attendance for the district for the prior fiscal year shall be divided into the appropriate foundation program amount per unit of average daily attendance for the prior year. If the quotient is greater than one, it shall be deemed to be one.

(c) The foundation program amount per unit of average daily attendance used as the dividend in subdivision (b) shall be determined by the Superintendent of Public Instruction pursuant to this subdivision. For elementary school districts, it shall be the foundation program for districts which have an average daily attendance of 901 or more. For high school districts it shall be the foundation program for districts with an average daily attendance of 301 or more. For unified districts, it shall be the sum of (1) the foundation program of elementary districts which have an average daily attendance of 901 or more multiplied by the elementary foundation program units of average daily attendance of unified districts in the second principal apportionment, plus (2) the foundation program for high school districts with an average daily attendance of 301 or more multiplied by the high school foundation program units of average daily attendance of unified districts in the second principal apportionment divided by (3) the sum of the elementary and high school units of average daily attendance of unified districts in the second principal apportionment.

(d) (1) Except as provided in paragraph (2), the inflation adjustment shall be based on the increase in the foundation program amount per unit of average daily attendance for the budget year compared with the preceding year.

(2) For districts which have a prior year revenue limit per unit of average daily attendance computed pursuant to subdivision (f) which is in excess of 120 percent of the foundation program prescribed in subdivision (c), the inflation adjustment shall be the amount specified in subdivision (a) of Section 41718, but not greater than 7 percent of the foundation programs specified in subdivision (c) for unified school districts.

(e) The amount determined pursuant to subdivision (d) shall be multiplied by the quotient determined pursuant to subdivision (b). The resultant amount shall constitute the revenue limit inflation adjustment of the district per unit of average daily attendance.

(f) The revenue limit inflation adjustment shall be added to the prior year revenue limit per foundation program unit of average daily attendance of the district and the sum multiplied by the estimated foundation program average daily attendance of the budget year. The product shall be the revenue limit of the district

for the budget year.

The revenue limit per foundation program unit of average daily attendance for districts subject to the provisions of paragraph (2) of subdivision (d) shall be no less than the revenue limit per foundation program unit of average daily attendance computed for a district at 120 percent of the foundation program.

(g) Any district which has a revenue limit computed pursuant to subdivision (f) which is equal to or less than the foundation program computed for the district pursuant to Article 1 (commencing with Section 41700) of Chapter 5 of this part, excluding Section 41716, Article 2 (commencing with Section 41730) of Chapter 5 of this part, and subdivision (a) of Section 41840 as adjusted pursuant to subdivision (e) of Section 14002 may increase its revenue limit computed pursuant to subdivision (f) to the lesser of the foundation program level of the district or the prior year revenue limit increased by 15 percent (15%).

(h) From the amount computed pursuant to subdivision (f) or (g), there shall be subtracted the basic state aid and state equalization aid to be received for the budget year, areawide aid to be received for the budget year, and the amount of income to be received from the equalization offset tax pursuant to Section 41203.

(i) The amount determined pursuant to subdivision (h) shall be (1) adjusted as provided in subdivision (d) of Section 46605 and (2) adjusted sufficiently to allow for the mandated increases for district contributions for the State Teachers' Retirement System and as required by Section 23400. Such adjustment, together with any rate levied in any prior year pursuant to Section 23401, shall not exceed the revenue derived by the tax rate provided in Section 23401. The adjusted amount shall be the local revenue limit of the district for the budget year.

(j) From the amount computed pursuant to subdivision (i), there shall be subtracted the amount of money collected or to be collected as taxes on property on the unsecured roll of the budget year, excluding the amounts collected through the levy of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312, but no greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code, and (2) the income from the prior year's taxes.

(k) For the purposes of this subdivision, the assessed valuation used in computing the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners exemption and exclusive of the assessed valuation increment used to allocate tax receipts to 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.

The amount determined pursuant to subdivision (j) shall be

divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies, pursuant to Section 14203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars ($100) of such assessed valuation and shall be the maximum general purpose tax rate which may be levied in the district during the 1973–74 fiscal year, exclusive of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code.

This section shall remain in effect only until such time as legislation becomes operative which appropriates funds for the purposes of Sections 6, 7, 8, 9, 10, 14, 15, 27, 28.5, 29, 40, and 41 of Chapter 894 of the Statutes of 1977, or takes other statutory action to make such sections operative, and as of such time is repealed.

SEC. 10. Section 42239 of the Education Code is amended to read:

42239. A district may add in Section 42238 for purposes of increasing the district's revenue limit for the budget year a portion of its loss in average daily attendance when it is anticipated that the estimated second principal apportionment units of average daily attendance, excluding defined adults and summer school average daily attendance, will be less than those of the preceding year. The number of units of average daily attendance to be added is determined as follows:

(a) When the reduction in average daily attendance is 1 percent or more of the preceding year average daily attendance, the district is entitled to two adjustments determined as follows:

(1) The estimated average daily attendance of the budget year may be increased by 75 percent of the reduction.

(2) The estimated average daily attendance of the next succeeding budget year may be increased by 50 percent of the reduction.

(b) When the reduction in average daily attendance is less than 1 percent no adjustment is allowed on account of that reduction, nor does it have any bearing on adjustments made pursuant to paragraph (2) of subdivision (a).

(c) The adjustment prescribed pursuant to paragraph (2) of subdivision (a) may be included as a portion of the district's revenue limit commencing with the 1978–79 fiscal year revenue limit.

The amount calculated in subdivision (a) times the revenue limit per unit of average daily attendance shall be considered an addition to the district revenue limit, but shall not be used to compute state apportionments.

For the purposes of this section, the amount which may be added to the district's revenue limit on account of the adjustments authorized pursuant to subdivision (a) is the revenue limit per unit

of average daily attendance computed pursuant to subdivision (f) or (g) of Section 42238, plus the voted override in effect for the budget year.

This amount of adjustment in estimated units of average daily attendance shall be allowed without requiring a reduction in the revenue limit in the subsequent year which otherwise would be required pursuant to Section 42245, except that to the extent that actual data differs from the estimated unit of average daily attendance used in this section, Section 42245 shall be applicable.

SEC. 10.5. Section 42241.3 of the Education Code is amended to read:

42241.3. (a) The revenue limit of any school district with a necessary small high school shall be adjusted annually pursuant to this section.

(b) For the 1977–78 fiscal year, the county superintendent of schools shall determine the difference between the district's total foundation program computed pursuant to subdivision (a) of Section 41711 and the product of the district's revenue limit per unit of average daily attendance as computed pursuant to subdivision (f) or (g) of Section 42238 and the average daily attendance at the necessary small high school.

(c) For the 1978–79 fiscal year and thereafter, he shall determine the difference between the district's total estimated foundation program computed pursuant to subdivision (a) of Section 41711 and the product of the district's revenue limit per unit of average daily attendance as computed pursuant to subdivision (f) or (g) of Section 42238 and the estimated average daily attendance at the necessary small high school. From that amount, he shall further subtract the amount determined pursuant to subdivision (b).

(d) If the amount determined in subdivision (c) is greater than zero, it shall be added to the district's revenue limit. If the amount determined is less than zero, no change in the revenue limit shall be computed pursuant to this section.

(e) To the extent actual data differs from the estimated data used in this section, Section 42245 shall be applicable.

SEC. 11. Section 42604 is added to the Education Code, to read:

42604. Notwithstanding any other provisions of law, the computation of reimbursement for the costs of attendance specified in contractual agreements through which educational services are provided by other than the district or county in which a pupil resides shall be based on the revenue per average daily attendance received by the school district or county in which the pupil resides rather than the computed revenue limit or foundation program per average daily attendance of the district or county of residence

SEC. 12. Section 42610 of the Education Code is amended to read:

42610. All income accruing to the school district in excess of the amounts required to finance the total proposed expenditures, including transfers to other school districts and funds, as shown in the budget of the school district shall be added to the general reserve of

the school district, and shall not be available for appropriation by the school district for the current fiscal year except by the following procedure. The governing board of the school district shall, by formal action of the board, pass a resolution setting forth the need according to major classification of school district expenditures to be met from any portion of the general reserve derived from assured income in excess of the total amount anticipated in the budget. The resolution shall be submitted to the county superintendent of schools.

The county superintendent of schools shall approve any resolution for the appropriation of income provided from state or federal sources for emergency needs of the school district to the extent that such income was not anticipated in the budget of the school district.

On the first day of July of each year, the general reserve together with unexpended balances of appropriations and income in excess of anticipated income for the preceding fiscal year shall be placed to the credit of the school district, and the school district shall include all money so credited in the balance shown in the budget for the ensuing fiscal year.

SEC. 13. Section 42842 of the Education Code is amended to read:

42842. The governing board may expend the money in the fund for the purpose or purposes specified in any resolution filed pursuant to Section 42841 unless the purpose has been withdrawn pursuant to that section. In addition, unless actually encumbered for ongoing expenses, the governing board may expend the money in the fund for the general operating purposes of the district.

SEC. 14. Section 51215 of the Education Code is amended to read:

51215. The governing board of each school district maintaining a junior or senior high school shall, by June 1, 1978, adopt standards of proficiency in basic skills for pupils attending school within its school district.

The governing board of each school district maintaining grade 6 or 8, or the equivalent, shall, by June 1, 1979, adopt standards of proficiency in basic skills for pupils attending such grades.

Such standards shall include, but need not be limited to, reading comprehension, writing, and computation skills, in the English language, necessary to success in school and life experiences, and shall be such as will enable individual achievement to be ascertained and evaluated. Differential standards and assessment procedures may be adopted for pupils who:

(a) Are enrolled in special education programs pursuant to Part 30 (commencing with Section 56000), and

(b) Have diagnosed learning handicaps or disabilities that would preclude them from attaining the district's regular proficiency standards with appropriate educational services and support.

Any such differential standards shall be included in the individualized education program developed for the pupil pursuant to Part 30 (commencing with Section 56000). For purposes of this section, the definition of pupils with diagnosed learning handicaps or disabilities is not limited to pupils identified pursuant to Section

56600, 56601, or 56302.

Governing boards maintaining elementary or junior high schools located within a school district maintaining a high school shall adopt standards of proficiency in basic skills which are articulated with those standards adopted by the school district maintaining the high school.

Designated employees of all school districts located within a high school district and one or more designees of the high school district shall meet prior to June 1, 1979, to plan for articulation of elementary and high school proficiency standards, and as necessary thereafter to review the effectiveness of such articulation procedures.

Standards of proficiency shall be adopted by the governing board with the active involvement of parents broadly reflective of the socioeconomic composition of the district, administrators, teachers, counselors, and, with respect to standards in secondary schools, pupils.

SEC. 15. Section 51217 of the Education Code is amended to read:

51217. Subsequent to June 1980, no pupil shall receive a diploma of graduation from high school if he or she has not met the standards of proficiency in basic skills prescribed by the secondary school district governing board.

The State Board of Education shall, by February 1, 1978, prepare and distribute to each school district maintaining a junior or senior high school, and by February 1, 1979, prepare and distribute to each district maintaining an elementary school, a framework for assessing pupil proficiency in reading comprehension, writing, and computation skills. Such framework shall include a range of assessment items in each skill area. The assessment framework shall be provided solely to assist each school district in the development of its own pupil assessments as required by Section 51216.

Nothing in this section shall be construed to authorize or permit the State Board of Education to adopt statewide minimum proficiency standards for high school graduation.

SEC. 16. Section 51226 of the Education Code is repealed.

SEC. 17. Section 52001 of the Education Code is amended to read:

52001. As used in this chapter:

(a) "Other school personnel" means persons who work directly and on a regular basis with pupils, including administrative employees, as defined in subdivision (e) of Section 33150, pupil services employees, as defined in subdivision (c) of Section 33150, and classified employees.

(b) "Community member" means a person who is neither in the employment of the school district, nor the parent or guardian of a pupil attending the participating school.

(c) "School improvement plan" means a plan which meets the requirements of Section 52014 developed at an individual school and submitted to a local governing board for approval.

(d) "School improvement program" means a program developed pursuant to an approved school improvement plan.

(e) "District master plan" means a plan which meets the requirements of subdivision (b) of Section 52034.

(f) "Planning grant" means allowances as described in Section 52049 to develop a school improvement plan.

(g) "Implementation grant" means allowances as described in Section 52049 to implement school improvement plans.

(h) "Participating schools" means schools which participate in the school improvement program pursuant to this chapter.

(i) "Elementary school" means any school maintaining two or more of grades 1 to 6, inclusive.

(j) "Secondary school" means any school maintaining two or more of grades 7 to 12, inclusive.

(k) "Parity" means equal numbers.

SEC. 18. Section 52012 of the Education Code is amended to read:

52012. A school site council shall be established at each school which participates in the school improvement program authorized by this chapter. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school, parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.

At the elementary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) parents or other community members selected by parents.

At the secondary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel and (b) equal numbers of parents or other community members selected by parents, and pupils.

At both the elementary and secondary levels, classroom teachers shall comprise the majority of persons represented under subdivision (a) of this section.

Existing schoolwide advisory groups or school support groups may be utilized as the school site council if such groups conform to the provisions of this section.

The term and method of selection and replacement of council members shall be specified in the school improvement plan developed pursuant to Section 52014.

The Superintendent of Public Instruction shall provide several examples of selection and replacement procedures which may be considered by school site councils.

SEC. 19. Section 52022 of the Education Code is amended to read:

52022. Notwithstanding Section 37202 and 41420, schools may request, as part of their application to develop or implement a school improvement plan, the provision of time during the regular school year to advise students or conduct staff development programs and receive full average daily attendance reimbursement under the provisions of Section 46300. Such time shall not exceed eight days each year for each participating staff member.

SEC. 20. The heading of Article 4 (commencing with Section 52045) of Chapter 6 of Part 28 of the Education Code is amended and renumbered to read:

Article 3. Funding

SEC. 21. Section 52045 of the Education Code is amended to read:

52045. In computing allowances authorized pursuant to subdivision (b) of Section 52049, the Superintendent of Public Instruction shall reduce such allowances by the amount per pupil apportioned pursuant to Article 4 (commencing with Section 54160) of Chapter 2 of Part 29 of this division.

SEC. 22. Section 52049 of the Education Code is amended to read:

52049. From funds appropriated pursuant to this article the superintendent shall make allowances to districts as follows:

(a) For schools with approved planning applications, planning grants in the amount of thirty dollars ($30) per unit of average daily attendance;

(b) For schools with approved school improvement plans, implementation grants in the amount of:

(1) One hundred forty-eight dollars ($148) per unit of average daily attendance in kindergarten and grades 1, 2, and 3, or their equivalent, exclusive of average daily attendance in summer school. For the 1977–78 and the 1978–79 fiscal years, an additional amount to the level authorized by former Section 52014 may also be allowed.

(2) Ninety dollars ($90) per unit of average daily attendance in grades 4 to 8, inclusive, or their equivalent, exclusive of the average daily attendane of summer school, regional occupational centers and programs, and adult classes by regular high school pupils.

(3) Sixty-five dollars ($65) per unit of average daily attendance in grades 9 to 12, inclusive or their equivalent, exclusive of the average daily attendance of summer school, regional occupational centers and programs, and adult classes by regular high school pupils.

Implementation grants shall be spent pursuant to the approved school improvement plan as documented in the plan pursuant to subdivision (f) of Section 52015.

Allowances provided in any fiscal year but not expended in that year may be expended in subsequent fiscal years.

SEC. 23. Section 54001 of the Education Code is amended to read:

54001. From the funds appropriated by the Legislature for the purposes of this chapter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall administer this chapter and make apportionments to school districts to meet the total approved expense of the school districts incurred in establishing education programs for pupils who qualify economically and educationally in preschool, kindergarten, or any of grades 1 through 12, inclusive. Funds provided pursuant to this chapter in any fiscal year but not expended by school district in that fiscal year may be expended in subsequent fiscal years.

Nothing in this chapter shall in any way preclude the use of federal funds for educationally disadvantaged youths. Districts which receive funds pursuant to this chapter shall not reduce existing district resources which have been utilized for programs to meet the needs of educationally disadvantaged students.

SEC. 24. Section 54021 of the Education Code is amended to read:

54021. The Legislature finds that in order to allow districts sufficient time to plan for programs authorized pursuant to this chapter, notification of entitlements shall be made to districts several months prior to actual disbursement of funds. The Legislature, therefore, shall announce its intent to appropriate funds for this chapter at least one year in advance of the normal budgetary appropriation process.

The Superintendent of Public Instruction shall calculate district entitlements for any fiscal year in March of the prior fiscal year utilizing the latest information available at that time and assuming the appropriation announced by the Legislature will be available for the fiscal year in question. The Superintendent of Public Instruction shall notify districts of their expected entitlements no later than May 1 of the prior fiscal year.

This section shall become operative for calculation of district entitlements for the 1979–80 fiscal year, and shall be utilized in calculation of entitlements for every fiscal year thereafter.

SEC. 25. Section 56038 of the Education Code is amended to read:

56038. The local school district having any pupil receiving the benefits of special education facilities and services under the provisions of Section 56032 shall report the attendance of such pupil and submit a claim for the special purpose apportionment through the county superintendent of schools to the Superintendent of Public Instruction. The report and claim shall be submitted at the time and in the manner prescribed by the Superintendent of Public Instruction. The county superintendents of schools shall verify the attendance reported and claim submitted in the manner prescribed by the Superintendent of Public Instruction.

Pupils enrolled in nonpublic schools under this section on and after January 1, 1978, 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.

Any such addition of enrollment for the 1977–78 and 1978–79 fiscal year only, shall not be included in the calculation allowed by Section 42239.

SEC. 26. Section 60246 of the Education Code is amended to read:

60246. The State Controller shall during each fiscal year, commencing with the 1978–79 fiscal year, transfer from the General Fund of the state to the State Instructional Materials Fund, an amount of thirteen dollars and thirty cents ($13.30) per pupil in the average daily attendance in the public and nonpublic elementary schools during the preceding fiscal year, as certified by the Superintendent of Public Instruction, except that this amount shall

be adjusted annually in conformance with the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. For purposes of this section, average daily attendance in the nonpublic schools shall be the enrollment reported pursuant to Section 33190.

SEC. 27. Section 84727 is added to the Education Code, to read:

84727. The community college districts in the state shall contribute monthly to the Teachers' Retirement Fund the following percentages of the total of the salaries upon which members' contributions are based:

(a) For the fiscal year ending June 30, 1978	7.2%
(b) For the fiscal year ending June 30, 1979, and fiscal years thereafter	8.0%

In a local district only the salaries of those members who are not contributing to the local system shall be included in the preceding computations of total contributions by the district.

SEC. 28. Section 87 of Chapter 894 of the Statutes of 1977 is amended to read:

Sec. 87. The expenditure authorizations provided pursuant to this act by Sections 74, 77, and 78 shall be reduced by 3 percent.

Section 56.5 of this act, exclusive of Sections 54051, 54052, 54054, and 54057 of the Education Code, shall be reduced by thirty-four thousand dollars ($34,000) in the 1977–78 fiscal year, two hundred sixty-eight thousand dollars ($268,000) in the 1978–79 fiscal year, and one million eight hundred sixty-six thousand dollars ($1,866,000) in the 1979–80 fiscal year.

Section 75 of this act shall be reduced by four hundred seventeen thousand dollars ($417,000) in the 1977–78 fiscal year, one million twenty-nine thousand dollars ($1,029,000) in the 1978–79 fiscal year, and one million five hundred sixty thousand dollars ($1,560,000) in the 1979–80 fiscal year.

SEC. 29. Notwithstanding any other provisions of law, the junior high school tuition computed pursuant to Section 37062 of the Education Code shall be adjusted by the factor computed for the elementary school district pursuant to subdivision (c), (d), or (e) of Section 2 of Chapter 292 of the Statutes of 1978.

This section shall have no force or effect on and after June 30, 1979.

SEC. 30. The provisions of Section 41812 of the Education Code shall have no force or effect for the 1978–79 fiscal year.

SEC. 31. The provisions of Section 41813 of the Education Code shall have no force or effect for the 1978–79 fiscal year.

SEC. 32. The provisions of Section 41889 of the Education Code shall have no force or effect for the 1978–79 fiscal year.

SEC. 33. The sum of one million two hundred thousand dollars ($1,200,000) is appropriated from the General Fund to Section A of the State School Fund in augmentation of the amount appropriated

pursuant to Section 71 of Chapter 323 of the Statutes of 1976.

SEC. 34. The provisions of this act which affect the computation of the foundation programs and revenue limits for school districts shall be deemed to have been operative for the entire 1977–78 fiscal year.

The Superintendent of Public Instruction, county superintendents of schools, and other public officers shall take all actions necessary to implement this section.

SEC. 35. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Consitution and shall go into immediate effect. The facts consituting such necessity are:

In order to minimize disruption of educational programs and the budgets of local school districts and county offices of education, the provisions of this act are necessary to permit operation of the public schools of California under the tax limitation-initiative constitutional amendment approved by the electorate on June 6, 1978.

CHAPTER 894

An act to amend Sections 13550 and 13551 of the Water Code, relating to water reclamation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. 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 or person subject to this article to furnish such information as may be relevant to making the findings required by this section.

SEC. 2. Section 13551 of the Water Code is amended to read:

13551. A person or public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, shall not use water from any source of quality suitable for potable domestic use for the irrigation of greenbelt areas when suitable reclaimed water is available as provided in Section 13550; provided that any such use of reclaimed water in lieu of the extraction of ground water shall, to the extent of such reclaimed water so used, be deemed to constitute a reasonable beneficial use of the ground water and such use of reclaimed water shall not cause any loss or diminution of any existing water right however acquired.

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 public interest requires that the use of high-quality water, suitable for domestic uses, for uses which can be served by the reuse of suitable, treated waste water should be curtailed wherever possible. In order, therefore, to insure the implementation of such reuse at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 895

An act to amend Sections 11513, 14532, 14682, 14684.2, and 14686 of, to add Article 7.5 (commencing with Section 14689) to Chapter 5 of Division 7 of, and to repeal Section 14684.3 of the Food and Agricultural Code, relating to fertilizing materials, and making an appropriation therefor.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 11513 of the Food and Agricultural Code is amended to read:

11513. Any money which is derived under the provisions of Article 1 (commencing with Section 11701), Chapter 4 of, and Article 1 (commencing with Section 11901), Chapter 5 of, this division shall be paid into the State Treasury to the credit of the Department of Agriculture Fund. Any money in the Department of Agriculture Fund which is derived under the provisions of this division may be expended for the administration and enforcement of this division, notwithstanding any other provision of law which limits the expenditure of any such money to the specific purposes or to the administration or enforcement of each of these portions of this code separately.

SEC. 2. Section 14532 of the Food and Agricultural Code is amended to read:

14532. Any money which is received by the director pursuant to this chapter shall be paid into the State Treasury to the credit of the Department of Agriculture Fund, and shall be expended solely for the administration of this chapter.

SEC. 3. Section 14682 of the Food and Agricultural Code is amended to read:

14682. A registered person shall, if the sale is not exempt from the provisions of this chapter, pay:

(a) A maximum of twenty-eight cents ($0.28) per ton or fraction of a ton upon any sale of any commercial fertilizer.

(b) A maximum of ten cents ($0.10) per ton or fraction of a ton upon any sale of any agricultural mineral, unless the agricultural mineral is sold to be used and is used in the manufacture of commercial fertilizer.

(c) The director may determine the specific rates necessary to provide the revenue needed to carry out the provisions of this chapter. The director shall not exceed the maximum tonnage rates established by this section.

SEC. 4. Section 14684.2 of the Food and Agricultural Code is amended to read:

14684.2. The last registrant transacting, distributing or selling either a commercial fertilizer or agricultural mineral, or both, shall file with the director a quarterly affidavit, on a form provided by the director, within one calendar month after each March 31, June 30, September 30 and December 31, which discloses the tonnage of commercial fertilizer and agricultural minerals which the registrant distributed to nonregistrants in this state during the preceding quarter. The tonnage license tax payment shall accompany the affidavit.

If the affidavit is not filed or the tonnage license tax is not paid within the calendar month following the reporting period or if the report of tonnage is false, the director may revoke the registration of such registrant and, if the affidavit is not filed and the tonnage license tax is not paid within such calendar month, a penalty of five

dollars ($5) per day for each day shall be assessed. The tonnage license tax and the penalty shall constitute a debt and become the basis for a judgment against such registrant.

Any information furnished the director under this chapter shall not be disclosed in such a way as to divulge the operation of any registrant.

SEC. 5. Section 14684.3 of the Food and Agricultural Code is repealed.

SEC. 6. Section 14686 of the Food and Agricultural Code is amended to read:

14686. When more than one registrant is involved in the distribution of either a commercial fertilizer or agricultural mineral or both, the last registrant who distributes to a nonregistrant is responsible for the tonnage report and for paying the tonnage license tax.

No person subject to the tonnage license tax is exempt from paying the tax for purchased commercial fertilizer and agricultural minerals used or applied upon his own lands within this state.

SEC. 7. Article 7.5 (commencing with Section 14689) is added to Chapter 5 of Division 7 of the Food and Agricultural Code, to read:

Article 7.5. County Tonnage Reports

14689. The last registrant selling or distributing a commercial fertilizer or agricultural mineral or both shall submit a summary report on a form approved by the director of shipments or deliveries made during each month, at such times as set forth by the director by regulation. This report shall show the county of consignment, the amounts in tons by grade of commercial fertilizer or analysis of agricultural mineral with the amount in tons or such information determined necessary by the director pursuant to regulations adopted in accordance with this chapter. The director shall publish a quarterly commercial fertilizer and agricultural mineral tonnage report which shall include a report of tonnage by grade for commercial fertilizers and by analysis for agricultural minerals by county. The director may omit or consolidate small tonnages. The director may charge the actual costs as a fee for the report.

Any information furnished the director under this chapter shall not be disclosed in such a way as to divulge the operation of any licensee.

14670. Failure to submit a tonnage report of commercial fertilizer and agricultural minerals sales on or before the date specified by the director in regulations, shall subject the registrant to payment of a penalty of fifteen dollars ($15). An additional penalty of ten dollars ($10) shall be charged for each succeeding month a tonnage report remains delinquent, except that the total penalty for a late submission of a monthly tonnage report shall not exceed seventy-five dollars ($75).

CHAPTER 896

An act to add Article 7 (commencing with Section 436.40) to Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, relating to developmental disability facilities, and making an appropriation therefor.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Article 7 (commencing with Section 436.40) is added to Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 7 Small Facility Loan Guarantee for Developmental Disability Programs

436.40. This article shall be known and may be cited as the Small Facility Loan Guarantee for Developmental Disability Programs.

436.41. It is the intent of the Legislature in enacting this article to encourage the development of facilities for community-based programs that assist developmentally disabled clients living in any institutional setting, including state and local inpatient hospitals, skilled nursing homes, intermediate care facilities, and community care facilities to move to more independent living arrangements. It is further the intent of the Legislature to encourage local programs to seek funding for facility development from private sources and with the assistance provided pursuant to this chapter.

To achieve this purpose in determining eligibility for loan insurance pursuant to this chapter, the following special provisions apply to facilities approved by area developmental disabilities boards and meeting the intentions of this article:

(a) Facilities shall not require approval pursuant to Section 436.45 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, unless specifically required for such facilities by the facility category of licensure.

(b) Notwithstanding subdivision (i) of Section 436.8, any loan of under three hundred thousand dollars ($300,000) for a nonprofit corporation as well as a political subdivision may be fully insured equal to the total construction cost.

(c) Facilities shall not require approval pursuant to Section 436.4 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, until the Director of the Office of Statewide Health Planning and Development and the Director of the Department of Developmental Services determine that the state plan developed

pursuant to Section 436.4 adequately and comprehensively addresses the need for community developmental services facilities and such finding is reported to the appropriate policy committees of the Legislature.

436.42. (a) Loans of under three hundred thousand dollars ($300,000) for any single facility for six or fewer developmentally disabled shall have priority for obtaining loan insurance.

(b) The total amount of loans which may be insured pursuant to this article shall not exceed fifteen million dollars ($15,000,000).

436.43. The Legislative Analyst shall review and comment on the utilization and effectiveness of the Small Facility Loan Guarantee for Developmental Disability Programs in the annual budget analysis and in hearings.

436.44. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision of application, and to this end the provisions of this article are severable.

CHAPTER 897

An act to add Section 8190 to the Fish and Game Code, relating to anchovies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 8190 is added to the Fish and Game Code, to read:

8190. (a) It is the policy of the State of California that the anchovy resource shall be managed in a manner which insures the continued abundance of the species. To that end, the department shall conduct, or have others conduct, annual anchovy egg-larvae surveys or any other annual surveys, research, and analyses necessary to insure that an accurate biomass estimate is made.

(b) This section shall become operative, and activities shall be carried out pursuant to this section only in the event, and to the extent, that funding is made available for such activities by the federal government.

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 combat the immediate threat to the anchovy resource, and to preserve the resource due to its importance in the food chain

and to the economy of California, it is necessary that this act become effective immediately.

CHAPTER 898

An act to amend Sections 44846 and 44955 of the Education Code, relating to school employees.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 44846 of the Education Code is amended to read:

44846. The following general provisions shall apply regardless of date of employment:

As between two or more employees who first rendered paid service to the district on the same date, and who, following the termination of services, have a statutory preference to reappointment in the order of original employment, the governing board shall determine the order of reemployment solely on the basis of the needs of the district and the students thereof. Any terminated employee subject to the conditions of this section shall, upon request, be furnished in writing, no later than 15 days following such request, the reasons and basis of the needs of the district and the students thereof utilized by the governing board in determining which employee or employees shall be reappointed. This requirement that the governing board provide, on request, a written statement of reasons for determining the order of reappointment shall not be interpreted to give affected employees any legal right or interest that would not exist without such a requirement.

Records showing date of employment, whether kept by the district or by the county, shall be accessible, on demand, to any certificated employee of the district or to his designated representative.

In the absence of records as to any of the matters referred to in the two preceding sections, the governing board, in accordance with evidence presented, shall determine the order of employment after giving employees a reasonable opportunity to present such evidence.

The order of employment in all districts, when required, shall be determined as prescribed by Sections 44830 to 44855, inclusive.

The governing board shall have power and it shall be its duty to correct any errors discovered from time to time in its records showing the order of employment.

SEC. 2. Section 44955 of the Education Code is amended to read:

44955. No permanent employee shall be deprived of his position for causes other than those specified in Sections 44892, 44907, and 44923, and Sections 44932 to 44947, inclusive, and no probationary

employee shall be deprived of his position for cause other than as specified in Sections 44948 to 44949, inclusive.

Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, or whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, and when in the opinion of the governing board of said district it shall have become necessary by reason of either of such conditions to decrease the number of permanent employees in said district, the said governing board may terminate the services of not more than a corresponding percentage of the certificated employees of said district, permanent as well as probationary, at the close of the school year; provided, that the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to render. As between employees who first rendered paid service to the district on the same date, the governing board shall determine the order of termination solely on the basis of needs of the district and the students thereof. Upon the request of any employee whose order of termination is so determined, the governing board shall furnish in writing no later than five days prior to the commencement of the hearing held in accordance with Section 44949, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking each employee relative to the other employees in the group. This requirement that the governing board provide, on request, a written statement of reasons for determining the order of termination shall not be interpreted to give affected employees any legal right or interest that would not exist without such a requirement.

Notice of such termination of services either for a reduction in attendance or reduction or discontinuance of a particular kind of service to take effect not later than the beginning of the following school year, shall be given before the 15th of May in the manner prescribed in Section 44949, and services of such employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 44844 and 44845. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he shall be deemed reemployed for the ensuing school year.

The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because

the duties, obligations, or responsibilities imposed on local government by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 899

An act to amend Section 12070 of the Penal Code, relating to concealable weapons.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 12070 of the Penal Code is amended to read:

12070. No person shall engage in the business of selling, transferring, advertising, offering, or exposing for sale or transfer, any pistol, revolver or other firearm capable of being concealed upon the person unless he has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor. As used in this article, engaging in the business of selling or transferring concealable firearms does not include the infrequent sale or transfer, offering, exposing for sale, or advertising for sale any handgun at a gun show, swap meet or similar event.

As used in this section, "infrequent" means occasional and without regularity.

CHAPTER 900

An act to amend Sections 9360.9, 9360.10, 20024.01, 20134, 20393, 20685, 21221, 31870, 31870.1, 31870.2, 31874.1, 31874.3, and 31877 of, and to add Sections 20023.6 and 20134.1 to, the Government Code, relating to public employees.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 9360.9 of the Government Code is amended to read:

9360.9. Notwithstanding any other provisions of this chapter, the provisions of this section shall be applicable to all allowances granted by this chapter commencing with each installment paid or payable on or after January 1, 1964, with respect to Members of the Senate or the Assembly not having service in such office during or after the term commencing in 1967 and members who are elective officers of

the state whose offices are provided by the Constitution and who were first elected to any such office prior to January 1, 1966.

On or before January 1, 1964, the board shall adjust the amount of the allowances payable during the 1964 calendar year to reflect any increase in cost of living occurring between the 1963 calendar year and the 1955 calendar year, inclusive, and any increase resulting from such adjustment shall be payable commencing with each installment of allowances paid or payable on or after January 1, 1964. On or before January 15, 1965, and, on or before January 15 of each year thereafter, the amount of the allowances provided by this chapter shall be adjusted by the board to reflect any increase in cost of living occurring after January 1 of the immediately preceding calendar year. Effective January 1, 1978, the average of the separate indices of the "Consumer Price Index for All Urban Consumers" for the Los Angeles-Long Beach-Anaheim area and the San Francisco-Oakland area, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. For the period prior to January 1, 1978, the average of the separate indices for the Los Angeles-Long Beach area and the San Francisco-Oakland area, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. The cost-of-living increase shall equal or exceed 1 percent before any adjustment is made in the allowance. The calendar year 1954 shall be used as the base year in computing any annual adjustment. The annual adjustment made on or before January 15, 1965 and made on or before January 15 of each calendar year thereafter shall correspond to the average annual change in the calendar year immediately preceding the year during which the adjustment shall be effective. The adjustment made on or before January 1, 1964, shall correspond to the total of the average annual changes in each calendar year from the 1955 calendar year to the 1963 calendar year, inclusive.

The adjustment provided by this section shall be made only if it operates to effect an increase over the allowance payable for the calendar year immediately preceding.

SEC. 2. Section 9360.10 of the Government Code is amended to read:

9360.10. On or before January 15, 1968, and on or before January 15 of each year thereafter, the amount of any allowances provided by this chapter and not subject to Section 9360.9 shall be adjusted by the board to reflect any increase in cost of living occurring after January 1 of the immediately preceding fiscal year. Effective January 1, 1978, the average of the separate indices of the "Consumer Price Index for All Urban Consumers" for the Los Angeles-Long Beach-Anaheim area and the San Francisco-Oakland area, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. For the period prior to January 1, 1978, the average of the separate indices for the Los Angeles-Long Beach area and the San

Francisco-Oakland area, as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. The cost-of-living increase shall equal or exceed 1 percent before any adjustment is made in the allowance. The adjustment provided by this section shall be made only if it operates to effect an increase over the allowance payable for the calendar year immediately preceding.

SEC. 3. Section 20023.6 is added to the Government Code, to read:

20023.6. The compensation earnable during any period of service as a member of the retirement system operating pursuant to the Judges' Retirement Law, the Legislators' Retirement System, or the State Teachers' Retirement System shall be considered compensation earnable as a member of this system for purposes of computing final compensation for such member providing he retires concurrently under both systems.

SEC. 4. Section 20024.01 of the Government Code is amended to read:

20024.01. For a state member, or for a local member who is an employee of a contracting agency which is subject to the provisions of this section, "final compensation" means the highest average annual compensation earnable by a member during the three consecutive years of employment immediately preceding the effective date of his retirement or the date of his last separation from state service if earlier or during any other period of three consecutive years during his membership in the system which he designates in his application for retirement, including any or all of such period or periods of (a) service required for qualification for membership, or (b) prior service which qualifies for credit under this system, if any, immediately preceding membership, or (c) time prior to entering state service at the compensation earnable by him in the position first held by him in such service, as may be necessary to complete three consecutive years. For the purposes of this section, periods of service separated by a period of retirement or breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for such period of retirement or breaks. If a break in service did not exceed six months in duration, time included in the break and compensation earnable during such time shall be included in computation of final compensation. If a break in service exceeded six months in duration, the first six months thereof and the compensation earnable during those six months shall be included in computation of final compensation, but time included in the break which is in excess of six months and the compensation earnable during such excess time shall be excluded in computation of final compensation.

On and after November 13, 1968, the provisions of this section shall supersede Section 20024 and apply to all contracting agencies and to the employees of such agencies whether or not such agencies have

previously elected to be subject to this section, except that this section shall not apply to an employee of a contracting agency which has not elected to be subject to this section whose death occurred or whose retirement was effective prior to November 13, 1968.

SEC. 5. Section 20134 of the Government Code is amended to read:

20134. Data filed by any member or beneficiary with the board is confidential, and no individual record shall be divulged by any official or employee having access to it to any person other than the member to whom the information relates or his authorized representative, the contracting agency or school district by which he is employed, any state department or agency, or the university. Such information shall be used by the board for the sole purpose of carrying into effect the provisions of this part.

SEC. 6. Section 20134.1 is added to the Government Code, to read:

20134.1. For purposes of Section 20134, "authorized representative" includes the spouse or beneficiary of a member when no contrary appointment has been made and when, in the opinion of the board, the member is prevented from appointing an authorized representative because of mental or physical incapacity or death.

SEC. 7. Section 20393 of the Government Code is amended to read:

20393. Any other provision in this part to the contrary notwithstanding, a member who is credited with five or more years of service shall have the right to elect, not later than 90 days after the date upon which notice of said right is mailed by this system to the member's latest address on file in the office of this system, whether to leave such accumulated contributions on deposit in the Retirement Fund under any of the following conditions:

(1) If his state service is discontinued by reason of resignation or discharge.

(2) If his state service is discontinued by reason of layoff or leave of absence deemed by the board to have resulted in permanent discontinuance (and in such case, as of the date of the determination by the board that the discontinuance is permanent).

(3) If a member ceases to be entitled to credit in this system for future service because he has become entitled to credit for such service in another retirement system supported wholly or in part by funds of the United States government, or any state government or political subdivision thereof.

(4) If the disability retirement of a member is followed by cessation of the disability and by cancellation of the disability allowance, but the member does not reenter state service.

A member who is credited with less than five years of service shall have such right to elect if he enters employment as a member of a public retirement system supported in whole or in part by state funds, including the University of California Retirement System, or

as a member of a retirement system established under the County Employees' Retirement Law of 1937, and within six months of leaving state service.

Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. An election to allow accumulated contributions to remain in the retirement fund may be revoked by the member at any time except while he is employed in state service in a position in which he is not excluded from membership with respect to such service, or while he is in service as a member of a public retirement system supported in whole or in part by state funds, including the University of California Retirement System, or as a member of a retirement system established under the County Employees' Retirement Law of 1937, within six months after discontinuing state service. All contributions accumulated up to the time of revocation may then be withdrawn. A member whose membership continues under this section is subject to the same age and disability requirements as apply to other members for service or for disability retirement. After the qualification of such member for retirement by reason of age, which shall be the lowest age applicable to any membership category in which he has credited service, or disability, he shall be entitled to receive a retirement allowance based upon the amount of his accumulated contributions and service standing to his credit at the time of retirement and on the employer contributions held for him and calculated in the same manner as for other members, except that the provisions in this part for minimum service and disability retirement allowances do not apply to him, unless he meets such minimum service requirements. If a basic death benefit becomes payable under Article 5 (commencing with Section 21360) of Chapter 9 of this part because of death before retirement of such a member, the average annual compensation earnable in the year preceding the date of termination of such service rather than in the year preceding death shall be used in computing such benefit under such Article 5 of Chapter 9.

The provisions of this section as it read prior to June 21, 1971, shall continue with respect to a member whose membership continued under this section on such date.

SEC. 8. Section 20685 of the Government Code is amended to read:

20685. (a) If a basic death benefit has become or becomes payable before the payment of the total amount the member elected to pay under any election with respect to normal contributions permitted under this part, the member's entire compensation, or the service upon which that total amount was based, as the case may be, shall be included in the computation of the portion of the death benefit which is provided in subdivision (b) of Section 21361, and the unpaid balance of the total amount shall not be paid to this system, nor shall it be included in the member's accumulated contributions which constitute a part of the basic death benefit. Any balance of any

such total amount remaining unpaid at the death of the member on account of which a special death benefit is payable or at the retirement of a member for industrial disability shall become due and payable forthwith and if not paid, the portion of such unpaid amount representing contributions on compensation earned in the membership applicable to the member at the time of injury resulting in death shall be deducted from the benefit otherwise payable and the system shall be discharged from any liability for any annuity or benefit with respect to any remainder of such unpaid contribution. Any such balance at the time of retirement for service or ordinary disability, or at death, with respect to which a benefit is payable under Section 21365.5 shall become due and payable forthwith, and if it is not paid the service credit included in the election shall be reduced proportionately and any prior service dependent on completion of payments eliminated for purposes of computing the allowance but not for purposes of determining entitlement to an allowance.

(b) Notwithstanding any provision of subdivision (a), a member who retires after January 1, 1976, before payment of the total amount which he elected to pay, may elect to pay the balance due by deductions from his retirement allowance equal to those which he authorized as payroll deductions in accordance with Section 20654. In such case service credit included in the election shall not be reduced, nor shall any prior service dependent on completion of payments be eliminated for purposes of computing the allowance. Any balance of such total amount remaining unpaid upon the death of such member shall be treated in the same manner as unpaid balances are treated if a special death benefit is payable, except that the survivor of a retired member who had authorized deductions from his retirement allowance in accordance with this subdivison, and who is eligible for a monthly allowance, may elect to continue such deductions from his allowance in lieu of the lump-sum payment otherwise required.

SEC. 9. Section 21221 of the Government Code is amended to read:

21221. The following definitions shall govern the application of this article:

(a) "Monthly allowance" means any allowance payable monthly to a retired person, a survivor or beneficiary of a member or a retired person, other than a monthly installment of a basic death benefit, the commuted value of an unpaid temporary annuity, or an optional settlement No. 1, or allowances payable under Article 6 of this chapter. There shall be excluded from any such monthly allowance, for purposes of any adjustment under this article, any portion of such allowance derived from accumulated additional contributions of a member.

(b) "Base allowance" means the amount of monthly allowance which would be payable to the recipient at the time of an annual adjustment under this article had this article not been enacted.

(c) Effective January 1, 1978, "California Consumer Price Index" means an index stated as the average of the separate indices of the "Consumer Price Index for All Urban Consumers" for the Los Angeles-Long Beach-Anaheim area and the San Francisco-Oakland area published by the Bureau of Labor Statistics of the United States Department of Labor. The "California Consumer Price Index" for any period prior to January 1, 1978, means an index stated as the average of the separate annual consumer price indices for the Los Angeles-Long Beach area and the San Francisco-Oakland area published by the Bureau of Labor Statistics of the United States Department of Labor. Should the reference base of such consumer price indices (presently 1957–59=100) be changed, each of such indices used to determine the consumer price index as defined in this section will be the indices converted to the new base by standard statistical methods.

(d) "Base year" means:

(1) The calendar year 1965 for all members whose retirement occurred prior to January 1, 1966, and for the beneficiaries and survivors of such retired members.

(2) The calendar year of retirement for all members whose retirement occurs after December 31, 1965, and for the beneficiaries and survivors of such members.

(3) The calendar year 1965 for survivors of members whose death occurred before January 1, 1966.

(4) The calendar year in which a member's death occurs for survivors of members whose death occurred before retirement and on or after January 1, 1966.

SEC. 10. Section 31870 of the Government Code is amended to read:

31870. The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or a superseded system, who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 2 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 2 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary

on the effective date of the allowance or the application of this article, whichever is later.

SEC. 11. Section 31870.1 of the Government Code is amended to read:

31870.1. The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or superseded system who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 3 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 3 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this article, whichever is later.

SEC. 12. Section 31870.2 of the Government Code is amended to read:

31870.2. The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or superseded system who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 5 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 5 percent in allowances shall be accumulated to be met by increases or decreases in allowances in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this

section, whichever is later.

SEC. 13. Section 31874.1 of the Government Code is amended to read:

31874.1. Whenever the percentage of annual increase in the cost of living as of January 1st of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds 3 percent, all or part of such excess over 3 percent shall be applied to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870 or 31870.1. The board of supervisors shall determine the amount of such excess to be applied, and the cost of the increases in allowances provided shall be paid from county and district contributions.

This section shall not be operative in any county until it is adopted by a majority vote of the board of supervisors.

SEC. 14. Section 31874.3 of the Government Code is amended to read:

31874.3. Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds 3 percent, the board of retirement may provide that all or part of such excess over either 2 percent or 3 percent shall be applied to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870 or 31870.1. The board shall determine the amount of such excess to be applied and such amount shall not exceed an amount that can be paid from 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.

Such supplemental increases in excess of the 3-percent increases applied to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870 or 31870.1 shall not become a part of the retirement allowances, optional death allowances or annual death allowances to be increased by subsequent increases under Section 31870 or 31870.1.

This section shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870 or 31870.1 applicable in such county.

SEC. 15. Section 31877 of the Government Code is amended to read:

31877. Any adjustment made pursuant to this article with reference to changes in the Consumer Price Index for All Urban Consumers which occurred prior to the effective date of this article in a county shall apply prospectively only; and no right, claim or interest whatsoever shall be created by the application of the provisions of this section in any county with respect to retirement allowance payments made for time prior to the effective date of this article in the county.

CHAPTER 901

An act to add Section 2892.6 to, the Business and Professions Code, relating to vocational nursing, and making an appropriation therefor.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 2892.6 is added to the Business and Professions Code, to read:

2892.6. The board may collect a fee, not to exceed fifty dollars ($50), from any provider of a course in continuing education who requests approval by the board of such course for purposes of continuing education requirements under this chapter. Such fee, however, shall in no event exceed that cost required for the board to administer the approval of continuing education courses by continuing education providers.

CHAPTER 902

An act to amend Section 22754 of, and to add Section 22856 to, the Government Code, relating to health benefits.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms.

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are

otherwise authorized by law.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of basic hospital and medical care and for major medical or other comprehensive benefit plans.

(e) "Annuitant" means:

(1) Any person who has retired while an employee and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in subdivision (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or 21382 of this code or similar provisions of any other state retirement system.

(f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) "Employee organization" means an association or other organization of employees in which membership is open to employees or annuitants of the state, and which is not organized solely or principally for the purpose of obtaining prepaid hospital and medical care.

(h) "Contracting agency" means any contracting agency as defined in Section 20010, and any school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(i) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to

become subject to this part pursuant to Section 22856.

SEC. 2. Section 22754 of the Government Code is amended to read:

22754. As used in this part the following definitions, unless the context otherwise requires, shall govern the interpretation of terms.

(a) "Board" means the Board of Administration of the Public Employees' Retirement System.

(b) "Employee" means any officer or employee of the State of California or of any agency, department, authority, or instrumentality of the state including the University of California, or any officer or employee who is a local or school member of the Public Employees' Retirement System employed by a contracting agency which has elected to be or otherwise has become subject to this part, or who is a member or retirant of the State Teachers' Retirement System employed by an employer who has elected to become subject to this part, except persons employed on an intermittent, irregular or less than half-time basis, or employees similarly situated, or employees in respect to whom contributions by the state for any type of plan or program offering prepaid hospital and medical care are otherwise authorized by law.

(c) "Carrier" means a private insurance company holding a valid outstanding certificate of authority from the Insurance Commissioner of the state, a medical society or other medical group, a nonprofit hospital service plan qualifying under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, or nonprofit membership corporation lawfully operating under Section 9200 or Section 9201 of the Corporations Code, or a health care service plan as defined under subdivision (f) of Section 1345 of the Health and Safety Code, or a health maintenance organization approved under Title XIII of the federal Public Health Services Act, which is lawfully engaged in providing, arranging, paying for, or reimbursing the cost of personal health services under insurance policies or contracts, medical and hospital service agreements, membership contracts, or the like, in consideration of premiums or other periodic charges payable to it.

(d) "Health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, arranging, paying for, or reimbursing the cost of basic hospital and medical care and for major medical or other comprehensive benefit plans.

(e) "Annuitant" means:

(1) Any person who has retired while an employee and who receives any retirement allowance under any state or University of California retirement system to which the state was a contributing party.

(2) A family member receiving an allowance as the survivor of an annuitant who has retired as provided in subdivision (1), or as the survivor of a deceased employee under Section 21364, 21365.5 or

21382 of this code or similar provisions of any other state retirement system.

(f) "Family member" means an employee's or annuitant's spouse and any unmarried child (including an adopted child, a stepchild, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship). The board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to unmarried children.

(g) "Employee organization" means an association or other organization of employees in which membership is open to employees or annuitants of the state, and which is not organized solely or principally for the purpose of obtaining prepaid hospital and medical care.

(h) "Contracting agency" means any contracting agency as defined in Section 20010, and any school district, county board of education, personnel commission of a school district or a county superintendent of schools.

(i) "Employer" means the state, any contracting agency employing an employee, and any agency which has elected to become subject to this part pursuant to Section 22856.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 3. Section 22856 is added to the Government Code, to read:

22856. Notwithstanding any other provision of law, a school district, county board of education, personnel commission of a school district, or a county superintendent of schools may, by appropriate resolution, elect to become subject to this part upon all of the following conditions:

(a) Employer contributions for annuitants shall at all times equal employer contributions paid for active employees, and employer contributions shall equal or exceed employer contributions payable under any other plan maintained by such agency.

(b) Such agency shall not maintain another health benefits plan unless such plan complies with the requirements of this part and is equally available to its retired employees and its active employees, and their family members, without discrimination as to benefits, premiums, or employer contributions.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 3053 are both chaptered and become effective January 1, 1979, both bills amend Section 22754 of the Government Code, and this bill is chaptered after Assembly Bill No. 3053, that the amendments to Section 22754 proposed by both bills be given effect and incorporated in Section 22754 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. 3053 are both chaptered and become effective January 1, 1979, both amend Section 22754, and this bill is chaptered after Assembly Bill No. 3053, in which case Section 1 of this act shall not become operative.

CHAPTER 903

An act to amend Section 25817 of the Health and Safety Code, relating to radiation control.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 25817 of the Health and Safety Code is amended to read:

25817. The department shall provide by regulation a ranking of priority for inspection, as determined by the degree of potentially damaging exposure of persons by ionizing radiation, and a schedule of fees, based upon such priority ranking, which shall be paid by persons possessing sources of ionizing radiation which are subject to registration in accordance with subdivision (b) of Section 25815, and regulations adopted pursuant thereto. The revenues derived from such fees shall be used, together with other funds made available therefor, for the purpose of carrying out any inspections of such sources of ionizing radiation required by this chapter or regulations adopted pursuant thereto. The fees shall, together with such other funds made available to the department, be sufficient to cover the costs of administering the provisions of this chapter, and shall be set in amounts intended to cover the costs of administering the provisions of this chapter for each priority source of ionizing radiation but, during the 1978–79 fiscal year, shall not exceed fifty-one dollars ($51) annually for each high-priority source of ionizing radiation, thirty-six dollars ($36) annually for each medium-priority source of ionizing radiation, and twenty-three dollars ($23) annually for each source of ionizing radiation used in dentistry. Revenues generated by such fees shall not offset any general funds appropriated for the support of the radiologic programs authorized pursuant to Chapter 7.4 (commencing with Section 25660) and Chapter 7.6 (commencing with Section 25800) of this division. The department may, however, increase any fee annually by an amount not in excess of 10 percent of the fee for the previous year, but in no event may any fee be increased to exceed the amount necessary to administer this chapter. Persons who pay fees shall not be required to pay, directly or indirectly, for the share of the costs of administering this chapter of those persons for whom fees are waived. Any agreement made pursuant to Section 25810 shall

include provisions for the distribution of funds provided for this program proportionate to the services performed by each participating agency. The provisions for the distribution of funds to the participating agencies shall be subject to approval by the Director of Finance for the purpose of insuring an equitable allocation proportionate to the services performed.

Any fees collected during the 1978–79 billing period prior to the effective date of the regulations adopted pursuant to the amendment to this section made at the 1977–78 Regular Session of the Legislature shall be deducted from any new billings resulting from such regulations adopted pursuant to the amendment to this section.

The Legislative Analyst shall report to the Legislature on or before January 1, 1981, with respect to the appropriateness and adequacy of the funding to support the radiation control program, the adequacy of the inspection interval, and the productivity of the inspection personnel.

CHAPTER 904

An act to amend Section 321 of the Health and Safety Code, relating to community child health and disability prevention programs.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 321 of the Health and Safety Code is amended to read:

321. The department shall administer this article and shall adopt minimum standards for the approval of community child health and disability prevention programs and rules and regulations as necessary. Such standards shall allow necessary flexibility in the administration of county programs, taking into account the variability of county needs and resources. However, such standards, rules, and regulations may be adopted only with the advice and written recommendations of the board. Standards shall be adopted for:

(a) Education and experience requirements for directors of community child health and disability prevention programs.

(b) Health screening, evaluation, and diagnostic procedures for child health and disability prevention programs.

(c) Public and private facilities and providers which may participate in community child health and disability prevention programs.

The department shall adopt a five-year state plan for child health and disability prevention services by October 1, 1977. The plan shall

include a method for allocating child health and disability prevention funds to counties. The plan shall be reviewed and revised as necessary to provide a basis for allocating state child health and disability prevention program funds throughout the state.

Nothing in this section shall be construed as prohibiting programs provided pursuant to this article from being conducted in public and private school facilities; provided that, with respect to private school facilities, no services provided thereon pursuant to this article and financed by public funds shall result in any material benefit to, or be conducted in a manner which furthers any educational or other mission of, such a school or any person or entity maintaining the school.

CHAPTER 905

An act to repeal Section 14118 of the Welfare and Institutions Code, relating to health.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 14118 of the Welfare and Institutions Code is repealed.

CHAPTER 906

An act to amend Section 14998.7 of the Government Code, relating to Highway Patrol officers, and making an appropriation therefor.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 14998.7 of the Government Code is amended to read:

14998.7. The council may establish fees to be paid for use of state-owned property and state employee services for the purpose of making commercial motion pictures. All fees collected pursuant to this section shall be deposited in the Motion Picture Development Council Account which is hereby created in the Special Deposit Fund for disbursement by the council to reimburse the operating departments for their actual additional costs and for support of the council.

(a) Applications by the Motion Picture Development Council for

permission to use state property for making motion pictures shall be made to the Director of General Services who shall, promptly upon receipt of such an application, contact the state agency having jurisdiction over the property specified in the application for the concurrence of such agency in the use of such property. The director shall approve or deny such applications within 30 days. The denial of such an application may be made on the basis of:

(1) State cost in permitting such use would exceed the fee established by the Motion Picture Development Council,

(2) Such use would unduly interfere with the conduct of state business, or

(3) Failure of the permittee to provide full insurance or bond coverage, if required by the Department of General Services, sufficient to reimburse the state for any user-caused damage to the property and to provide adequate personal liability insurance coverage.

In the event that the Director of General Services takes no action on such application within 30 days, the application shall be deemed approved by the Director of General Services. If the Director of General Services determines that he is unable to make a decision within the 30 days and so notifies the Motion Picture Development Council within 25 days of receipt of the application, the director shall then have a total of 45 days from receipt of the application to approve or deny such application. In the event no action is taken by the Director of General Services within such 45-day period, the application shall be deemed approved by the Director of General Services.

Any state agency having management and control over state property, the use of which is sought by such application, shall permit such property to be used for the purpose of making motion pictures upon approval by the Director of General Services and the payment of the fee established by the Motion Picture Development Council.

(b) If in connection with the use of roads, highways, and freeways, the assistance, control, or protection by Highway Patrol officers is desired, applications by the Motion Picture Council or by an entity engaged in agricultural production to utilize services of Highway Patrol officers in the production of motion pictures or the transportation of agricultural commodities shall be made to the Commissioner of the Highway Patrol. The commissioner may approve the application provided that employees are available and the department is fully reimbursed for additional costs incurred. Applications to utilize Highway Patrol employee services shall be approved or disapproved by the commissioner within 30 days of receipt of the application and shall be approved sooner if possible.

CHAPTER 907

An act to amend Section 2192 of the Business and Professions Code, relating to geriatric medicine.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 2192 of the Business and Professions Code is amended to read:

2192. Each applicant shall show by evidence satisfactory to the Division of Licensing that he or she has successfully completed a medical curriculum extending over a period of at least four academic years in a school or schools located in the United States or Canada and approved by the Division of Licensing, or in a school that is under the charter of a university located in the United States and that is or was, at the time an applicant seeking a certificate pursuant to this chapter entered the school, an institutional member of the American Association of Medical Colleges approved by the division, and total number of hours of all courses shall consist of a minimum of 4,000 hours. The curriculum for all applicants who matriculate before September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Psychobiology
Medicine
Pediatrics
Psychiatry
Neurology
Dermatology
Physical medicine
Therapeutics
Tropical medicine
Biochemistry
Pathology, bacteriology and immunology
Pharmacology
Preventive medicine
Hygiene and sanitation
Surgery, including orthopedic surgery
Urology
Ophthalmology
Radiology
Anesthesia
Otolaryngology
Obstetrics and gynecology

The curriculum for all applicants who matriculate on or after September 1, 1965, shall provide for adequate instruction in the following:

Anatomy
Embryology
Histology
Neuroanatomy
Physiology
Biochemistry
Pathology, bacteriology and immunology

Dermatology
Physical medicine
Therapeutics
Tropical medicine
Surgery, including
orthopedic
surgery
Urology
Ophthalmology
Pharmacology
Preventive medicine,
including
nutrition
Radiology, including
radiation safety
Medicine
Pediatrics
Psychiatry
Neurology
Anesthesia
Otolaryngology
Obstetrics and
gynecology
Human sexuality as
defined in Section
2192.3
Child abuse detection
and treatment
Geriatric medicine

Before a physician's and surgeon's license may be issued each applicant must show by evidence satisfactory to the division that he or she has completed a year's service satisfactory to the division in a hospital approved by the division for first-year postgraduate studies. At the discretion of the division, the written examination provided for in Section 2288 may be taken following completion of his or her medical course and prior to the granting of a degree by the school; provided, that a certificate shall not be issued to any applicant until satisfactory evidence is filed with the division that a degree has been issued to him or her by the school. The requirement that instruction in child abuse detection and treatment be provided shall apply only to applicants who matriculate on or after September 1, 1979.

SEC. 2. (a) The California Postsecondary Education Commission shall study the need for and feasibility of establishing an educational and research center for geriatric medicine at one or more schools or colleges of medicine. The commission may request assistance from any source and may contract with consultants to provide any information required by this section.

(b) In order to assist the commission in the performance of its study, there is hereby created a Geriatric Medicine Advisory Committee.

The committee shall be composed of the following members in addition to those which the commission may appoint:

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

(2) A representative of the independent California colleges and universities which are accredited by a national or regional association which is recognized by the United States Office of Education. This member shall be appointed by the Director of the California Postsecondary Education Commission in consultation with the California Association of Independent Colleges and Universities.

(3) The Chairperson of the California Commission on Aging, or his or her designee.

(4) The Director of Statewide Health Planning and Development or his or her designee.

(c) The study shall assess the establishment of such centers from the point of view of state and national needs and shall include, but shall not be limited to, an examination of the feasibility and usefulness to the delivery of medical services within the state of:

(1) Establishing pilot projects for the study or delivery of medical services in geriatric medicine.

(2) Developing postgraduate training programs in conjunction with health care facilities.

In addition, the study shall develop data on age levels of patients at hospitals to determine exposure levels of persons in postgraduate training to geriatric patients with a view toward devising programs that provide such exposure to geriatric patients during a part of postgraduate training. The study shall also assess related questions, problems, and subjects as the commission considers to be necessary. Further, the study shall project the potential cost to the state of any recommendations and cite any potential alternative sources of funds.

The commission shall present the study to the Legislature not later than January 1, 1980.

SEC. 3. The California Postsecondary Education Commission shall consider the outcome of this initial study as well as the commission's general review of California's health manpower needs in determining the roll of nurse practitioners and physician assistants in the provision of geriatric care and shall report its findings to the Legislature not later than January 1, 1981.

SEC. 4. This act shall become operative on January 1, 1979.

CHAPTER 908

An act to repeal Sections 61373, 61379, 61380, 61386, 61387, 61388, and 61389 of, and to add Section 61386 to, the Food and Agricultural Code, relating to milk and dairy products.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 61373 of the Food and Agricultural Code is repealed.

SEC. 2. Section 61379 of the Food and Agricultural Code is repealed.

SEC. 3. Section 61380 of the Food and Agricultural Code is repealed.

SEC. 4. Section 61386 of the Food and Agricultural Code is repealed.

SEC. 5. Section 61386 is added to the Food and Agricultural Code,

to read:

61386. The director may establish limitation upon the extension of credit by distributors to wholesale customers.

The director may adopt regulations for purposes of carrying out the provisions of this article.

SEC. 6. Section 61387 of the Food and Agricultural Code is repealed.

SEC. 7. Section 61388 of the Food and Agricultural Code is repealed.

SEC. 8. Section 61389 of the Food and Agricultural Code is repealed.

SEC. 9. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 909

An act to amend Sections 16009, 16012, 16014, 35691, 39311, 39602, 44895, 44905, 45048, 49532, 66904, 68132, 71029, 72333, 74502, 76036, 76320, 78705, 81139, 81836, 81839, 81962, 82130, 84381, 87045, 87334, 87425, 87440, 87449, 87732, 88194, 89301, 89304, 89721, and 89724 of, to add Sections 1273, 58604.5, and 84500.1 to, and to repeal Sections 74524, 76066, and 78452 of, the Education Code, relating to education.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 1273 is added to the Education Code, to read:

1273. The county superintendent of schools may establish a fund or funds for losses, and payments, including, but not limited to, property of the superintendent, 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 superintendent, as will create an amount which, together with investments made from the fund or funds, will be sufficient in the judgment of the superintendent to protect the superintendent 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 superintendent 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 superintendent, and the balance therein shall not be considered as being part of the working cash of the superintendent 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 superintendent 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 the superintendent.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the superintendent, 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 superintendent 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 superintendent, its officers or employees, within such limits and for such amounts as the superintendent 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 superintendent. Funds in the trust account established by the superintendent pursuant to the provisions of this section shall not exceed a sum sufficient as determined by the superintendent 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 superintendent. The contract may also provide that the contracting firm may employ legal counsel, subject to such terms and limitations as the superintendent 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 superintendent for investigation and adjustment, or to represent the superintendent in litigation concerning such claims. The compensation and expenses of such attorney for services rendered to the superintendent 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 superintendent may consider necessary or desirable to effectuate the superintendent's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the superintendent may authorize an employee or employees to perform any or all of the services and functions which the superintendent may contract for under the provisions of this section.

As used in this section, "firm" includes a person, corporation, or other legal entity.

A county superintendent of schools may participate in, or administer, insurance for one or more school or community college districts pursuant to this section, and Sections 39602 and 81602.

SEC. 2. Section 16009 of the Education Code is amended to read:

16009. In addition to such other powers and duties as are granted the board by this chapter, the board shall:

(a) Establish such qualifications not in conflict with other provisions of this chapter as it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter.

(b) Establish such procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter as it deems necessary and which are not in conflict with the powers and duties of the Department of Education or, of the Board of Governors of the California Community Colleges, or of the director granted or imposed by this chapter.

(c) Adopt such rules and regulations for the administration of this chapter, requiring such procedure, forms, and information, as it may deem necessary.

SEC. 2.5. Section 16012 of the Education Code is amended to read:

16012. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from such a disposition shall be contributed in reduction of any apportionment. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state, by any instruments deemed appropriate by the board, title to any such property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the proceeds therefrom in reduction of apportionments to the district. The district affected shall do all things deemed necessary by the board to implement such disposition. Whenever the board determines it to be in the best interests of the state, an apportionment may be made for the demolition of any facilities replaced through an apportionment. The provisions of this

section shall be applicable to property replaced by apportionments heretofore or hereafter made under this chapter or Chapter 6 (commencing with Section 15700) of this part.

SEC. 3. Section 16014 of the Education Code is amended to read:

16014. Apportionment from the State School Building Aid Fund to school districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for the following purposes, all of which purposes are hereby declared to be, and are, public works: (a) the purchase and improvement of school sites which have been approved by the State Department of Education or the board of governors, each within its own jurisdiction; (b) the purchase of necessary desks, tables, chairs and other movable furniture and equipment, as approved by the Department of Education; or the board of governors, each within its own jurisdiction; and (c) the planning and construction, reconstruction, alteration of, the moving of portable classroom buildings on an existing site or to another school site, and addition to, school buildings, including built-in or fixed equipment, for such facilities as are approved by the Department of Education or the board of governors each within its own jurisdiction as essential, except (1) a room used solely for an auditorium for a school of any type or class and (2) a room used solely for a gymnasium or a room used solely for a cafeteria for elementary schools. This section does not prohibit the Department of Education or the Board of Governors of the California Community Colleges from approving multipurpose rooms which are rooms designed to be used for two or more of the following purposes:

(a) Classroom
(b) Auditorium
(c) Gymnasium
(d) Cafeteria
(e) Such other purposes as the district requires which are approved by the Department of Education or the Board of Governors of the California Community Colleges.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to said district out of said apportionment, or out of any apportionment made specifically covering such insurance; provided, that in other respects said apportionments are eligible for payment under provisions of this chapter.

In addition to the foregoing, the board may make an apportionment to a school district for the purchase from another school district of existing facilities, real or personal, including the site thereof, or any portion of any of the foregoing, providing that the board finds (1) that it is economical and good practice on the part of the acquiring district to purchase the same, and (2) that the

consideration to be paid in the light of all the circumstances surrounding the transfer is fair and equitable both to the acquiring district and to the state.

SEC. 3.5. Section 35691 of the Education Code is amended to read:

35691. An action to transfer inhabited territory from an elementary, or unified district to another elementary, or unified district is initiated upon the filing with the county superintendent of schools of a petition for transfer signed by either:

(a) Twenty-five percent of the registered electors residing in the territory proposed to be transferred, or

(b) A majority of the members of the governing board of each school district affected by the proposed change.

A petition to be presented to electors for signature pursuant to subdivision (a) shall contain the proponent's statement of the reason or reasons for the proposed transfer.

SEC. 4. Section 39311 of the Education Code is amended to read:

39311. In lieu of calling an election pursuant to Section 39308, the governing board of a school district may call an election pursuant to this section. Within 10 days after the governing board has opened the proposals pursuant to Section 39314 or has adopted a resolution pursuant to Section 39315 it may accept a proposal, if proceeding under Section 39314, and execute the lease or agreement, and immediately thereafter call an election pursuant to this section.

The governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the _____ District lease [a site (sites) and] a building [buildings] to be constructed for use by the school district [designating the location of the site or sites on which the building or buildings will be constructed, and generally describing the building or buildings and the cost thereof], and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed _____, such increase to be in effect in the _____ District for the years 19____ to _____, be authorized and the amount of such increase used solely and exclusively for such purposes?"

SEC. 4.5. 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 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 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.

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.

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. 5. Section 44895 of the Education Code is amended to read:

44895. A permanent employee, as specified in Section 44894, when advanced to an administrative or supervisory position requiring certification qualifications, or assigned any special or other type of work requiring certification qualifications, or given special classification or designation requiring certification qualifications, shall retain his permanent classification as specified in Section 44894.

If such a person is advanced to an administrative or supervisory position not requiring certification qualifications, is assigned any special or other type of work not requiring certification qualifications, or is given special classification or designation not requiring certification qualifications, his right to retain permanent classification shall be governed by the provisions of Article 3 (commencing with Section 44060) of Chapter 1 of this part.

SEC. 6. Section 44905 of the Education Code is amended to read:

44905. Nothing in Sections 44882 to 44891, inclusive, Sections 44893 to 44900, inclusive, Sections 44901 to 44906, inclusive, and Sections 44908 to 44919, inclusive, shall be construed as affecting any permanent employee classified as such on August 14, 1931. No decrease in the average daily attendance of any school district shall operate to deprive any permanent employee of the district of his classification.

SEC. 7. Section 45048 of the Education Code is amended to read:

45048. Each salary payment for any calendar month may be made on the last working day of the month and shall be paid not earlier than the last working day of the month and not later than the fifth day of the succeeding calendar month except that teachers employed for less than full time in classes for adults, in a day or evening high school, or in a special day or evening class maintained in connection with an elementary school shall be paid on or before the 10th day of the succeeding calendar month for services performed during the preceding calendar month.

If the school district provides for the payment of the salary of employees employed in positions requiring certification qualifications once each two weeks, twice a month, or once each four weeks, pursuant to Section 45038, each salary payment may be made on the last working day of the payroll period and shall be made not earlier than the last working day of the payroll period and not later than the eighth working day of the following payroll period.

This section shall not prohibit a school district from making a payment of earned salary prior to the last working day of the month or payroll period.

SEC. 8. Section 58604.5 is added to the Education Code, to read:

58604.5. It is the intent and purpose of the Legislature that exemplary programs be established for intensive instruction in reading and mathematics to serve as demonstration projects aimed solely at developing, within pupils, above-average competence in these basic skill subjects. The program shall be developed to serve pupils in grade 7, 8, or 9 who attend school in designated areas of disadvantage, and who otherwise would find difficulty in achieving complete success in high school.

It is the further intent of the Legislature that these programs in intensive instruction in reading and mathematics be operated by school districts directly, or by school districts through contract for partial or complete operation with any competent public or private agency, foundation or corporation. It is also the intent of the Legislature that authority be granted to permit the waiver of any provision of this code by the program approving agency, if such is necessary for the development of model demonstration programs in the intensive instruction in reading and mathematics.

SEC. 8.5. Section 49532 of the Education Code is amended to read:

49532. Any child nutrition entity which has inadequate or no food preparation facilities as determined by the Department of Education, and is, therefore, unable to provide a nutritionally adequate breakfast or lunch, or both, may contract for the preparation, delivery, and service of such meals.

SEC. 9. Section 66904 of the Education Code is amended to read:

66904. It is the intent of the Legislature that sites for new institutions or branches of the University of California and the California State University and Colleges, and such classes of off-campus centers as the commission shall determine, shall not be authorized or acquired unless recommended by the commission.

It is further the intent of the Legislature that California community colleges shall not receive state funds for acquisition of sites or construction of new institutions, branches, or off-campus centers unless recommended by the commission. Acquisition or construction of nonstate-funded community college institutions, branches, and off-campus centers, and proposals for such acquisition or construction shall be reported to and may be reviewed and commented upon by the commission.

It is further the intent of the Legislature that existing, or new institutions of public education, other than those described in subdivisions (b) and (c) of Section 66010 shall not be authorized to offer instruction beyond the 14th grade level.

All proposals for new postsecondary educational programs shall be forwarded to the commission for review together with such supporting materials and documents as the commission may specify. The commission shall review such proposals within a reasonable length of time, which time shall not exceed 60 days following submission of the program and the specified materials and documents. For the purposes of this section, "new postsecondary educational programs" means all proposals for new schools or colleges, all series of courses arranged in a scope or sequence leading to (1) a graduate or undergraduate degree, or (2) a certificate of a type defined by the commission, which have not appeared in a segment's or district's academic plan within the previous two years, and all proposals for new research institutes or centers which have not appeared in a segment's or district's academic plan within the previous two years.

It is further the intent of the Legislature that the advice of the commission be utilized in reaching decisions on requests for funding new and continuing graduate and professional programs, enrollment levels, and capital outlay for existing and new campuses, colleges, and off-campus centers.

SEC. 10. Section 68132 of the Education Code is amended to read:

68132. A person in continuous attendance at an institution who had resident classification on May 1, 1973, shall not lose such classification as a result of this chapter until the attainment of the degree for which he or she was then currently enrolled.

SEC. 11. Section 71029 of the Education Code is amended to read:

71029. The board of governors shall prescribe regulations under which contracts, agreements or arrangements may be made with agencies of the federal government for funds, services, commodities or equipment to be made available to schools of the community college system.

SEC. 12. Section 72333 of the Education Code is amended to read:

72333. Persons employed and compensated as members of a police department of a community college district, when appointed and duly sworn, are peace officers, as defined by Section 830.3 of the Penal Code, but only for the purpose of carrying out the duties of their employment.

SEC. 13. Section 74502 of the Education Code is amended to read:

74502. The petition shall be signed by 25 percent of the registered electors residing in the component district or by the governing board of the community college district of which the component district is a part.

SEC. 14. Section 74524 of the Education Code is repealed.

SEC. 15. Section 76036 of the Education Code is amended to read:

76036. Any governing board may enforce the provisions of

Section 72231 by suspending, or, if necessary, expelling a student in any community college who refuses or neglects to obey any rules prescribed pursuant to that section.

SEC. 16. Section 76066 of the Education Code is repealed.

SEC. 17. Section 76320 of the Education Code is amended to read:

76320. In classes for adults, a day of attendance is 180 minutes of attendance but no student shall be credited with more than 15 clock hours of attendance during any one school week unless he is enrolled in a class in elementary subjects, a class for which high school credit is given, a class in English for foreigners, a class in citizenship, or a class in a trade or industrial subject as defined by the chancellor's office for community colleges.

SEC. 17.5. Section 78452 of the Education Code is repealed.

SEC. 18. Section 78705 of the Education Code is amended to read:

78705. The board of governors shall promote and direct special instruction in the community colleges for physically handicapped students. They may employ such professional and other personnel as are necessary for this purpose, and may perform such other duties as are necessary to give full effect to this article (commencing at Section 78701).

SEC. 18.5. Section 81139 of the Education Code is amended to read:

81139. (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. 19. Section 81836 of the Education Code is amended to read:

81836. The chancellor shall:

(a) Advise the governing board of each community college district

on the acquisition of new college sites, and, after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a fee of twenty-five dollars ($25) for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review all plans and specifications for all construction in every community college district required to submit plans and specifications therefor to the chancellor for approval.

The chancellor's office shall charge community college districts for the review of plans and specifications, a fee of one-seventh of 1 percent of the estimated cost determined by the chancellor's office except for those projects intended to be funded totally with district funds in which case a fee of one-twentieth of 1 percent will be charged. The minimum fee in any case shall be ten dollars ($10).

(d) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

(e) Make, upon the request of the governing board of any community college district, except a city board of education, a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs, and collect the cost of the survey, exclusive of the salaries of the state employees participating therein, from the district.

(f) Employ experts, and clerical and stenographic assistants as may be required for expediting the checking and approving of plans and specifications.

SEC. 20. Section 81839 of the Education Code is amended to read:

81839. Notwithstanding Section 81838, the relative district ability of a community college district formed after June 30, 1964, from territory other than that which included a unified or high school district which maintained a community college, or a community college district, shall be computed according to one of the following: (1) for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, by dividing the 1968–1969 assessed valuation of the district by the 1974–1975 projected enrolled weekly student contact hours of the district, or (2) for a district which became effective for all purposes between July 1, 1967, inclusive, and June 30, 1969, the lesser dividend of the 1968–1969 assessed valuation of the district divided by the 1975–1976 projected enrolled weekly student contact hours of the district, or the projected enrolled weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered, or (3)

for a district which becomes effective for all purposes after June 30, 1969, by dividing the assessed valuation of the district by the projected enrolled weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered.

Relative district ability shall be computed pursuant to Section 81838 for fiscal year 1975–1976 and each year thereafter for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, and for the sixth fiscal year after day classes are first offered and each year thereafter for a district which became effective for all purposes on July 1, 1967, inclusive and thereafter.

The projected enrolled weekly student contact hours for purposes of this section shall be determined by the Department of Finance in cooperation with the Board of Governors of the California Community Colleges and the community college district affected.

Expenditures made by a district during the 1969–1970 fiscal year for projects approved or approvable pursuant to Chapter 4 (commencing with Section 81800) of this part which exceeds that required for local expenditure for such projects by the matching ratio established by provisions of this section shall be allowed as local matching funds for projects approved for the fiscal years 1970–1971 to 1975–1976, inclusive.

SEC. 21. Section 81962 of the Education Code is amended to read:

81962. All revenues received from the operation of any project acquired or constructed by the board under the provisions of this chapter shall be transmitted by the board at least once in every calendar month, to the county treasurer. On order of the county auditor, the county treasurer shall deposit such revenues in the county treasury to the credit of the community college dormitory revenue fund of the district, which fund is hereby created in each county treasury for each district in the county issuing bonds under this chapter. Moneys in the community college dormitory revenue fund shall be used to pay the costs of operation and maintenance of the projects authorized by this chapter, including refunds authorized by Section 81957, to provide the amounts required for interest and redemption of bonds as provided in this chapter, and for any other purposes authorized by resolution of the board, subject to any restrictions provided by law or the indenture.

SEC. 22. Section 82130 of the Education Code is amended to read:

82130. For each community college district eligible to receive a tentative entitlement, the chancellor, within 30 days after the deadline date for submitting applications, shall compute an entitlement by:

(a) Dividing the average assessed valuation per estimated unit of average daily attendance in growth for a two-year period in all community college districts in the state eligible to receive a tentative entitlement by the assessed valuation per estimated unit of growth for a two-year period in the district as determined by Section 82122.

(b) Multiplying the quotient derived under subdivision (a) by the

estimated units of average daily attendance in growth for a two-year period in the district as determined by Section 82122.

(c) Multiplying the product derived for each community college district under subdivision (b) by one-fourth of the average cost of providing community college facilities. If the total of these products is more than ten million dollars ($10,000,000), it shall be deemed to be only ten million dollars ($10,000,000) and adjustments made for each community college district.

(d) Dividing the average assessed valuation per unit of the two-year projection of average daily attendance in all community college districts in the state eligible to receive a tentative entitlement by the assessed valuation per unit of the two-year projection of average daily attendance in the district as determined by Section 82124. It is further provided that all equalization factors below .5 shall be deemed to be .5 and all equalization factors above 3.0 shall be deemed to be 3.0.

(e) Multiplying the quotient derived under subdivision (d) by the two-year projection of average daily attendance in the district as determined by Section 82124.

(f) Computing the total of the products derived under subdivision (e) for each community college district.

(g) Dividing the difference between twenty million dollars ($20,000,000) and the total of the products derived under subdivision (c) by the total of the products derived under subdivision (f).

(h) Multiplying the quotient derived under subdivision (g) by the product derived under subdivision (e).

(i) Computing the total for each community college district of the products derived under subdivision (c) and subdivision (h).

This total is the maximum tentative entitlement for each community college district and shall constitute a reservation of funds for each eligible applicant district.

SEC. 23. Section 84381 of the Education Code is amended to read:

84381. There is hereby created in the State Treasury the Community College Fund for Instructional Improvement. The fund shall consist of a revolving loan program and a direct grant program to support alternative educational programs and services, including:

(a) Nontraditional forms, content, and methods of instruction, such as:

(1) Instructional programs which involve internships and experiential learning opportunities;

(2) Individualized instructional programs which require student development of learning objectives through learning contracts;

(3) Instructional programs which focus on the development of interpersonal skills;

(4) Instructional programs involving independent study;

(b) Programs for improving teaching abilities of faculty members;

(c) Programs addressing special learning needs of educationally disadvantaged students;

(d) Educational services for new clientele, including older,

working adults; and

(e) Efforts to improve traditional instructional programs.

SEC. 24. Section 84500.1 is added to the Education Code, to read:

84500.1. No community college district shall report for attendance or average daily attendance to the board of governors for apportionment any classes: (1) if the district receives full compensation for direct education costs for such class from any public or private agency, individual or group of individuals, or (2) if such classes are not located in facilities clearly identified in such a manner, and established by appropriate procedures, to insure that attendance in such classes is open to the general public, except those authorized pursuant to Section 78440 and those in state hospitals.

The Board of Governors of the California Community Colleges may adopt such regulations as may be necessary to enforce this section.

SEC. 25. Section 87045 of the Education Code is amended to read:

87045. A classified employee currently employed by any community college district which decides to maintain classes on Saturday or Sunday, or both, shall not, without his or her written consent, be required to change his or her workweek to include Saturday or Sunday, or both. No such classified employee shall be assigned to perform services on a Saturday or Sunday if such classified employee objects in writing that such assignment would conflict with his or her religious beliefs or practices. Enactment of this section shall cause no change or disruption in existing work schedules which may already include Saturday or Sunday as regular workdays.

This section shall not be construed as limiting the power of any governing board of a community college district to govern the schools of the district, including the assignment of classified employees employed by such district.

This section shall not be construed as modifying or otherwise affecting in any way the provisions of Section 88026, 88027, or 88030, or any other provisions of this code relating to employment of classified employees.

SEC. 26. Section 87334 of the Education Code is amended to read:

87334. Upon the becoming final of the conviction of the holder of any credential issued by the board of governors, or State Board of Education of a violation, or attempted violation, of any one or more of Penal Code Sections 187 to 191, 192 insofar as said section relates to voluntary manslaughter, 193, 194 to 232, both inclusive, 244, 245, 261 to 267, both inclusive, 273a, 273f, 273g, 278, 285 to 288a, both inclusive, 424, 425, 484 to 488, both inclusive, insofar as said sections relate to felony convictions, 503 and 504, or of Penal Code Section 272, the board of governors shall forthwith revoke the credential.

SEC. 27. Section 87425 of the Education Code is amended to read:

87425. The governing board of a community college district may, for the purposes of providing bilingual instruction, foreign language instruction, or cultural enrichment, in the colleges of the district,

subject to the rules and regulations of the board of governors conclude arrangements with the proper authorities of any foreign country, or of any state, territory, or possession of the United States, for the hiring of bilingual instructors employed in public or private schools of any foreign country, state, territory, or possession. To be eligible for employment the instructor must speak English fluently. Any persons so employed pursuant to this section shall be known as a "sojourn certificated employee."

No person may be hired as a sojourn certificated employee by a community college district unless he or she holds the necessary valid credential or credentials issued by the board of governors authorizing service in a position requiring certification qualifications in the community college district proposing to employ him or her. Such person may be employed only for a period not to exceed two years, except that thereafter such period of employment may be extended from year to year for a total period of not more than five years upon verification by the employing district that termination of such employment would adversely affect an existing bilingual or foreign language program or program of cultural enrichment and that attempts to secure the employment of a certificated California instructor qualified to fill such position have been unsuccessful. The board of governors shall establish minimum standards for the credentials for sojourn certificated employees.

SEC. 28. Section 87440 of the Education Code is amended to read:

87440. The qualifications for a physician employed to serve on a halftime or greater than halftime basis shall be a valid certificate to practice medicine and surgery issued by the State Board of Medical Examiners or Board of Osteopathic Examiners and either a services credential with a specialization in health or a valid credential issued prior to November 23, 1970. The qualifications for a physician employed for less than halftime shall be a valid certificate to practice medicine and surgery issued by the State Board of Medical Examiners. Any community college district may employ and compensate a physician meeting the foregoing qualifications for the performance of medical services for the district and shall provide liability insurance coverage for the period of the physician's employment.

As used in this section "medical services" includes, but is not limited to, any medical services required to be performed while required to be in attendance at community college athletic contests or meets.

SEC. 29. Section 87449 of the Education Code is amended to read:

87449. When an instructor of classes for adults serves sufficient probationary time as provided in Section 87468 to be eligible for election to permanent classification in that district, his tenure shall be for such service as is equivalent to the average number of hours per week which he has served during his probationary years. In no case shall such an employee be classified as permanent for more than one full-time assignment. The service for which such a person has

acquired tenure may be reduced in conformity with Sections 87743 and 87744.

SEC. 30. Section 87732 of the Education Code is amended to read:

87732. No regular employee shall be dismissed except for one or more of the following causes:

(a) Immoral or unprofessional conduct.

(b) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof.

(c) Dishonesty.

(d) Incompetency.

(e) Evident unfitness for service.

(f) Physical or mental condition unfitting him to instruct or associate with children.

(g) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the board of governors or by the governing board of the community college district employing him.

(h) Conviction of a felony or of any crime involving moral turpitude.

(i) Conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

(j) Violation of any provision in Sections 7000 to 7007, inclusive.

(k) Knowing membership by the employee in the Communist Party.

SEC. 31. Section 88194 of the Education Code is amended to read:

88194. Every person employed in the classified service of any community college district shall be granted necessary leave of absence, not to exceed three days, or five days if out-of-state travel is required, on account of the death of any member of his immediate family. No deduction shall be made from the salary of such employee nor shall such leave be deducted from leave granted by other sections of this code or provided by the governing board of the district. The governing board may enlarge the benefits of this section and may expand the class of relatives listed below as members of the immediate family. Members of the immediate family, as used in this section, means the mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse of the employee, and the spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister of the employee, or any relative living in the immediate household of the employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter

SEC. 32. Section 89301 of the Education Code is amended to read:

89301. Notwithstanding any provision of law to the contrary, except as provided pursuant to Section 89707.5 with respect to nonresident students who are citizens and residents of a foreign country and who are not citizens of the United States, student body

organization membership fees authorized under the provisions of Section 89300 hereof shall be collected by the officials of the campus of the California State University and Colleges, together with all tuition and material and service fees, at the time of registration, except where a student loan or grant from a recognized training program or student aid program has been delayed and there is reasonable proof that the funds will be forthcoming. Exception may also be made where changes are made during the change of program period which result in a higher fee category than paid at the time of registration. All unexpended funds and money collected on behalf of or by student body organizations, except funds and money collected from commercial services as provided in Section 89905, shall, with the approval of an appropriate officer of the student body organization, be deposited in trust by the chief fiscal officer of the campus and such money shall, subject to the approval of the trustees, be deposited or invested in any one or more of the following ways:

(a) Deposits in trust accounts of the centralized State Treasury system pursuant to Sections 16305 to 16305.7, inclusive, of the Government Code or in the California State University and Colleges Trust Fund or in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations; provided such associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation; and provided further that any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by such insurance.

(c) Purchase of any of the securities authorized for investment by Section 16430 of the Government Code or investment by the State Treasurer in those securities.

(d) Participation in funds which are exempt from federal income tax pursuant to Section 501 (c) (3) of the Internal Revenue Code and which are open exclusively to nonprofit colleges, universities, and independent schools.

(e) Investment certificates or withdrawable shares in federal or state credit unions; provided such credit unions are doing business in this state and have their accounts insured by the National Credit Union Administration; and provided further that any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by such insurance.

All moneys received by a state university or college from any agency of the state or federal government for the payment of student body organizations membership fees of students attending the university or college shall be deposited or invested as provided above.

SEC. 33. Section 89304 of the Education Code is amended to read:

89304. Upon the favorable vote of two-thirds of the students

voting in an election held for the purpose at a state college, in such manner as the trustees shall prescribe, and open to all regular students enrolled in the university or college, the trustees are authorized to fix, in addition to any other student fee the trustees are authorized to fix, a building and operating fee not to exceed twenty dollars ($20) per student per academic year which shall be required of all students attending the university or college. All unexpended funds and money collected by any state college under this section shall be available for financing, operating and constructing a student body center, and until so used, shall, subject to the approval of the trustees, be deposited or invested in trust by the chief fiscal officer of that university or college in any one or more of the following ways:

(a) Deposits in trust accounts of the centralized State Treasury system pursuant to Sections 16305 to 16305.7, inclusive, of the Government Code or in the State Colleges Trust Fund or in a bank or banks whose accounts are insured by the Federal Deposit Insurance Corporation.

(b) Investment certificates or withdrawable shares in state-chartered savings and loan associations and savings accounts of federal savings and loan associations; provided such associations are doing business in this state and have their accounts insured by the Federal Savings and Loan Insurance Corporation.

(c) Purchase of any of the securities authorized for investment by Section 16430 of the Government Code or investment by the State Treasurer in those securities.

(d) Participation in funds which are exempt from federal income tax pursuant to Section 501 (c) (3) of the Internal Revenue Code and which are open exclusively to nonprofit colleges, universities, and independent schools.

(e) Investment certificates or withdrawable shares in federal or state credit unions; provided such credit unions are doing business in this state and have their accounts insured by the National Credit Union Administration; and provided further that any money so invested or deposited is invested or deposited in certificates, shares, or accounts fully covered by such insurance.

The chief fiscal officer of each college shall be custodian of those moneys and provide the necessary accounting records and controls thereof.

The state university or college shall be reimbursed from these funds in an amount to cover the cost of the custodial and accounting services provided by the university or college in connection with these funds.

These funds may be expended by the custodian only upon the submission of an appropriate claim schedule by an elected representative of the student body or his appointee.

SEC. 34. Section 89721 of the Education Code is amended to read:

89721. Notwithstanding any other provision of law to the contrary, the chief fiscal officer of each campus of the California State University and Colleges shall deposit into and maintain in local trust

accounts or in trust accounts in accordance with the provisions of Sections 16305 to 16305.7, inclusive, of the Government Code, or in the California State University and Colleges Trust Fund, moneys received in connection with the following sources or purposes:

(a) Gifts, bequests, devises, and donations received under Section 89720.

(b) Any student loan or scholarship fund program, including but not limited to, student loan programs of the state, federal government (including programs referred to in Section 89723), local government, or private sources.

(c) Advance payment for anticipated expenditures or encumbrances in connection with federal grants or contracts.

(d) Room, board, and similar expenses of students enrolled in the international program of the California State University and Colleges.

(e) Cafeteria replacement funds.

(f) Miscellaneous receipts in the nature of deposits subject to return upon approval of a proper application.

(g) Fees and charges for services and materials authorized by Section 89700 where such fees or charges are required of those persons who, at their option, use the services or are provided the materials, for which the fees or charges are made. Fees and charges so received and deposited shall be used solely to meet the costs of providing such services and materials

SEC. 35. Section 89724 of the Education Code is amended to read:

89724 (a) All money received from the sale of publications pursuant to Section 90500, all money received under an agreement entered into pursuant to Section 89036, and except as to the fees and charges specified in subdivision (g) of Section 89721, all money collected as fees from students in any state university or college and from other persons under Section 89030, Sections 89036 to 89040, inclusive, and Sections 89700, 89705, 89708, 89709, 89720, and 89721, and by reason of Section 2080.9 of the Civil Code, is hereby appropriated for the support of the California State University and Colleges in addition to such other amounts as may be appropriated therefor by the Legislature. Money received under Sections 89720 and 89721, or received by reason of Section 2080.9 of the Civil Code, is appropriated without regard to fiscal year; provided, that money received by reason of Section 2080.9 of the Civil Code shall be used for student scholarships and loans pursuant to such regulations as the trustees shall provide, and while held pending the grant of a scholarship or loan, may be invested by the State Treasurer upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investment shall also be used for such scholarships and loans; and provided further, that money received by reason of Sections 89720 and 89721 may be invested by the State Treasurer upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code, in which case all

interest and other earnings received pursuant to such investment shall also be used for such purposes as may be established by the trustees consistent with the terms and conditions of the gift, bequest, devise, donation, or agreement under Sections 89720 and 89721. Except as otherwise provided with respect to money received by reason of Section 2080.9 of the Civil Code and Sections 89720 and 89721 of the Education Code, all money received pursuant to this section shall augment the support appropriation to the California State University and Colleges for the fiscal year to which the collections apply.

(b) All money received from the sale or the disposition of real property acquired by or on behalf of a particular state university or college by gift, devise, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for the acquisition and improvement of real property for such particular state university or college, in addition to such other amounts as may be appropriated therefor by the Legislature. All money received from the sale or other disposition of personal property, other than money, acquired by or on behalf of a particular state university or college by gift, bequest, or donation pursuant to Section 89720 or pursuant to the predecessor of that section is hereby appropriated to the trustees for expenditure for capital outlay for, or the acquisition and improvement of real or personal property for, such particular state university or college, in addition to such other amounts as may be appropriated therefor by the Legislature. No money shall be expended by the trustees under this subdivision without the approval of the Director of Finance. Such money shall augment such support or capital outlay appropriation of the California State University and Colleges current at the date of issuance of the State Controller's receipt therefor as may be designated by the trustees prior to their deposit in the State Treasury.

SEC. 36. Any section of any act which is enacted during the second year of the 1977–78 Regular Session of the Legislature and which amends, amends and renumbers, or repeals a section amended, amended and renumbered, or repealed by this act, and which is chaptered either before or after this act, shall prevail over this act.

CHAPTER 910

An act to amend Section 30790 of, and to add Section 30791.7 to, the Streets and Highways Code, relating to toll bridges.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 30790 of the Streets and Highways Code is amended to read:

30790. (a) The San Mateo-Hayward Bridge is the bridge, together with necessary approaches, across San Francisco Bay connecting the County of San Mateo near the City of San Mateo with the County of Alameda near Mount Eden. The approaches to the bridge shall include, but not be limited to, the following:

(1) An approach along Route 92 to Route 101, including the interchange between Routes 92 and 101, in the County of San Mateo.

(2) An approach along Route 92 to a point at or near the junction of Routes 17 and 92, in the County of Alameda.

(3) An interchange between Routes 17 and 238, in the County of Alameda.

(4) The portion of Route 17 between Route 92 and Route 238, in the County of Alameda.

(b) The Dumbarton Bridge is the vehicle bridge across San Francisco Bay, together with necessary approaches, connecting the County of San Mateo near Menlo Park with the County of Alameda near Fremont.

SEC. 2. Section 30791.7 is added to the Streets and Highways Code, to read:

30791.7. (a) The California Transportation Commission, subject expressly to the provisions of any bond resolution adopted by the California Toll Bridge Authority for the purpose of financing construction of the new Dumbarton Bridge, may pledge and use revenues derived from the operation of the San Francisco-Oakland Bay Bridge, the San Mateo-Hayward Bridge, the existing Dumbarton Bridge, and the new Dumbarton Bridge upon its opening to traffic for the purpose of financing construction of the approaches to the San Mateo-Hayard Bridge as described in subdivision (a) of Section 30790, including pledging revenues for the payment of revenue bonds issued to finance such construction. This action shall be taken by the California Transportation Commission, only if a study, which shall be conducted by the Metropolitan Transportation Commission of alternative means of financing the approaches recommends that the financing be, in whole or in part, by toll revenues, including the issuance of bonds. In that event, the California Transportation Commission may adopt a plan for the financing and construction of the approaches based on the recommendations submitted by the Metropolitan Transportation Commission.

(b) In authorizing such construction, the Legislature hereby finds and declares that the revenues derived from the operation of the San Francisco-Oakland Bay Bridge, the San Mateo-Hayward Bridge, and the Dumbarton Bridge may be used to finance the completion of the approach system to the San Mateo-Hayward Bridge

CHAPTER 911

An act to amend Sections 1203.4 and 1203.4a of the Penal Code and Sections 13352 and 13353 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and he shall thereafter be released from all penalties and disabilities resulting from the offense of which he has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his probation papers, of this right and privilege and his right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make such application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his custody or control any firearm capable of being concealed upon the person or prevent his conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor which is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

SEC. 2. Section 1203.4a of the Penal Code is amended to read:

1203.4a. (a) Every defendant convicted of a misdemeanor and not granted probation shall, at any time after the lapse of one year

from the date of pronouncement of judgment, if he has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime and has, since such pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his plea of guilty or nolo contendere and enter a plea of not guilty; or if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusatory pleading against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he has been convicted, except as provided in Section 13555 of the Vehicle Code. The defendant shall be informed of the provisions of this section, either orally or in writing, at the time he is sentenced. The defendant may make such application and change of plea in person or by attorney, or by the probation officer authorzied in writing; provided, that in any subsequent prosecution of such defendant for any other offense, such prior conviction may be pleaded and proved and shall have the same effect as if relief had not been granted pursuant to this section.

This subdivision applies to convictions which occurred before as well as those occuring after, the effective date of this section.

(b) Subdivision (a) of this section shall not apply to any misdemeanor falling within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

SEC. 3. Section 13352 of the Vehicle Code is amended to read:

13352. The department shall, except for a conviction or finding described in subdivision (a) where the court does not order the department to suspend, immediately suspend or revoke the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or while under the combined influence of intoxicating liquor and any drug, or in violation of subdivison (c) of Section 23105, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed the offense of operating a vehicle while under the influence of intoxicating liquor or any drug, or while under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105. The suspension or revocation shall be as follows:

(a) Upon a first such conviction or finding, other than under Section 23101 or 23106 such privilege shall be suspended for a period of six months, if the court orders the department to suspend such privilege

(b) Upon a first such conviction or finding under Section 23101 or 23106 such privilege shall be suspended for one year and shall not be reinstated until such person gives proof of ability to respond in

damages as defined in Section 16430.

(c) Upon a second conviction or finding of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105, or any combination of such convictions or findings within five years, such privilege shall be suspended and shall not be reinstated in less than one year and until such person gives proof of ability to respond in damages as defined in Section 16430.

(d) Upon a second such conviction or finding under Section 23101 or 23106 within three years, such privilege shall be revoked and shall not be reinstated in less than five years and until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license, and the person gives proof of ability to respond in damages as defined in Section 16430.

(e) Upon a third or subsequent conviction or finding of driving a motor vehicle while under the influence of intoxicating liquor or any drug, or under the combined influence of intoxicating liquor and any drug, or in violation of subdivision (c) of Section 23105, or any combination of such convictions or findings within seven years such privilege shall be revoked and shall not be reinstated for a period of three years and until such person files proof of ability to respond in damages as defined in Section 16430.

For the purpose of subdivision (c), (d), and (e), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court, specified in the first paragraph of this section shall also be considered a conviction.

Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report such findings to the department.

SEC. 4. Section 13353 of the Vehicle Code is amended to read:

13353. (a) Any person who drives a motor vehicle upon a highway shall be deemed to have given his consent to a chemical test of his blood, breath or urine for the purpose of determining the alcoholic content of his blood if lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe such person was driving a motor vehicle upon a highway while under the influence of intoxicating liquor. Such person shall be told that his failure to submit to or complete such a chemical test will result in the suspension of his privilege to operate a motor vehicle for a period of six months.

The person arrested shall have the choice of whether the test shall be of his blood, breath or urine, and he shall be advised by the officer that he has such choice. If the person arrested either is incapable, or states that he is incapable, of completing any chosen test, he shall then have the choice of submitting to and completing any of the

remaining tests or test, and he shall be advised by the officer that he has such choice.

Such person shall also be advised by the officer that he does not have the right to have an attorney present before stating whether he will submit to a test, before deciding which test to take, or during administration of the test chosen.

Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn his consent and such tests may be administered whether or not such person is told that his failure to submit to or complete the test will result in the suspension of his privilege to operate a motor vehicle.

(b) If any such person refuses the officer's request to submit to, or fails to complete, a chemical test, the department, upon receipt of the officer's sworn statement that he had reasonable cause to believe such person had been driving a motor vehicle upon a highway while under the influence of intoxicating liquor and that the person had refused to submit to, or failed to complete, the test after being requested by the officer, shall suspend his privilege to operate a motor vehicle for a period of six months. The officer's sworn statement shall be submitted on a form furnished or approved by the department. No such suspension shall become effective until 10 days after the giving of written notice thereof, as provided for in subdivision (c).

(c) The department shall immediately notify such person in writing of the action taken and upon his request in writing and within 15 days from the date of receipt of such request shall afford him an opportunity for a hearing in the same manner and under the same conditions as provided in Article 3 (commencing with Section 14100) of Chapter 3 of this division. For the purposes of this section the scope of the hearing shall cover the issues of whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle upon a highway while under the influence of intoxicating liquor, whether the person was placed under arrest, whether he refused to submit to, or failed to complete, the test after being requested by a peace officer, and whether, except for the persons described in paragraph (a) above who are incapable of refusing, he had been told that his driving privilege would be suspended if he refused to submit to, or failed to complete, the test.

An application for a hearing made by the affected person within 10 days of receiving notice of the department's action shall operate to stay the suspension by the department for a period of 15 days during which time the department must afford a hearing. If the department fails to afford a hearing within 15 days, the suspension shall not take place until such time as the person is granted a hearing and is notified of the department's action as hereinafter provided However, if the affected person requests that the hearing be continued to a date beyond the 15-day period, the suspension shall become effective immediately upon receipt of the department's

notice that said request for continuance has been granted.

If the department determines upon a hearing of the matter to suspend the affected person's privilege to operate a motor vehicle, the suspension herein provided shall not become effective until five days after receipt by said person of the department's notification of such suspension.

(d) Any person who is afflicted with hemophilia shall be exempt from the blood test required by this section.

(e) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a physician and surgeon shall be exempt from the blood test required by this section.

(f) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor may request the arresting officer to have a chemical test made of the arrested person's blood, breath or urine for the purpose of determining the alcoholic content of such person's blood, and, if so requested, the arresting officer shall have the test performed.

CHAPTER 912

An act to amend Section 2 of Chapter 158 of the Statutes of 1978, relating to court interpreters, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 2 of Chapter 158 of the Statutes of 1978 is amended to read:

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, Sonoma, 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. 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 implement the technical correction made by this bill to Chapter 158 of the Statutes of 1978, which took effect May 24, 1978, as an urgency statute, as soon as possible, it is necessary that this bill take effect immediately.

CHAPTER 913

An act to amend Sections 10375 and 10610 of, and to add Section 10376.8 to, the Health and Safety Code, relating to dead bodies.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 10375 of the Health and Safety Code is amended to read:

10375. No person shall dispose of human remains unless (a) there has been obtained and filed with a local registrar a death certificate, as provided in Chapter 5 (commencing with Section 10200) of this division, and (b) there has been obtained from a local registrar a permit for disposition.

SEC. 2. Section 10376.8 is added to the Health and Safety Code, to read:

10376.8. (a) Upon the presentation of a certificate of death properly executed and completed in accordance with the policies and procedures of the county coroner in which the death occurred which are not in conflict with state law, the permit for disposition required by Sections 10375, 10376, and 10376.5 shall be issued by any local registrar pursuant to this section. The local registrar issuing the permit for disposition pursuant to this section shall promptly forward the death certificate and a duplicate of the permit for disposition to the local registrar of the district in which death occurred or the body was found.

(b) The applicant for a permit under this section shall pay a fee of five dollars ($5) to the issuing registrar. Two dollars ($2) of such fee shall be transferred by the issuing registrar to the local registrar of the county where the death occurred and one dollar ($1) shall be

transferred to the State Registrar for the administration of the provisions of this section.

(c) Applicants for a permit for disposition pursuant to this section shall not be subject to the provisions of Section 10610.

SEC. 1.5. Section 10610 of the Health and Safety Code is amended to read:

10610. Except as otherwise provided in Section 10376.8, the fee for issuance of a permit for disposition of human remains is two dollars ($2) payable to the local registrar of births and deaths by the applicant for the permit, when such permit is issued during regularly scheduled office hours of the local registrar of births and deaths.

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 self-financing authority is provided in this act and in Section 10610 of the Health and Safety Code to cover such costs.

CHAPTER 914

An act to amend Sections 2 and 5.1 of the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959), relating to the Yuba County Water Agency.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 2 of the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959) is amended to read:

Sec. 2. As used in this act, the following words shall have the following respective meanings unless the context indicates otherwise:

(a) "Agency" is the Yuba County Water Agency.

(b) "County" or "principal county" is the County of Yuba of the State of California.

(c) "United States" is the United States of America including any one or more of the bureaus, commissions, divisions, departments, boards, agencies, and officers of the United States of America.

(d) "State" means the State of California including any one or more of the bureaus, commissions, divisions, departments, boards, agencies, and officers of the State of California.

(e) "Work" or "works" includes dams and dam sites, reservoirs and reservoir sites, and all conduits and other facilities useful in the control, conservation, diversion and transmission of water; power generation and transmission facilities, and all land, property, franchises, easements, rights-of-way and privileges necessary or useful to operate or maintain any of the foregoing.

(f) "District" as used hereafter means any of the following lying within or partially within, or contiguous to the agency: irrigation districts, county water districts, water conservation districts, water districts, soil conservation districts, municipalities, towns, flood control districts, levee districts, mutual water companies, public utilities as defined in Section 216 of the Public Utilities Code, and any other districts or political subdivisions of the state empowered by law to appropriate water and deliver water to water users.

(g) "Member unit" means any district which enters into a contract with the agency for (i) the repayment in whole or in part to the agency or any other person, corporation, public district, State of California or any political subdivision thereof, or the United States, of any or all the construction costs of any works constructed by or on behalf of the agency or such district, or for (ii) the underwriting in whole or in part of any or all of such construction costs, or for (iii) the repayment in whole or in part to the agency or any other person, corporation, public district, State of California or any political subdivision thereof, or the United States, of any or all of the cost of furnishing water or a water supply to the agency or such district or the underwriting in whole or in part of such cost, or for (iv) the payment in whole or in part for water to be furnished or sold to such district by the agency or the United States.

(h) "Elector" means a resident of the agency who is qualified under the laws of the State of California to vote at a general election.

(i) "May" is permissive and "shall" is mandatory.

(j) "Board" means the board of directors of the agency.

SEC. 2. Section 5.1 of the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959) is amended to read:

Sec. 5.1. The agency may enter into contracts with any member unit or with any district which becomes a member unit of the agency for any of the following purposes:

(a) The lease, purchase, or other acquisition by the agency of any of the works of such member unit or district.

(b) The construction of works by the agency for the conservation, regulation or transmission of water for the benefit of such member unit or district; or for the furnishing or sale by the agency or the State of California or the United States to such member unit or by such member unit to the agency of water or a water supply for any purpose.

(c) The sale, lease, or other disposition of water, water rights, and water storage facilities or interests therein, by the agency or by such member unit.

(d) The operation of works and the delivery of water by the agency or by such member unit, except that:

(1) The works shall be operated in conformity with the vested rights and appropriations of each of its member units having an interest therein.

(2) There shall be delivered to each member unit all water to which such member unit is entitled under the contract entered into

by the agency and such member unit.

(3) There shall not be delivered to any member unit more water than the amount to which such member unit is entitled under the contract entered into by the agency and such member unit, except that the release of water from any reservoir in the amount required to satisfy any vested right shall not constitute a delivery of water, and any amount of water assigned under Section 5.6 by one member unit to another member unit shall be delivered to the latter.

(e) No contract may be entered into between the agency and a member unit which provides for the sale of project water for agricultural purposes, industrial purposes, or for power plant cooling purposes upon any term or condition more favorable than the same term or condition contained in the agricultural water contracts entered into between the agency and member units prior to January 1, 1978.

CHAPTER 915

An act to amend Section 14086.5 of the Government Code, and to amend Sections 188.8 and 199 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 14086.5 of the Government Code is amended to read:

14086.5. Before approving an overall project financing plan and an overall project development schedule, the department shall obtain the finding of the California Transportation Commission, and the commission shall transmit its finding to the department within a reasonable time, that the proposal is in accordance with the adopted state transportation improvement program for state funded projects and the adopted regional transportation improvement program for federally funded projects.

SEC. 2. Section 188.8 of the Streets and Highways Code is amended to read:

188.8. Out of the money expended pursuant to Section 188, the commission shall allocate and the department shall expend, or cause to be expended, in each state transportation district of County Group No. 1 and in each state transportation district of County Group No. 2 during the period commencing July 1, 1971, and ending June 30, 1975, and for each period of four years, thereafter, not less than an amount computed as follows:

(a) The commission shall compute for each period of four years an amount equal to 70 percent of the moneys to be expended in County

Groups Nos. 1 and 2, respectively, as provided in Section 188.

(b) From the amount computed for County Group No. 1 in subdivision (a) for the period ending June 30, 1979, the commission shall determine the minimum expenditure for each transportation district in the group by applying the percentages specified on page 13798 of the Assembly Daily Journal for June 5, 1974.

(c) From the amount computed for County Group No. 2 in subdivision (a) for the period ending June 30, 1979, the commission shall determine the minimum expenditure for each transportation district in the group by applying the percentages specified on page 13798 of the Assembly Daily Journal for June 5, 1974.

For purposes of this section, state transportation districts shall be identical to those state highway districts established by the department for administrative purposes as of June 30, 1960.

For each four-year period subsequent to June 30, 1983, a percentage for each state transportation district as listed in subdivisions (b) and (c) shall be computed on the basis of an estimate of existing state highway and exclusive public mass transit guideway construction needs to be funded from the State Highway Account in the State Transportation Fund. The revised percentages shall be used in computing minimum expenditures for each district. The first such estimate of construction needs shall be filed with the Legislature and be published in the respective Journals of the Senate and the Assembly not later than January 15, 1981, and shall govern minimum expenditure computations for the period commencing July 1, 1983, and ending June 30, 1987. Not later than January 15, 1985, and each four years thereafter, a new estimate shall be filed and published and shall govern the minimum expenditure computations for the four-year period commencing July 1, 1987, and for each succeeding four-year period.

Except as provided in this paragraph, the entire obligation under a contract awarded or a day labor project commenced during any of the periods shall be deemed an expenditure within the period in which such contract was awarded or day labor project commenced. Obligations under contracts which have been awarded or day labor projects which have been commenced but which are to be budgeted over more than one fiscal year pursuant to Section 170, shall be deemed expenditures in each of the fiscal years in which the work is to be performed in an amount equal to the final amount budgeted for each such fiscal year for such work.

SEC. 3. Section 199 of the Streets and Highways Code is amended to read:

199. Upon the approval of a proposition by the voters of an area pursuant to Section 4 of Article XIX of the California Constitution, the entity, including, but not limited to, a transit district, responsible for construction of an exclusive public mass transit guideway project in that area may submit the project to the department for inclusion in its resource allocation recommendations. If the project is located within an area under the jurisdiction of a statutorily created regional

transportation agency, including a county transportation commission, the project shall be approved by the agency prior to being submitted to the department.

The department shall submit its resource allocation recommendations for that project for the comment and review of the transportation planning agency designated in Section 29532 of the Government Code for the area, except that in the case of a project located within an area under the jurisdiction of a statutorily created regional transportation agency, including a county transportation commission, the project shall be approved by the agency. Each project shall be submitted by the department to the California Transportation Commission for the allocation of funds to the project from those funds appropriated for guideway purposes from the State Highway Account in the State Transportation Fund. Allocations shall be made under such terms and conditions as the commission deems appropriate, taking into consideration any recommendation of the department.

The funds set aside pursuant to this section and Section 199.1 shall be deemed expenditures on the state highway system for purposes of Sections 188, 188.8, and 188.9 and shall be separately identified in the budget report submitted to the Legislature.

SEC. 4. Section 2 of this act shall become operative when (a) the California Transportation Plan is adopted and (b) the Legislature finds that the allocation of funds in the State Highway Account in the State Transportation Fund based on the estimate of existing exclusive public mass transit guideway construction needs, as well as on the estimate of existing state highway construction needs, would give equal consideration to the transportation needs of all areas of the state and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan.

CHAPTER 916

An act to amend Sections 2543, 2550.1, 2552, and 2553.7 of, and to repeal Section 2553.1 of, the Business and Professions Code, relating to registered dispensing opticians.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 2543 of the Business and Professions Code is amended to read:

2543. The right to dispense, sell or furnish prescription lenses at retail or to the person named in a prescription is limited exclusively

to licensed physicians and surgeons, licensed optometrists, and registered dispensing opticians as provided in this division. This section shall not be construed to affect licensing requirements pursuant to Section 26685 of the Health and Safety Code.

SEC. 2. Section 2550.1 of the Business and Professions Code is amended to read:

2550.1. All references in this chapter to the board or the Board of Medical Examiners or division shall mean the Division of Allied Health Professions of the Board of Medical Quality Assurance.

SEC. 3. Section 2552 of the Business and Professions Code is amended to read:

2552. Each application, to enable the division to determine if applicant is entitled to be registered under this chapter, shall be verified under oath by the person or persons required to sign the application and shall contain the matters referred to in subdivision (a) hereof and be accompanied by the affidavits referred to in subdivision (b):

(a) The name, address and time, place and extent of the previous experience of the person or persons who will manage applicant's dispensing operations. The person or persons who will manage applicant's dispensing operations shall have at least five full years of actual experience in fitting and adjusting any prescription lens or lenses. The division shall have authority to provide that in lieu of not more than three years of the five years required of actual experience in fitting and adjusting lenses referred to in this section, such person may substitute graduation from a two-year college program duly approved by the division in a course of studies in the technique of applied optical dispensing.

(b) The sworn affidavits, in a form prescribed by the board, of three physicians and surgeons who specialize in the treatment of eyes and who are duly licensed by the Board of Medical Quality Assurance or by the medical licensing authority in any other state, stating and certifying according to the personal knowledge of each physician and surgeon signing the same, that each person referred to in subdivision (a) has the required experience and that each such person is fully competent and qualified to accurately fill prescriptions for such prescription lens or lenses and to fit and adjust such lenses. In lieu of one or two of such affidavits of physicians and surgeons, the applicant may substitute a like number of sworn affidavits, in a form prescribed by the division, (1) of a person who was or is lawfully engaged in fitting and adjusting prescription lenses and who was or is the former or present employer of such person referred to in subdivision (a) or (2) of any officer, managing agent or manager of dispensing operations of such an employer, stating and certifying according to the personal knowledge of the affiant that such person referred to in subdivision (a) possesses the foregoing experience and qualifications.

Applicant shall furnish such additional information or proof, oral or written, with respect to the competency and qualifications of

applicant and each of the foregoing persons which the board may request, including information and proof relating to provisions of Division 1.5 (commencing with Section 475).

In its discretion, the division may require applicant's proposed manager of dispensing operations to appear before a representative of the board to testify under oath and supply additional information as to his or her experience and qualifications. The proposed manager shall appear at a place designated by the board that is not more than 150 miles from the address for which registration has been applied.

The division in considering any application for a renewal of a certificate may in its discretion require from applicant the same information and proof with respect to any or all of the foregoing matters.

The division shall promptly notify any applicant if, as of the 30th day following the submission of an application under this chapter, the application and supporting documentation, including affidavits, are not substantially complete and in proper form. Such notification shall be in writing, shall state specifically what documents or other information are to be supplied by the applicant to the board, and shall be sent to the applicant by certified or registered mail. Within 30 days of the applicant's submission of the requested documents or information to the board, the board shall notify the applicant by certified or registered mail if the board requires additional documents or information.

SEC. 4. Section 2553.1 of the Business and Professions Code is repealed.

SEC. 5. Section 2553.7 of the Business and Professions Code is amended to read:

2553.7. During the time an individual or firm is authorized to engage in business at an address for which a separate certificate is issued pursuant to Section 2553, the person in charge of and managing the dispensing operations at that address must possess all of the qualifications specified in Section 2552 and must not be in charge of or manage dispensing operations at any other address. At all times, the manager shall actively and as his or her principal occupation be in charge of and manage dispensing operations at that address, allowing for usual and customary periods of absence such as for illness and vacation.

A certificate of registration issued for a particular address shall automatically expire 90 days after the time the dispensing operations at that address cease for any reason to be under the charge of and managed by the person so designated in the registrant's previously filed application or renewal application, unless within 90 days from the date of such cessation the registrant submits and the board approves a new application form containing all of the information specified in Section 2552 including the affidavits referred to in subdivision (b) of Section 2552. A certificate of registration shall automatically expire, however, without a 90-day delay in the event the manager designated at that address is transferred to serve as

manager at another registered address operated by the registrant, unless prior to such transfer a new manager has been designated by the registrant, approved by the board, and actively in charge of dispensing operations at that address, as herein provided.

Whenever a manager ceases to be an active manager at any address because of death, termination of employment, transfer of employment or any other reason, registrant, within five days thereafter, shall give written notice to the division thereof, stating the reason for such cessation.

No earlier than January 1 and no later than January 31 of each odd-numbered year, each registrant shall file with the division the name of the person who at the time of filing has charge of and manages the registrant's dispensing operations at each address for which a separate certificate has previously been issued by the division.

In addition to any other remedies or penalties provided by law, the division may, in accordance with Section 2555, suspend, revoke, or refuse to renew the certificate of any individual or firm who has violated any provision of this section.

CHAPTER 917

An act to add and repeal Section 31558.4 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 31558.4 is added to the Government Code, to read:

31558.4. Notwithstanding any of the provisions of Section 31558 to the contrary, a person over 35 years of age who, prior to the effective date of this section, was employed in any county having a population in excess of 290,000 but less than 300,000 as determined by Section 28020 as amended in 1971, as a safety member and thereafter became a regular member of the retirement system may, if the person so elects, become a safety member if the person is subsequently employed in a position eligible for membership as a safety member and has maintained continuous membership in the system since his original service as a safety member.

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.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by a majority vote, make the provisions of this section applicable in such county.

This section shall remain in effect until January 1, 1980, and on such date is repealed.

CHAPTER 918

An act to amend Sections 3075, 3076, and 3081 of, to add Sections 3074, 3077, 3078, and 3079 to, to amend and renumber Section 3077 of, and to repeal Sections 3078 and 3079 of, the Penal Code, relating to parole.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 3074 is added to Article 3.5 (commencing with Section 3075) of Part 3 of Title 1 of the Penal Code, to read:

3074. The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for a county to provide for the supervision of parolees, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge.

SEC. 2. Section 3075 of the Penal Code is amended to read:

3075. There is in each county a board of parole commissioners, consisting of the following: (1) the sheriff or, in a county with a department of corrections, the director of such department, (2) the probation officer, and (3) a member not a public official to be selected from the public by the presiding judge, if any, or, if none, by the senior judge in point of service, of the superior court. The public member of the county board of parole commissioners shall be entitled to his actual traveling and other necessary expenses incurred in the discharge of his duties. In addition the public member shall be entitled to per diem at such rate as may be provided by the board of supervisors. The public member shall hold office for a term of one

year and in no event for a period exceeding three consecutive years. The term shall commence on the date of appointment.

SEC. 3. Section 3076 of the Penal Code is amended to read:

3076. (a) The board may make, establish and enforce rules and regulations adopted under this article.

(b) The board shall act at regularly called meetings at which two-thirds of the members are present, and shall make and establish rules and regulations in writing stating the reasons therefor under which any prisoner who is confined in or committed to any county jail, work furlough facility, industrial farm, or industrial road camp, or in any city jail, work furlough facility, industrial farm, or industrial road camp under a judgment of imprisonment or as a condition of probation for any criminal offense, unless the court at the time of committing has ordered that such prisoner confined as a condition of probation upon conviction of a felony not be granted parole, may be allowed to go upon parole outside of such jail, work furlough facility, industrial farm, or industrial road camp, but to remain, while on parole, in the legal custody and under the control of the board establishing the rules and regulations for his parole, and subject at any time to be taken back within the enclosure of any such jail, work furlough facility, industrial farm, or industrial road camp.

(c) The board shall provide a complete copy of its written rules and regulations and reasons therefor and any amendments thereto to each of the judges of the county's justice, municipal and superior courts.

The board shall provide to the persons in charge of the county's correctional facilities a copy of the sections of its written rules and regulations and any amendments thereto which govern eligibility for parole, and the name and telephone number of the person or agency to contact for additional information. Such rules and regulations governing eligibility either shall be conspicuously posted and maintained within each county correctional facility so that all prisoners have access to a copy, or shall be given to each prisoner.

SEC. 4. Section 3077 of the Penal Code is amended and renumbered to read:

3085. The members of the board may for the purpose of considering applications for parole of prisoners from city or county jails, or industrial farms, or work furlough facilities, or industrial road camps, designate deputies of their respective offices to serve for them as temporary commissioners when they are unable to serve.

SEC. 5. Section 3077 is added to the Penal Code, to read:

3077. Whenever a prisoner is sentenced in one county and incarcerated in another county, only the county in which he was sentenced shall have jurisdiction to grant parole.

SEC. 6. Section 3078 of the Penal Code is repealed.

SEC. 7. Section 3078 is added to the Penal Code, to read:

3078. (a) The board shall notify the sentencing judge of an inmate's application for parole.

(b) The sentencing judge may make a recommendation

regarding such application, and the board shall give careful consideration to such recommendation.

SEC. 8. Section 3079 of the Penal Code is repealed.

SEC. 9. Section 3079 is added to the Penal Code, to read:

3079. (a) No application for parole shall be granted or denied except by a vote of the board at a meeting at which a quorum of its members are present. This paragraph shall not be applied to the denial of applicants who are ineligible by order of the superior court, or to the granting of parole in emergency situations.

(b) An applicant shall be permitted to appear and speak on his behalf at the meeting at which his application is considered by the board.

SEC. 10. Section 3081 of the Penal Code is amended to read:

3081. (a) Each county board may retake and imprison any prisoner upon parole granted under the provisions of this article.

(b) Each county board may release any prisoner on parole for a term not to exceed two years upon such conditions and under such rules and regulations as may seem fit and proper for his rehabilitation, and should the prisoner so paroled violate any of the conditions of his parole or any of the rules and regulations governing his parole, he shall, upon order of the parole commission, be returned to the jail from which he was paroled and be confined therein for the unserved portion of his sentence.

(c) The written order of each county board shall be a sufficient warrant for all officers named therein to authorize them, or any of them, to return to actual custody any conditionally released or paroled prisoner. All chiefs of police, marshals of cities, sheriffs, constables, and all other police and peace officers of this state shall execute any such order in like manner as ordinary criminal process.

(d) In computing the unserved sentence of a person returned to jail because of the revocation of his parole no credit shall be granted for the time between his release from jail on parole and his return to jail because of the revocation of his parole.

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 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 919

An act relating to disposition of property by the Director of General Services, and making an appropriation therefor.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value and upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 4.4 acres of land, being a portion of the Butte Ecology Center, located off of Steifer Road, north of Paradise in Butte County.

Parcel 2. Approximately 1.4 acres of land, being a portion of the Nevada City Forest Fire Station, located on Ridge Road in Nevada County.

Parcel 3. Approximately 2,500 square feet of land, being a portion of the Department of Motor Vehicles' Carmichael Field Office in Sacramento County.

Parcel 4. Approximately 20 acres of land, being a portion of the California Youth Authority Preston School of Industry in Amador County.

SEC. 2. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to convey for current market value to the City of Nevada City, approximately 0.631 acre of land at the Nevada City Forest Fire Station in Nevada County, 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. 3. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to sell or exchange for current market value and upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state, all or any part of the following properties:

Parcel 1. Approximately 40 acres of land in Humboldt County, located 7.5 miles north of Bridgeville, being the SW 1/4 of the NE 1/4 of Section 10, T2N, R3E, HBM.

Parcel 2. Approximately 80 acres of land in Humboldt County, located 14 miles northeasterly of Bridgeville, being the SE 1/4 of NW 1/4 and the NE 1/4 of the SW 1/4 of Section 6, T3N, R4E, HBM.

Parcel 3. Approximately 40 acres of land in Humboldt County, located 5.5 miles east of Dyerville, being the SW 1/4 of the NW 1/4 of Section 23, T13, R3E, HBM.

SEC. 3.5. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to convey for current market value to the Camarosa County Water District, approximately 20 acres of land at Camarillo State Hospital in Ventura

County, together with the existing sewage treatment facility located thereon, 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. 4. Notice of every public auction or bid opening shall be posted on the property to be sold and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated. All parcels in each section of this act shall be exempt from the provisions of Sections 21000 to 21174, inclusive, of the Public Resources Code.

SEC. 5. Any cost or expense incurred in the disposition of any parcel may be reimbursed from the proceeds of such disposition.

SEC. 6. Subject to Section 5 hereof, any moneys received from the disposition of any parcel shall be paid into the General Fund, except that any money received from the disposition of parcels 1, 2 and 3 as described in Section 3, shall be paid into the Collier Park Preservation Fund.

SEC. 7. As to any property sold or exchanged pursuant to this act 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 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 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 920

An act to amend Section 1037 of the Penal Code, relating to county costs.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 1037 of the Penal Code is amended to read:

1037. (a) When a court orders a change of venue to another county all costs incurred by that county, which are not payable by the Department of Corrections pursuant to Section 4700, for the transfer, preparation and trial of the action, the guarding, keeping and transportation of the prisoner, any appeal or other proceeding relating to the action and execution of the sentence shall be a charge against the county in which the action originated.

(b) Claim for the costs described in subdivision (a) shall be forwarded to the treasurer and auditor of the county in which the action originated and the treasurer shall pay the amount of such costs out of the general funds of his county.

(c) The term "all costs" means all reasonable and necessary costs incurred by the county as a result of the change of venue which would not have been incurred but for the change, and does not include normal salaries, overhead, and other expenses which would have been incurred by the county in any event.

CHAPTER 921

An act to add and repeal Section 1142.5 of the Labor Code, relating to agricultural labor relations.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 1142.5 is added to the Labor Code, to read:

1142.5. (a) The board shall maintain, at its principal office, a telephone line 24 hours a day, seven days a week, for the purpose of providing interested persons with information concerning their rights and responsibilities under this part, or for referring such persons to the appropriate agency or entity with the capacity to render advice or help in dealing with any situation arising out of agricultural labor disputes.

In order to carry out its responsibilities pursuant to this subdivision, the board may contract with an answering service to receive telephone messages during periods of time that its principal office is normally not open for business. Such messages shall be transmitted to the board on the board's next business day, or at such earlier time as the board specifies, or to its designated representative at the earliest possible time.

(b) Whenever a petition for an election has been filed in a bargaining unit in which a majority of the employees are engaged in a strike, the necessary and appropriate services of the board in the region in which the election will be held shall be available to the parties involved 24 hours a day until the election is held.

This section shall remain in effect only until December 31, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1979, deletes or extends such date.

CHAPTER 922

An act to add Chapter 11 (commencing with Section 1878) to Part 2 of Division 1 of the Insurance Code, relating to fires.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Chapter 11 (commencing with Section 1878) is added to Part 2 of Division 1 of the Insurance Code, to read:

CHAPTER 11. ARSON INVESTIGATIONS

1878. As used in this chapter:

(a) "Authorized agency" means any of the following officers or agencies, or their duly authorized representatives, when investigating or prosecuting arson in connection with a specific fire: State Fire Marshal, Director of the Department of Forestry, chief of any city or county fire department, chief of any fire protection district, the Attorney General, any district attorney, or any peace officer, and any federal agency.

(b) "Insurer" means any insurer admitted to write, or otherwise issuing, fire insurance covering property in this state and includes its agents, servants, investigators, and adjusters. "Insurer" includes the California FAIR Plan.

1878.1. An authorized agency may, when there is evidence or suspicion that the crime of arson has been committed, request any insurer to release all information in its possession which the authorized agency determines to be relevant to such crime. The insurer shall release:

(a) Any insurance policy or any application for such a policy;

(b) Policy premium payment records;

(c) History of previous claims made by the insured for fire loss;

(d) Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other relevant evidence.

1878.2. If any insurer has reason to suspect that a fire loss was caused by incendiary means, the insurer shall furnish an authorized agency with all relevant information acquired during its investigation of the fire loss and cooperate in an investigation by any authorized agency.

The authorized agency provided with information pursuant to this chapter may release such information to any of the other authorized agencies.

1878.3. In the absence of fraud or malice, no insurer who furnishes information pursuant to this chapter shall be liable for damages in a civil action or subject to criminal prosecution, nor shall

any authorized agency which releases information pursuant to this chapter be liable for damages in a civil action or subject to criminal prosecution.

The act of furnishing information required pursuant to this chapter shall not constitute an act of fraud or malice.

1878.4. In any case in which an insurer willfully fails to comply with the provisions of this chapter, the authorized agency may petition the superior court in an appropriate county for an order requiring compliance.

CHAPTER 923

An act to add Chapter 7.8 (commencing with Section 4045) to Part 1 of Division 5 of the Health and Safety Code, relating to water.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Chapter 7.8 (commencing with Section 4045) is added to Part 1 of Division 5 of the Health and Safety Code, to read.

CHAPTER 7.8. WATER SOFTENING OR CONDITIONING

4045. The Legislature hereby finds and declares that the utilization of the waters of the state by residential consumers for general domestic purposes, including drinking, cleaning, washing, and personal grooming and sanitation of the people is a right which should be interfered with only when necessary for specified health and safety purposes. The Legislature further finds that variation in water quality, and particularly in water hardness, throughout the state requires that on-site water softening or conditioning be available throughout the state to insure to domestic consumers their right to a water supply which is effective and functional for domestic requirements of the residential household, but that such on-site water softening or conditioning shall be available only as hereinafter set forth.

4046. (a) Unless the context otherwise requires the definitions in this section govern the construction of this chapter.

(b) "Clock control" means the system controlling the periodic automatic regeneration of a residential water softening or conditioning appliance which is based upon a predetermined and preset time schedule.

(c) "Demand control" means the system controlling the periodic automatic regeneration of a residential water softening or conditioning appliance which is based either upon a sensor which detects imminent exhaustion of the active softening or conditioning

material or upon the measurement of the volume of water passing through the appliance. A demand control system activates regeneration based upon the state of the equipment and its ability to continue the softening process.

(d) "Fully manual regeneration" means the method of regeneration of a residential water softening or conditioning appliance in which operations are performed manually and in which dry salt is added directly to the ion-exchanger tank after sufficient water is removed to make room for the salt.

(e) "Hardness" means the total of all dissolved calcium, magnesium, iron and other heavy metal salts, which interact with soaps and detergents in such a manner that the efficiency of soaps and detergents for cleansing purposes is impaired. Hardness is expressed in grains per gallon or milligrams per liter as if all such salts were present as calcium carbonate.

(f) "Manually-initiated control" means the system controlling the periodic regeneration of a residential water softening or conditioning appliance in which all operations, including bypass of hard water and return to service, are performed automatically after manual initiation.

(g) "Regeneration" means the phase of operation of a water softening or conditioning appliance whereby the capability of the appliance to remove hardness from water is renewed by the application of a brine solution of sodium chloride salt to the active softening or conditioning material contained therein followed by a subsequent rinsing of the active softening or conditioning material.

(h) "Salt efficiency rating" means the efficiency of the use of sodium chloride salt in the regeneration of a water softening appliance, expressed in terms of hardness removal capacity of the appliance per pound of such salt used in the regeneration process. The units of salt efficiency rating are grains of hardness removed per pound of salt used. One grain of hardness per gallon is approximately equivalent to 17.1 milligrams of hardness per liter.

4047. On and after January 1, 1980, no residential water softening or conditioning appliance shall be installed except in either of the following circumstances:

(a) The regeneration of the appliance is performed at a nonresidential facility separate from the location of the residence where such appliance is used.

(b) The regeneration of the appliance discharges to the waste disposal system of the residence where such appliance is used and both of the following conditions are satisfied:

(1) The appliance is certified to control the quantity of salt used per regeneration by a pre-set device and the settings of such device are limited so that a salt efficiency rating of no less than 2850 grains of hardness removed per pound of salt used in regeneration is achieved with a clock control, manually-initiated control, or demand control.

(2) The installation of the appliance is accompanied by the

simultaneous installation of the following softened or conditioned water conservation devices on all fixtures using softened or conditioned water, unless such devices are already in place or are prohibited by local and state plumbing and building standards or unless such devices will adversely restrict the normal operation of such fixtures:

(A) Faucet flow restrictors.

(B) Shower head restrictors.

(C) Toilet reservoir dams.

(D) A piping system installed so that untreated (unsoftened or unconditioned) supply water is carried to hose bibs and sill cocks which serve water to the outside of the house.

4048. Any water softening appliance in place at a residential dwelling prior to January 1, 1980, in those areas being served by sewage treatment facilities which have been limited with regard to salt loading pursuant to Division 7 (commencing with Section 13000) of the Water Code and for which the appropriate regional water quality control board makes a finding, after adoption of waste discharge requirements and subject to a public hearing, that the control of residential salinity input is necessary to provide compliance with those limitations, may be continued in operation for a period no longer than four years after the regional water quality control board has made its findings. After such four-year period has elapsed, any water softening appliance at that site shall be set at a salt efficiency rating of no less than 2850 grains of hardness removed per pound of salt used in regeneration when regeneration is initiated with clock controls or manually-initiated controls, or shall have regenerations initiated with demand devices. Also, after such four-year period has elapsed, those water-saving devices in shower heads, on faucets, and in toilet reservoirs, as recited in paragraph (2) of subdivision (b) of Section 4047, shall be installed unless already in place or prohibited by local and state plumbing and building standards. The salt efficiency rating of the water softening or conditioning appliance and the installation of water-saving devices shall be certified in accordance with Section 4049.

4049. The certification required by this chapter shall be provided by the new user of the appliance and shall be completed by a contractor having a valid Class C-55 water conditioning contractor's license or Class C-36 plumbing contractor's license and filed with the local agency responsible for issuing plumbing permits.

The certification form shall contain all of the following information:

(a) Name and address of homeowner.

(b) Manufacturer of the water softening or conditioning applicance, model number of the appliance, pounds of salt used per regeneration, and salt efficiency rating at the time of certification.

(c) Manufacturer of the water-saving devices installed, model number, and number installed.

(d) Name, address, and the specialty contractor's license number

of the C-55 and C-36 licensee making the certification.

CHAPTER 924

An act to amend Section 44865 of the Education Code, relating to teacher preparation and licensing.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 44865 of the Education Code is amended to read:

44865. In lieu of any other credential authorizing the teaching in a position for which qualifications are prescribed by this section, a valid teaching credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing, based on a bachelor's degree, student teaching, and special fitness to perform, shall be deemed qualifying for assignment as a teacher in the following assignments, provided that the assignment of a teacher to a position for which qualifications are prescribed by this section shall be made only with the consent of the teacher:

(a) Home teacher.
(b) Classes organized primarily for adults.
(c) Hospital classes.
(d) Necessary small high schools.
(e) Continuation schools.

CHAPTER 925

An act to amend Sections 987.1, 987.73, and 988.2 of the Military and Veterans Code, relating to veterans' benefits.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1 Section 987.1 of the Military and Veterans Code is amended to read:

987.1. (a) Except as provided in subdivision (b), the department in each individual case may specify the terms of the contract entered into with the purchaser, but no property sold under the provisions of this article shall, voluntarily or involuntarily, by operation of law or otherwise, be transferred, assigned, encumbered, leased, let or sublet, in whole or in part, nor shall any mobilehome be removed

from its original site, except in case of emergency where temporary removal is necessary to avoid potential damage, without the written consent of the department, until the purchaser has paid therefor in full and has complied with all the terms and conditions of this contract of purchase. The department may give its written consent to such transfers, assignments, encumbrances, leasings, lettings or sublettings, or removals, for good cause shown, subject to the interest of the department and consistent with the purposes of this article.

(b) The consent of the department shall not be required where a veteran, alone or jointly with his spouse, transfers his interest in property which is the subject of a loan agreement with the department into a revocable trust established for the benefit of the veteran or of the veteran and his spouse.

SEC. 2. Section 987.73 of the Military and Veterans Code is amended to read:

987.73. (a) Except as provided in subdivision (b), the department in each individual case may specify the terms of the contract entered into with the purchaser, but no property sold under the provisions of this article shall, voluntarily or involuntarily, by operation of law or otherwise, be transferred, assigned, encumbered, leased, let or sublet, in whole or in part, nor shall any mobilehome be removed from its original site, except in case of emergency where temporary removal is necessary to avoid potential damage, without the written consent of the department, until the purchaser has paid therefor in full and has complied with all the terms and conditions of this contract of purchase. The department may give its written consent to such transfers, assignments, encumbrances, leasings, lettings or sublettings, or removals, for good cause shown, subject to the interest of the department and consistent with the purposes of this article.

(b) The consent of the department shall not be required where a veteran, alone or jointly with his spouse, transfers his interest in property which is the subject of a loan agreement with the department into a revocable trust established for the benefit of the veteran or of the veteran and his spouse.

SEC. 3. Section 988.2 of the Military and Veterans Code is amended to read·

988.2 Out of any money available in the Veterans' Farm and Home Building Fund of 1943, the department may advance to any purchaser upon his application, and under such policies as the department may, from time to time, prescribe, sums for the purpose of paying taxes and assessments, or making permanent improvements, including permanent improvements for the purpose of increasing farm productivity, or keeping in good order or repair, or for painting, redecorating or remodeling, all buildings, fences or other permanent improvements on, or the insuring against fire or other hazards, any building, fence or other permanent improvements or crops on the property being purchased from the department, or the department may advance to any such purchaser

moneys actually expended in so doing.

All the money advanced to a purchaser by the department shall be added to the deferred principal of the purchaser's account and bear interest at the same rate and shall be repaid by the purchaser to the department under such conditions as it may prescribe.

The moneys advanced may, in the discretion of the department, be in addition to the maximum purchase price of a farm or home as limited by the provisions of Sections 986.4, 986.5, 987.64, and 987.65.

The department shall be the sole judge of the need and desirability of making such advances.

SEC. 4. It is the intent of the Legislature in enacting this act to provide veterans with substantially the same flexibility with their investments as a person financing his purchase through a commercial lending institution.

CHAPTER 926

An act to amend Section 3703 of the Health and Safety Code, and to amend Section 2441 of the Labor Code, relating to health enforcement.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 3703 of the Health and Safety Code is amended to read:

3703. (a) The state department and all health officers of counties, cities, and health districts shall enforce the provisions of this chapter.

(b) Pursuant to their enforcement of this chapter, such officers shall also enforce the provisions of Section 2441 of the Labor Code. This section shall not be construed to abridge or limit in any manner the jurisdiction of the Division of Industrial Safety of the Department of Industrial Relations pursuant to Division 5 (commencing with Section 6300) of the Labor Code.

SEC. 2. Section 2441 of the Labor Code is amended to read:

2441. (a) Every employer of labor in this state shall, without making a charge therefor, provide fresh and pure drinking water to his employees during working hours. Access to such drinking water shall be permitted at reasonable and convenient times and places. Any violation of this section is punishable for each offense by a fine of not less than twenty-five dollars ($25), nor more than one hundred dollars ($100), or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

(b) The State Department of Health Services and all health officers of counties, cities, and health districts shall enforce the provisions of this section pursuant to subdivision (b) of Section 3703

of the Health and Safety Code. Such enforcement shall not be construed to abridge or limit in any manner the jurisdiction of the Division of Industrial Safety of the Department of Industrial Relations pursuant to Division 5 (commencing with Section 6300).

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.

CHAPTER 927

An act to amend Section 33082 of, to add Sections 33085, 33086, and 33087 to, to add Article 11 (commencing with Section 33351) to Chapter 4 of Part 1 of Division 15 of, to add and repeal Section 33082 of, to repeal and add Section 33294 of, and to repeal and add Article 10 (commencing with Section 33321) of Chapter 4 of Part 1 of Division 15 of, the Food and Agricultural Code, relating to milk and milk products.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 33082 of the Food and Agricultural Code is amended to read:

33082. The director shall supervise the operation of all approved milk inspection services in the enforcement of this division and the regulations which are adopted by him.

This section shall not be operative until January 1, 1982.

SEC. 1.5. Section 33082 is added to the Food and Agricultural Code, to read:

33082. The director shall supervise the operation of all approved milk inspection services in the enforcement of this division and the regulations which are adopted by him. By regulations adopted, after a public hearing, under the provisions of Section 33083, the director shall establish standards for evaluation of the efficiency and performance of both approved milk inspection services, and inspection services in established milk inspection areas.

This section shall remain in effect only until January 1, 1982, and as of such date is repealed.

SEC. 2. Section 33085 is added to the Food and Agricultural Code, to read:

33085. An advisory committee shall be established to assist the

director in the administration of this chapter. The members of the advisory committee shall be appointed by the director and may hold office at the pleasure of the director.

SEC. 3. Section 33086 is added to the Food and Agricultural Code, to read:

33086. The members of the advisory committee shall include persons representing producers, distributors who process or handle milk and dairy products, approved milk inspection services personnel, and the public generally. The advisory committee shall consist of such number of members as the director finds is necessary to assist properly in the administration of this chapter. In no event shall the membership of the advisory committee exceed seven members.

SEC. 4. Section 33087 is added to the Food and Agricultural Code, to read:

33087. A member of the advisory committee shall not receive a salary. The director may authorize the reimbursement for any actual expenses incurred while engaged in performing the duties authorized by this chapter.

SEC. 4.5. Section 33294 of the Food and Agricultural Code is repealed.

SEC. 4.7. Section 33294 is added to the Food and Agricultural Code, to read:

33294. The director shall fix the fee for dairy farm and plant inspection not to exceed the actual directly related costs. Whenever the director finds that the cost of administering this chapter can be defrayed from revenue derived from lower fees, he may adjust the fee, but in no case shall the inspection fee exceed the following:

(a) For producers located in the Counties of Los Angeles, San Bernardino, Riverside, Kern, Kings, Tulare, Fresno, Madera, Merced, Stanislaus, San Joaquin, Sonoma, and Marin that sell market milk at wholesale which is to be sold as graded market milk, three mills ($0.003) per gallon on the first 35,000 gallons of graded market milk which was sold during the quarter-year period preceding the date such inspection fee becomes due and payable.

(b) For producers not located in the counties listed in subdivision (a) who sell market milk at wholesale which is to be sold as graded market milk, three mills ($0.003) per gallon on the first 45,000 gallons of graded market milk which was sold during the quarter-year period preceding the date such inspection fee becomes due and payable.

(c) For distributors that purchase market milk from producers or from other distributors which is to be sold as graded market milk or that distribute their own graded market milk, three mills ($0.003) for each gallon of graded market milk which was received or so produced during the quarter-year period preceding the date such inspection fee becomes due and payable.

(d) For producers that sell market milk at wholesale, two mills ($0.002) for each gallon of ungraded market milk which was sold during the quarter-year period preceding the date such inspection

fee becomes due and payable.

(e) For distributors that purchase market milk from producers or that distribute their own market milk, two mills ($0.002) for each gallon of ungraded market milk which was received or so produced during the quarter-year period preceding the date such inspection fee becomes due and payable.

(f) Notwithstanding the fee limits provided in subdivisions (a) and (b), for producers identified in subdivisions (a) and (b), after January 1, 1980, the director may increase the inspection fee by an amount not to exceed one quarter mill ($0.00025) per gallon per annum.

SEC. 5. Article 10 (commencing with Section 33321) of Chapter 4 of Part 1 of Division 15 of the Food and Agricultural Code is repealed.

SEC. 6. Article 10 (commencing with Section 33321) is added to Chapter 4 of Part 1 of Division 15 of the Food and Agricultural Code, to read:

Article 10. Manufacturing Milk Inspection

33321. The director may authorize the inspection of dairy farms producing manufacturing milk.

33322. The inspection of dairy farms producing manufacturing milk in an area to which an approved milk inspection service has been designated and assigned under the provisions of Article 4 (commencing with Section 33141) of this chapter shall be conducted by such approved milk inspection service. The inspection of dairy farms producing manufacturing milk in an established milk inspection area shall be conducted by the director.

33323. The inspection of any milk products plant provided for in Article 4 (commencing with Section 33141) of this chapter may include the inspection of any processed or manufactured products produced therein. The director may, after a public hearing, elect to inspect any milk products plant within the jurisdiction of any approved milk inspection service.

33324. If the director authorizes the inspection of dairy farms which produce manufacturing milk, or the inspection of milk products plants pursuant to the provisions of this article, then all provisions of this chapter applicable to market milk inspection shall, except to the extent modified by this article, apply to such inspections.

SEC. 7. Article 11 (commencing with Section 33351) is added to Chapter 4 of Part 1 of Division 15 of the Food and Agricultural Code, to read:

Article 11. Violations

33351. It is unlawful for any person to do any of the following:

(a) Prevent, interfere with, or attempt to nullify in any way the

work of any duly authorized representative of the department or of an approved milk inspection service in the enforcement of any provision of this division.

(b) Interfere with or prevent any such representative from examining any records or books in the conduct of his official duty.

(c) Prevent or interfere with any such representative if he deems it advisable to secure samples of milk or any product of milk, product resembling milk products, imitation butter, or oleomargarine, or any substance which is designed to be used as a substitute for milk or any product of milk

SEC. 8. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 928

An act to amend Sections 33590, 33595, 49061, 49069, and 56310 of, and to add Section 56021 to, the Education Code, relating to special education.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 33590 of the Education Code is amended to read:

33590. (a) There is in the state government the Advisory Commission on Special Education consisting of:

(1) A Member of the Assembly appointed by the Speaker of the Assembly.

(2) A Member of the Senate appointed by the Senate Committee on Rules.

(3) One public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and one public member appointed by the State Board of Education, all of whom shall be parents of pupils in either public or private schools who have received or are currently receiving special education services due to a handicapping condition.

(4) Eleven other public members appointed by the State Board of Education upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education

(b) The commission membership shall be selected to ensure a representative group knowledgeable about the wide variety of handicapping conditions which require special programs in order to achieve the goal of providing an appropriate education to all eligible pupils.

(c) Each public member shall serve at the pleasure of the appointing power.

SEC. 2. Section 33595 of the Education Code is amended to read:

33595. (a) The commission shall study and provide assistance and advice to the State Board of Education in new or continuing areas of research, program development, and evaluation in special education.

(b) The commission shall report to the State Board of Education not less than once a year on the following:

(1) Activities necessary to be undertaken regarding special education for individuals with exceptional needs which are enumerated in Section 56310.

(2) The priorities and procedures utilized in the distribution of federal and state funds.

(3) The unmet educational needs of individuals with exceptional needs within the state.

(4) Recommendations relating to providing better educational services to individuals with exceptional needs.

(c) Commission recommendations or requests shall be transmitted by letter from the commission chairperson to the president of the State Board of Education. Each communication shall be placed on the agenda of the next forthcoming state board meeting in accordance with the announced annual state board agenda cutoff dates. Following the state board meeting, the commission shall be notified by the state board as to what action has been taken on each recommendation or request.

SEC. 3. Section 49061 of the Education Code is amended to read:

49061. As used in this chapter:

(a) "Parent" means a natural parent, an adopted parent, or legal guardian. If parents are divorced or legally separated, only the parent having legal custody of the pupil may challenge the content of a record pursuant to Section 49070, offer a written response to a record pursuant to Section 49072, or consent to release records to others pursuant to Section 49075, provided, however, that either parent may grant consent if both parents have notified, in writing, the school or school district that such an agreement has been made. Whenever a pupil has attained the age of 18 years or is attending an institution of postsecondary education, the permission or consent required of, and the rights accorded to, the parents or guardian of the pupil shall thereafter only be required of, and accorded to, the pupil.

(b) "Pupil record" means any item of information directly related to an identifiable pupil, other than directory information, which is maintained by a school district or required to be maintained by an

employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm or other means.

"Pupil record" shall not include informal notes related to a pupil compiled by a school officer or employee which remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute. For purposes of this subdivision, "substitute" means a person who performs the duties of the individual who made the notes on a temporary basis, and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

(c) "Directory information" means one or more of the following items: student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the student.

(d) "School district" means any school district maintaining any of grades kindergarten through 12, any public school providing instruction in any of grades kindergarten through 12, the office of the county superintendent of schools, or any special school operated by the Department of Education.

(e) "Access" means a personal inspection and review of a record or an accurate copy of a record, or receipt of an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.

SEC. 4. Section 49069 of the Education Code is amended to read:

49069. Parents of currently enrolled or former pupils have an absolute right to access to any and all pupil records related to their children which are maintained by school districts or private schools. The editing or withholding of any such records, except as provided for in this chapter, is prohibited.

Each school district shall adopt procedures for the granting of requests by parents for copies of all pupil records pursuant to Section 49065, or to inspect and review records during regular school hours, provided that the requested access shall be granted no later than five days following the date of the request. Procedures shall include the notification to the parent of the location of all official pupil records if not centrally located and the availability of qualified certificated personnel to interpret records where requested.

SEC. 5. Section 56021 is added to the Education Code, to read:

56021 In no event shall a child be placed in an experimental program established pursuant to this article without the prior informed consent of a parent or guardian of the child.

SEC. 5.5. Section 56310 of the Education Code is amended to read:

56310 The State Board of Education shall:

(a) Establish and periodically update the California Master Plan for Special Education.

(b) Adopt rules and regulations necessary for the efficient administration of this chapter.

(c) Adopt criteria and procedures for the review and approval by the board of local comprehensive plans submitted under Sections 56314 and 56315. Local comprehensive plans may be approved for up to three years.

(d) Provide review, upon petition, to any responsible local agency that appeals a decision made by the department which affects the agency's providing services under this chapter.

(e) Review and approve a program evaluation plan for special education programs provided by this chapter in accordance with Article 4 (commencing with Section 56350).

(f) Recommend to the Commission for Teacher Preparation and Licensing standards for the certification of professional personnel for special education programs conducted pursuant to this chapter.

(g) Adopt standards for the use of substitute teachers.

(h) By January 1, 1979, adopt regulations to provide specific criteria and guidelines for the identification of pupils as individuals with exceptional needs.

(i) By July 1, 1979, adopt guidelines of reasonable pupil progress and achievement for individuals with exceptional needs. Such guidelines shall be developed to aid teachers and parents in assessing an individual pupil's education program and the appropriateness of the special education services.

(j) In accordance with the requirements of federal law, adopt standards for all educational programs for individuals with exceptional needs, including programs administered by other state or local agencies.

(k) Adopt uniform rules and regulations relating to parental due process rights in the area of special education.

SEC. 6. Members of the Advisory Commission on Special Education who were appointed prior to the effective date of this act may complete their term of office.

CHAPTER 929

An act to amend Section 25602 of the Business and Professions Code, and to amend Section 1714 of the Civil Code, relating to proximate cause.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 25602 of the Business and Professions Code is amended to read:

25602. (a) Every person who sells, furnishes, gives, or causes to

be sold, furnished, or given away, any alcoholic beverage to any habitual or common drunkard or to any obviously intoxicated person is guilty of a misdemeanor.

(b) No person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage pursuant to subdivision (a) of this section shall be civilly liable to any injured person or the estate of such person for injuries inflicted on that person as a result of intoxication by the consumer of such alcoholic beverage.

(c) The Legislature hereby declares that this section shall be interpreted so that the holdings in cases such as Vesely v. Sager (5 Cal. 3d 153), Bernhard v. Harrah's Club (16 Cal. 3d 313) and Coulter v. Superior Court (_____ Cal. 3d _____) be abrogated in favor of prior judicial interpretation finding the consumption of alcoholic beverages rather than the serving of alcoholic beverages as the proximate cause of injuries inflicted upon another by an intoxicated person.

SEC. 2. Section 1714 of the Civil Code is amended to read:

1714. (a) Every one is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself. The extent of liability in such cases is defined by the Title on Compensatory Relief.

(b) It is the intent of the Legislature to abrogate the holdings in cases such as Vesely v. Sager (5 Cal. 3d 153), Bernhard v. Harrah's Club (16 Cal. 3d 313), and Coulter v. Superior Court (_____ Cal. 3d _____) and to reinstate the prior judicial interpretation of this section as it relates to proximate cause for injuries incurred as a result of furnishing alcoholic beverages to an intoxicated person, namely that the furnishing of alcoholic beverages is not the proximate cause of injuries resulting from intoxication, but rather the consumption of alcoholic beverages is the proximate cause of injuries inflicted upon another by an intoxicated person.

(c) No social host who furnishes alcoholic beverages to any person shall be held legally accountable for damages suffered by such person, or for injury to the person or property of, or death of, any third person, resulting from the consumption of such beverages.

CHAPTER 930

An act to add Sections 25602.1, 25602.2, and 25602.3 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 25602.1 is added to the Business and Professions Code, to read:

25602.1. Notwithstanding subdivision (b) of Section 25602, a cause of action may be brought by or on behalf of any person who has suffered injury or death against any person licensed pursuant to Section 23300 who sells, furnishes, gives or causes to be sold, furnished or given away any alcoholic beverage to any obviously intoxicated minor where the furnishing, sale or giving of such beverage to the minor is the proximate cause of the personal injury or death sustained by such person.

SEC. 2. Section 25602.2 is added to the Business and Professions Code, to read:

25602.2. The director may bring an action to enjoin a violation or the threatened violation of subdivision (a) of Section 25602. Such action may be brought in the county in which the violation occurred or is threatened to occur. Any proceeding brought hereunder shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that it shall be presumed that there is no adequate remedy at law, and that irreparable damage will occur if the continued or threatened violation is not restrained or enjoined.

SEC. 3. Section 25602.3 is added to the Business and Professions Code, to read:

25602.3. Notwithstanding any other provision of this division, no licensee may petition the department for an offer in compromise pursuant to Section 23095 for a second or any subsequent violation of subdivision (a) of Section 25602 which occurs within 36 months of the initial violation.

CHAPTER 931

An act to amend Section 23002 of, and to add Section 24402 to, the Education Code, relating to the State Teachers' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 23002 of the Education Code is amended to read·

23002. Member contributions required by Section 22804 and employer contributions required by Section 23400 are due in the office of the system five working days immediately following the period covered by the monthly report upon which the salary earned

during the period is being reported and from and upon which the contributions are due. Payments shall be delinquent on the sixth working day thereafter and interest, as determined by the board, shall begin to accrue as of that day. The board shall authorize estimated payments of not less than 95 percent of the contributions due, and, in such case, the balance of contributions payable shall be due in the office of the system no more than 15 working days following the period covered by the monthly report upon which the contributions are based. This additional payment shall be delinquent on the 16th working day thereafter, and interest, as determined by the board, shall begin to accrue as of that day.

SEC. 2. Section 24402 is added to the Education Code, to read:

24402. 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, 1978, for those members receiving allowances on July 1, 1978, if the member had less than 20 years of credited service, as follows:

(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. 3. As contributions towards retirement collected by school districts are funds in trust for employees participating in the State Teachers' Retirement System, Section 1 of this act, constitutes no new obligation or financial burden for local agencies, but merely restates the intent and spirit of the present State Teacher's Retirement Law.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act may achieve their full intended effect, it is necessary that this act take effect immediately.

CHAPTER 932

An act to add Section 29004.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 29004.5 is added to the Vehicle Code, to read:

29004.5. No recreational vehicle, as described in Section 18010.5

of the Health and Safety Code, designed to be towed, shall be manufactured for sale in this state, sold, offered for sale, leased, or rented unless it is equipped with a safety connection in compliance with Section 29004 with breaking strength which equals or exceeds the gross weight of the towed vehicle. The retail seller, renter, or lessor shall supply instructions to the purchaser, renter, or lessee of such recreational vehicle on proper methods of making the connection between the towed and towing vehicles. Nothing in this section shall, however, require a lessor of a recreational vehicle to supply to the lessee of such vehicle the required instructions if such vehicle is sold to the lessor by a third party and such third party or the agent of the third party delivers possession of the vehicle to the lessee. In such case, such third party shall supply to the lessee the required instructions.

CHAPTER 933

An act relating to the study of the development of hydroelectric resources at existing dams in this state.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) The effects of the Arab oil embargo and more recently a prolonged drought throughout California have combined to make the costs of generating electrical power soar while energy of all kinds has become more scarce.

(b) It is becoming increasingly more important that the state's potential hydroelectrical generating resources be utilized to the utmost in the search for environmentally sound sources of power.

(c) There are throughout the state many dams and other hydraulic structures which were constructed originally for purposes other than electrical power generation, such as to create recreational facilities or to provide flood control, and which were not originally equipped with electrical generators because they were not thought at the time to be economically feasible power sources.

(d) Changed circumstances indicate that many of these dams and hydraulic structures would be valuable and economical sources of hydroelectric power under present conditions, and the failure to utilize them in this manner constitutes misuse and waste of a valuable natural resource.

(e) The Department of Water Resources has identified existing dams and hydraulic structures with the potential for hydroelectric generation in Bulletin No. 194 entitled, "Hydroelectric Energy Potential in California", dated March, 1974, and in its subsequent

survey of "Small Hydroelectric Potential in California".

(f) It is in the best interests of the state that the existing dams and hydraulic structures identified in the Department of Water Resources' previous surveys be further studied to determine the feasibility and cost-effectiveness of equipping these dams and hydraulic structures with electric power-generating facilities.

SEC. 2. The Department of Water Resources shall study the feasibility and cost-effectiveness of equipping existing dams and hydraulic structures with electrical power-generating facilities, where such dams and structures are presently not so equipped, and shall prepare a report specifying those existing dams and hydraulic structures for which such retrofitting would be feasible.

SEC. 3. The Department of Water Resources shall, not later than January 1, 1981, submit the report prepared pursuant to Section 2 of this act to the Governor, the Legislature, the Public Utilities Commission, and the State Energy Resources Conservation and Development Commission. The Public Utilities Commission and the State Energy Resources Conservation and Development Commission shall use the information contained in the report, as each deems appropriate, in performing their respective administrative responsibilities.

CHAPTER 934

An act to add Article 5.5 (commencing with Section 53098) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to add Section 41500.5 to the Health and Safety Code, and to add Section 13170.5 to the Water Code, relating to San Francisco Bay Area environmental planning, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Article 5.5 (commencing with Section 53098) is added to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 5.5. Regulation of the Environmental Management Plan by State Agencies

53098. Notwithstanding any other provision of law, review, certification, and approval of any and all provisions of the San Francisco Bay Regional Environmental Management Plan, and any subsequent revision or amendments thereto by the Association of Bay Area Governments, shall be subject to the requirements of this

article.

53098.1. After adoption or the annual revision of the Environmental Management Plan by the General Assembly of the Association of Bay Area Governments, any state agency that is required, pursuant to federal law, to review, certify, approve, or otherwise act upon such plan shall transmit such plan without change to the federal Environmental Protection Agency, except as otherwise provided in this article.

53098.2. (a) In the event that an appropriate state agency finds that the Environmental Management Plan, or portion thereof, does not satisfy an applicable environmental protection standard required by federal law, or regulation adopted pursuant thereto, the state agency shall return such plan, or portion thereof, to the Association of Bay Area Governments for appropriate revision in order to bring such plan into compliance with such standard. Upon completion of the revision, the Association of Bay Area Governments shall submit such plan to the state agency.

(b) In the event that an appropriate state agency finds that the Environmental Management Plan, or portion thereof, after being revised as provided in subdivision (a), continues to not satisfy an applicable environmental protection standard required pursuant to federal law, it shall resubmit the plan or portion thereof to the Association of Bay Area Governments for further revision. A state agency may continue to resubmit the Environmental Management Plan, or portion thereof, for further revision if it determines that the revised plan, or portion thereof, does not satisfy applicable federal environmental protection standards.

SEC. 2. Section 41500.5 is added to the Health and Safety Code, to read:

41500.5. Notwithstanding any other provision of law, any plan required by the provisions of this title shall be subject to the provisions of Article 5.5 (commencing with Section 53098) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 3. Section 13170.5 is added to the Water Code, to read:

13170.5. Notwithstanding any provision of law, any plan provided in Section 13170, 13240, or 13245, and any approval thereof, and any certification or approval of an areawide waste treatment management plan prepared pursuant to Section 208 of the Federal Water Pollution Control Act shall be subject to the provisions of Article 5.5 (commencing with Section 53098) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 4. The sum of two hundred eighty thousand dollars ($280,000) is hereby appropriated to the Association of Bay Area Governments from the California Environmental Protection Program Fund, provided that such funds shall be used by the association to match available federal grants for the continuing environmental management planning process, and to update the Environmental Management Plan, as required by federal laws.

SEC. 5. This act is an urgency statute necessary for the

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

In order to insure that any revisions in the Environmental Management Plan adopted by the Association of Bay Area Governments, if required, can be made by such association, and in order to insure that sufficient matching funds are available to enable such association's environmental management planning to continue, it is necessary that this act take immediate effect.

CHAPTER 935

An act to add Section 11977 to the Health and Safety Code, and to repeal Section 5907 of the Welfare and Institutions Code, relating to confidentiality of records.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 11977 is added to the Health and Safety Code, to read:

11977. (a) Except as otherwise provided in this subdivision or in subdivision (b), 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:

(1) To licensed medical personnel to the extent necessary to meet a bona fide medical emergency.

(2) 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.

(3) 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.

(b) The provisions of subdivision (a) shall not apply to the records of any person involuntarily committed to any narcotic or drug abuse program conducted by the State Department of Corrections

SEC. 2. Section 5937 of the Welfare and Institutions Code is repealed.

CHAPTER 936

An act to amend Sections 202 and 270 of, and to add Section 202.2 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 202 of the Revenue and Taxation Code is amended to read:

202. (a) The exemption of the following property is as specified in subdivisions (a), (b), (d), and (h) of Section 3 of Article XIII of the Constitution, except as otherwise provided in subdivision (a) of Section 11 thereof:

(1) Growing crops.

(2) Property used for free public libraries and free museums.

(3) Property used exclusively for public schools, community colleges, state colleges, and state universities, including the University of California.

(4) Property belonging to this state, a county, or a city. Property belonging to the State Compensation Insurance Fund is not property belonging to this state.

(b) The exemption described in paragraph (3) of subdivision (a) shall apply to off-campus facilities owned or leased by an apprenticeship program sponsor, if such facilities are used exclusively by the public schools for classes of related and supplemental instruction for apprentices or trainees which are conducted by the public schools under Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

SEC. 2. Section 202.2 is added to the Revenue and Taxation Code, to read:

202.2. Any reduction in property taxes on leased property used for libraries and museums that are free and open to the public, leased property used exclusively for public schools, community colleges, state colleges, or state universities, including the University of California, or leased property used exclusively for educational purposes by a nonprofit institution of higher education and granted the exemption set forth in subdivision (d) or (e) of Section 3 of Article XIII of the California Constitution shall inure to the benefit

of the lessee institution. If the lessor claims the exemption and if the lease or rental agreement does not specifically provide that the exemption contained in subdivision (d) or (e) of Section 3 of Article XIII is taken into account in fixing the terms of the agreement, the lessee shall receive a reduction in rental payments or a refund thereof, if already paid, in an amount equal to the reduction in taxes.

If the lessor does not claim the exemption on property eligible for the exemption contained in subdivision (d) or (e) of Section 3 of Article XIII, the lessee may file a claim for refund under Section 5096 with respect to taxes paid by the lessor on the property. For purposes of Sections 5097 and 5140, the lessee shall be deemed to be the person who paid the tax, and the refund shall be made directly to the lessee. Notwithstanding the provisions of paragraph (1) of subdivision (a) of Section 270, the full amount of tax paid by the lessor shall be refunded to the lessee.

Any refund granted pursuant to this part shall not be considered a reduction in the sales price or gross receipts from the rental of the property for purposes of Part 1 (commencing with Section 6001), Part 1.6 (commencing with Section 7200) or Part 1.6 (commencing with Section 7251).

SEC. 3. Section 270 of the Revenue and Taxation Code is amended to read:

270. (a) With respect to property as to which the college, cemetery, church, exhibition, veterans' organization, free public libraries, free museums, public schools, community colleges, state colleges, state universities or welfare exemption was available but for which a timely application for exemption was not filed–

(1) Ninety percent of any tax or penalty or interest thereon shall be canceled or refunded provided an appropriate application for exemption is filed on or before the first day of March of the calendar year next succeeding the calendar year in which the exemption was not claimed by a timely application; or, if the application is filed thereafter,

(2) Eighty-five percent of any tax or penalty or interest thereon shall be canceled or refunded provided an appropriate application for exemption is filed and relief is not authorized under Section 214.01 or 271.

(b) Notwithstanding the provisions of subdivision (a), any tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount shall be canceled or refunded provided it is imposed upon property entitled to relief under subdivision (a) for which an appropriate claim for exemption has been filed.

(c) With respect to property as to which the welfare exemption or veterans' organization exemption was available, all provisions of Section 254.5, other than the specified dates for the filing of affidavits and other acts, are applicable to this section.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because

the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

SEC. 5. Section 2 of this act shall apply to contracts and leases entered into on and after the effective date of this act.

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

This act must take effect immediately in order for the benefits thereunder to be available for the present fiscal year.

CHAPTER 937

An act to amend Section 4656 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1 Section 4656 of the Labor Code is amended to read:

4656. Aggregate disability payments for a single injury occurring prior to January 1, 1979, causing temporary disability shall not extend for more than 240 compensable weeks within a period of five years from the date of the injury.

Aggregate disability payments for a single injury occurring on or after January 1, 1979, causing temporary partial disability shall not extend for more than 240 compensable weeks within a period of five years from the date of the injury.

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 938

An act to amend Sections 2100.8, 2525.9, 2525.10, and 2525.12 of, and to add Section 2525.25 to, the Business and Professions Code, relating to podiatry.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 2100.8 of the Business and Professions Code is amended to read:

2100.8. The Division of Allied Health Professions shall have responsibility for:

(a) The activities of examining committees and nonphysician certificate holders under the jurisdiction of the board.

(b) Discipline of nonphysician certificate holders to the extent such discipline is currently within the jurisdiction of the board.

(c) Carrying out disciplinary action appropriate to findings made by the Podiatry Examining Committee, with respect to podiatrists.

(d) Acting as liaison with other healing arts boards concerning the activities of the licentiates of other boards.

SEC. 2. Section 2525.9 of the Business and Professions Code is amended to read:

2525.9. The examining committee shall have full authority, to investigate and to evaluate each and every applicant applying for a certificate to practice podiatry and to recommend to the Division of Allied Health Professions for final determination the admission of the applicant to the examination, or for the issuance of a certificate, in conformance with the provisions and qualifications required by this chapter.

In order to insure the continuing competence of persons holding certificates to practice podiatric medicine pursuant to this chapter, the Podiatry Examining Committee shall by January 1, 1980, adopt and administer regulations requiring continuing education of such certificate holders. The committee shall require certificate holders to demonstrate satisfaction of the continuing education requirements for each license renewal.

SEC. 3. Section 2525.10 of the Business and Professions Code is amended to read:

2525.10. The examining committee shall have the responsibility for reviewing the quality of podiatric medical practice carried out by holders of certificates to practice podiatry under the jurisdiction of the Division of Allied Health Professions.

Each member of the examining committee, or any licensed podiatrist appointed by the committee, shall additionally have the authority to inspect, or require reports from, a general or specialized hospital and the podiatric staff thereof, with respect to the podiatric care, services, or facilities provided therein, and may inspect podiatric patient records with respect to such care, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the committee to any person other than a podiatrist and shall be subject to the restrictions against disclosure described in Section 2379.

SEC. 4. Section 2525.12 of the Business and Professions Code is amended to read:

2525.12. (a) The examining committee may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Articles 13 and 13.5 (commencing with Sections 2360 and 2416, respectively) of this chapter.

(b) The examining committee may hear all matters, including but not limited to, any contested case or any petition for reinstatement, or modification of probation, or may assign any such matters to a hearing officer. Except as otherwise provided in this chapter, all such hearings shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. If a contested case is heard by the examining committee, the hearing officer who presided at the hearing shall be present during the committee's consideration of the case and, if requested, shall assist and advise the committee.

(c) After the hearing, the Division of Allied Health Professions shall deny an application for, or suspend or revoke, or impose probationary conditions upon, a license as ordered by the examining committee in any decision made after hearing as provided in subdivision (b).

SEC. 5. Section 2525.25 is added to the Business and Professions Code, to read:

2525.25. The examining committee may recommend to the Division of Allied Health Professions the adoption, amendment, or repeal of rules and regulations relating to the practice of podiatry.

CHAPTER 939

An act to amend Section 50081 of, and to add Sections 50081.1 and 50081.2 to, the Government Code, relating to law enforcement.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 50081 of the Government Code is amended to read:

50081. To the extent that funds therefor have been made available to a local agency pursuant to Section 50082, the legislative body of a local agency shall furnish each newly hired police officer and deputy sheriff employed full time by the local agency with a service revolver or other suitable pistol, holster, belt and ammunition, a nightstick, handcuffs, raincoats, and rainboots.

The following items are recommended to be provided by local

agencies but are not reimbursable pursuant to Section 50082:

(a) Off-duty holster.

(b) Whistle.

(c) Flashlight, flashlight batteries, and flashlight bulb.

(d) Chemical Mace and chemical Mace holder.

(e) Utility jacket.

(f) Protective vest.

Such equipment shall remain the property of the local agency and shall be returned upon request of the local agency.

SEC. 2. Section 50081.1 is added to the Government Code, to read:

50081.1. The legislative body of a local agency may furnish police officers and deputy sheriffs assigned to solo motorcycle duty with the following safety equipment:

(a) Motorcycle boots and riding breeches.

(b) Leather motorcycle jacket and leather gloves.

(c) Plastic safety helmet.

(d) Suitable eye protective glasses for day duty and suitable eye protective glasses for night duty.

Such equipment shall remain the property of the local agency and shall be returned upon request of the local agency.

SEC. 3. Section 50081.2 is added to the Government Code, to read:

50081.2. The legislative body of a local agency may furnish police officers and deputy sheriffs assigned to helicopter duty with the following safety equipment:

(a) Fireproof coveralls or other suitable fireproof uniforms, fireproof underwear, and fireproof stockings.

(b) Flight boots.

(c) Suitable plastic aviation-type safety helmet.

Such equipment shall remain the property of the local agency and shall be returned upon request of the local agency.

SEC. 4. It is the intent of the Legislature that local agencies provide the equipment specified in Sections 2 and 3 of this act when local funds are available.

It is not the intent of the Legislature by the amendments made in Section 1 of this act to overrule the holding in Oakland Police Officers Association v. City of Oakland, 30 Cal. App. 3d 96, or to affect the requirements of Section 6401 of the Labor Code.

CHAPTER 940

An act to amend Section 10004 of the Elections Code, relating to elections, and making an appropriation therefor.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 10004 of the Elections Code is amended to read:

10004. There shall be a revolving fund for the purchase of ballot paper and punchcards. The fund shall be continuously appropriated and shall be continuously utilized without regard to fiscal years for the payment of expenses incurred by the Secretary of State in accordance with the provisions of this section. The fund shall be used for the purchase of ballot paper and punchcards as provided in this chapter and shall be reimbursed by the receipts from the jurisdiction obtaining the ballot paper or punchcards in accordance with this chapter. The fund shall at all times be intact and represented either by cash in the State Treasury, ballot paper or punchcards in the custody of the Secretary of State, or accounts receivable representing ballot paper or punchcard sales.

SEC. 2. The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated from the General Fund to the Secretary of State for purposes of funding the revolving fund set forth in Section 10004 of the Elections Code.

CHAPTER 941

An act to amend Section 3271 of, and to add Section 1586.5 to, the Unemployment Insurance Code, and to repeal Section 2 of Chapter 694 of the Statutes of 1976, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 1586.5 is added to the Unemployment Insurance Code, to read:

1586.5. There is hereby appropriated from the Contingent Fund to the Employment Development Department an amount sufficient to augment an appropriation available from the Unemployment Trust Fund pursuant to Section 1528.5 for acquisition of real property, or for construction and equipment of state public works projects, in order to provide for payment of such public work projects for which an appropriation is available where such project cannot be undertaken because the estimate exceeds the amount available or bids received are in excess of the estimate, and upon such augmentation, contracts may be awarded therefor, notwithstanding the provisions of Section 14275 of the Government Code.

Allocations may be made for acquisition of real property in augmentation of appropriations made for acquisition of real property and which cannot be acquired because acquisition costs are in excess of the amounts provided in the appropriation.

Allocations may be made for purchase of equipment in augmentation of appropriations made from which purchase of equipment is authorized.

Expenditures shall be pursuant to executive orders of the Director of Finance upon approval of the State Public Works Board.

SEC. 2. Section 3271 of the Unemployment Insurance Code is amended to read:

3271. (a) The director shall approve any amendment to a voluntary plan adjusting the provisions thereof as to periods after the effective date of the amendment as to which he or she finds that the plan, as amended, will conform to the standards set forth in Section 3254, and that any of the following exist:

(1) A majority of the employees covered by the plan have consented in writing to the amendment.

(2) All of the employees covered by the plan who are adversely affected by the amendment have consented in writing to the amendment.

(3) The insurer of such plan, if any, has certified to the director that notice of the amendment either separately or as a part of a new certificate or statement of coverage, has, at least 10 days prior to the effective date of the proposed amendment, been delivered to the employer for distribution to his or her employees within 10 days thereafter and has further certified that such notice specifically included notification to the employees covered by the plan of their right to withdraw from the plan.

(b) Nothing contained in this section is intended to deny or limit the right of the director to make regulations supplementary thereto, nor on the general subject of requirements for amendments of voluntary plans.

SEC. 3. Section 2 of Chapter 694 of the Statutes of 1976 is repealed.

CHAPTER 942

An act to amend and repeal Section 8183 of, and to add Section 8183 to, the Fish and Game Code, relating to commercial fishing.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 8183 of the Fish and Game Code is amended to read:

8183. No anchovies may be taken for any purpose in Humboldt Bay, except under the following conditions:

(a) Anchovies may be taken for live bait only between September 1 and December 1. Anchovies may only be taken by the operator of a vessel for use in his own fishing operation, except that the operator may make incidental sales of anchovies so taken to local sport fishermen for their use as bait.

(b) An observer who is an employee of the department shall inspect any bait operation and shall be authorized to halt that operation in the event that such operation cannot be conducted without adversely affecting the game species of the bay. Notification of all bait operations shall be dispatched so as to be received by the department at least 12 hours prior to the commencement of the operation.

(c) Anchovies may be taken in Humboldt Bay only north of a line extending through channel markers 9 and 10 in Humboldt Bay.

(d) The seasonal take of anchovy shall not exceed 15 percent of the average summer anchovy biomass as determined by the department.

(e) Bait nets, as defined in Section 8780, shall be the only nets used to take anchovy.

(f) Any game fish caught incidentally in nets shall be released by use of a hand scoop net or by dipping the cork line.

On January 1, 1980, and annually thereafter, the department shall submit a report to the Legislature describing the status of the Humboldt Bay anchovy fishery. The report shall include an assessment of the environmental impact of the bait fishery on the marine resources of the bay, including any possible adverse effects thereon.

The commission shall promulgate any other regulation it deems necessary to protect the Humboldt Bay anchovy resource.

This section shall remain in effect only until January 1, 1982, and as of that date is repealed.

SEC. 2. Section 8183 is added to the Fish and Game Code, to read:

8183. No anchovies may be taken for any purposes in Humboldt Bay.

This section shall become operative on January 1, 1982.

CHAPTER 943

An act to amend Section 26635 of the Health and Safety Code, relating to drug labeling.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 26635 of the Health and Safety Code is amended to read:

26635. (a) Any drug is misbranded unless its label bears, to the exclusion of any other nonproprietary name except the applicable, systematic chemical name or the chemical formula, all of the following information:

(1) The established name of the drug, if any.

(2) If it is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, antipyrine, atropine, hyoscine, hyoscyamine, codeine, arsenic, digitalis, digitalis glycosides, mercury, ouabain, strophanthin, strychnine, barbituric acid, or any derivative or preparation of any such substances contained therein.

(b) The requirement for stating the quantity of the active ingredients of any drug, including the quantity or proportion of any alcohol, and also including, whether active or not, the quantity or proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, antipyrine, atropine, hyoscine, hyoscyamine, codeine, arsenic, digitalis, digitalis glycosides, mercury, ouabain, strophanthin, strychnine, barbituric acid, or any derivative or preparation of any such substances contained therein, shall apply to all drugs, including prescription drugs and nonprescription drugs. However, the requirement for declaration of quantity shall not apply to nonprescription drugs which are also cosmetics, as defined in Section 201(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 321(i)) and which are labeled in compliance with federal labeling requirements concerning declaration of ingredients including active ingredients, except that the quantity or proportion of the following ingredients, whether active or not, shall be declared: any alcohol, bromides, ether, chloroform, acetanilide, acetophenetidin, antipyrine, atropine, hyoscine, hyoscyamine, codeine, arsenic, digitalis, digitalis glycosides, mercury, ouabain, strophanthin, strychnine, barbituric acid, or any derivative or preparation of any such substances contained therein. The department may exempt any nonprescription drug from the requirement of stating the quantity of the active ingredients, other than those specifically named in this subdivision, upon a showing by the applicant through evidence satisfactory to the department that the granting of the exemption will not endanger the public health. For any prescription drug the established name of such drug or ingredient, as the case may be, on such label and on any labeling on

which a name for such drug or ingredient is used shall be printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient.

The changes made in this section during the 1977–78 Regular Session shall not apply to any drug shipped by a manufacturer or packer to a retailer or wholesaler before January 1, 1980. Any such drugs so shipped shall comply with the provisions of this section on and after January 1, 1981.

SEC. 2. This act shall become operative on January 1, 1980.

CHAPTER 944

An act to amend Sections 2626 and 2627 of, and to add Section 2626.1 to, the Unemployment Insurance Code, relating to unemployment compensation disability benefits.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 2626 of the Unemployment Insurance Code is amended to read:

2626. An individual shall be deemed disabled on any day in which, because of his or her physical or mental condition, he or she is unable to perform his or her regular or customary work.

"Disability" or "disabled" includes:

(a) Illness or injury, whether physical or mental.

(b) To the extent specified in Section 2626.2, pregnancy.

(c) Inability to work because of a written order from a state or local health officer to an individual infected with, or suspected of being infected with, a communicable disease.

(d) Acute alcoholism being medically treated or, to the extent specified in Section 2626.1, resident status in an alcoholic recovery home.

SEC. 2. Section 2626.1 is added to the Unemployment Insurance Code, to read:

2626.1. (a) An individual who is a resident in an alcoholic recovery home pursuant to referral or recommendation by a physician shall be eligible for disability benefits for a period not in excess of 30 days in any disability benefit period while receiving resident services, if an authorized representative of the alcoholic recovery home certifies that the individual is a resident participating in an alcoholic recovery program which has satisfied a program review by the State Department of Alcohol and Drug Abuse.

(b) The department shall reimburse the State Department of Alcohol and Drug Abuse from the Disability Fund, in a reasonable amount as determined by the department, for the expense of

reviewing any alcoholic recovery program, as required by the department in the administration of subdivision (a) which is not funded in the County Alcoholism Program Budget provided for in Article 3 (commencing with Section 11810) or Article 4 (commencing with Section 11830) of Part 2 of Division 10.5 of the Health and Safety Code.

SEC. 3. Section 2627 of the Unemployment Insurance Code is amended to read:

2627. A disabled individual is eligible to receive disability benefits equal to one-seventh of his or her weekly benefit amount for each full day during which he or she is unemployed due to a disability only if the director finds that:

(a) He or she has made a claim for disability benefits as required by authorized regulations.

(b) Except as provided in Section 2627.5, he or she has been unemployed and disabled for a waiting period of seven consecutive days during each disability benefit period with respect to which waiting period no disability benefits are payable.

(c) Except as provided in Sections 2626.1 and 2709, he or she has submitted to such reasonable examinations as the director may require for the purpose of determining his or her disability.

(d) Except as provided in Section 2708.1, he or she has filed a certificate as required by Section 2708 or 2709.

SEC. 4. Section 2627 of the Unemployment Insurance Code is amended to read:

2627. A disabled individual is eligible to receive disability benefits equal to one-seventh of his or her weekly benefit amount for each full day during which he or she is unemployed due to a disability only if the director finds that:

(a) He or she has made a claim for disability benefits as required by authorized regulations.

(b) Except as provided in Sections 2627.3 and 2627.5, he or she has been unemployed and disabled for a waiting period of seven consecutive days during the disability benefit period with respect to which waiting period no disability benefits are payable.

(c) Except as provided in Sections 2626.1 and 2709 he or she has submitted to such reasonable examinations as the director may require for the purpose of determining his or her disability.

(d) Except as provided in Section 2708.1, he or she has filed a certificate as required by Section 2708 or 2709.

SEC. 5. The department, in consultation with the State Department of Alcohol and Drug Abuse, shall inform and advise physicians, as defined in subdivision (a) of Section 3209.3 of the Labor Code, concerning the enactment and implementation of subdivision (a) of Section 2626.1 of the Unemployment Insurance Code, and for this purpose shall seek the cooperation and assistance of other organizations, including, but not limited to, the California Medical Association, the California Society for the Treatment of Alcoholism and Other Drug Dependencies, the County Alcoholism

Administrators Association of California, and the California Association of Alcoholic Recovery Homes.

SEC. 6. The department shall seek data from the State Department of Alcohol and Drug Abuse and the California Association of Alcoholic Recovery Homes to determine the adequacy of the maximum 30-day period for the payment of benefits specified in subdivision (a) of Section 2626.1 of the Unemployment Insurance Code as a reasonable period of primary recovery and whether it should be modified. The department shall submit a report to the Legislature by December 31, 1979, with any proposed changes.

SEC. 7. The department shall submit an interim progress report to the Legislature by April 1, 1980, on the implementation and utilization of the program provided for in Section 2626.1 of the Unemployment Insurance Code.

SEC 8. The department shall submit a final progress report to the Legislature by the first day of the legislative session in January 1981, on the implementation and utilization of the program provided for in Section 2626.1 of the Unemployment Insurance Code, and shall, after consultation with the State Department of Alcohol and Drug Abuse, propose any changes it deems advisable in the program and in the funding of program reviews.

SEC. 9. It is the intent of the Legislature, if this bill and Assembly Bill No. 3004 are both chaptered and become effective January 1, 1979, both bills amend Section 2627 of the Unemployment Insurance Code, and this bill is chaptered after Assembly Bill No. 3004, that the amendments to Section 2627 proposed by both bills be given effect and incorporated in Section 2627 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 3004 are both chaptered and become effective January 1, 1979, both amend Section 2627, and this bill is chaptered after Assembly Bill No. 3004, in which case Section 3 of this act shall not become operative.

SEC. 10. The amendment of Sections 2626 and 2627 of, and the addition of Section 2626.1 to, the Unemployment Insurance Code made by this act shall become operative with respect to periods of disability commencing on or after January 1, 1979. The provisions of law in effect prior to the amendment or addition of such provisions made by this act shall continue to be applicable with respect to periods of disability commencing prior to January 1, 1979.

CHAPTER 945

An act to add Section 781 to the Public Utilities Code, relating to water systems.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 781 is added to the Public Utilities Code, to read:

781. The commission shall not require any water corporation which furnishes water for residential use through five or more service connections or which serves an average of 25 or more persons per day for at least 60 days per year, nor any residential customer of such corporation to install any watermeter at any water service connection between the water system of the corporation and the customer if on January 1, 1979, such service connection was unmetered except after a public hearing held within the service area of the corporation at which hearing all of the following findings have been made:

(a) Metering will be cost effective within the service area of the corporation.

(b) Metering will result in a significant reduction in water consumption within the service area of the corporation.

(c) The costs of metering will not impose an unreasonable financial burden on customers within the service area of the corporation unless it is found to be necessary to assure continuation of an adequate water supply within the service area of the corporation.

CHAPTER 946

An act to amend Section 429.32 of, and to add Section 429.33 to, the Health and Safety Code, relating to Indian health.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 429.32 of the Health and Safety Code is amended to read:

429.32. All moneys appropriated to the department for the purposes of this article shall be used to provide financial, training, and technical assistance to existing urban and rural Indian health programs and to assist these programs in planning, implementing, and upgrading existing programs to attain a comprehensive health services delivery system for Indians in urban and rural areas.

The department shall provide technical assistance and shall promote the provision of services for preventative health care, health education, and environmental health.

No more than 15 percent of all funds appropriated for the purposes

of this article may be retained and expended by the department for administrative purposes.

For the purpose of this article, the cost of printed materials, films, and similar items utilized for health education purposes shall not be considered administrative costs.

The department may expend funds appropriated to it to carry out the purposes of this article by contract or grant, or any combination thereof, with any existing urban or rural Indian health programs.

The department shall adopt rules and regulations establishing criteria for reimbursement for direct services under this article which shall include, but not be limited to, a definition of direct services which are reimbursable and a formula for allocation of funds appropriated to the department.

The department shall provide assistance to Indian health services programs in maximizing utilization of third party payment systems and in developing programs in health education, nutrition, and family planning if such assistance is not being provided by agencies of the federal government.

Funds appropriated to carry out the purposes of this article shall be supplemental to those available from the federal government and shall not duplicate, nor shall they replace, any commitments made by the federal government to provide health services to native American Indians and their families in this state who receive health services pursuant to an existing urban or rural Indian health program.

It is the intent of the Legislature that the program established by this article shall, in fiscal years subsequent to this year in which the section is enacted, be funded according to customary budget procedures.

SEC. 2. Section 429.33 is added to the Health and Safety Code, to read:

429.33. The Legislature finds and declares that the health status of many Indians in California is not adequate. It is, therefore, the intent of the Legislature to insure that in addition to funding provided pursuant to the Indian Health Service program, that sufficient funding is provided Indians from other programs in order to substantially improve such persons' access to health services. Such programs include, but are not limited to the following:

(a) Rural health service.
(b) Mental health services.
(c) Developmental disability programs.
(d) Maternal and child health programs.
(e) Alcoholism programs.
(f) Programs for the aging.
(g) Environmental health programs.

The state department shall report to the Legislature by July 1, 1979, and every two years thereafter, with respect to the extent to which funding for these programs is allocated to grantees receiving funding from the state department pursuant to Section 429.32.

CHAPTER 947

An act to amend Sections 823, 830, and 851 of, and to add Section 831 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. 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) (1) For each fiscal year, except as provided in subdivisions (c) and (d), 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 an amount determined by multiplying the contribution rate for the fiscal year by the 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.

The administrator shall, not later than March 31 each year, notify all school employers participating in the School Employees Fund of the contribution rate for the succeeding fiscal year.

(2) As used in this section, "benefit cost ratio" means the quotient obtained by dividing the average fiscal year benefit charges to the fund for the three most recent completed fiscal years by the average fiscal year wages, as defined by Section 940, paid by all school employers participating in the fund during such three fiscal years, multiplied by 100 to express a percentage and rounded to the next higher one-hundredth of 1 percent. The contribution rate shall be such benefit cost ratio for the next fiscal year subject to the following adjustments:

(A) If the cash balance as of December 31 is less than four-tenths of 1 percent of the average fiscal year wages, as defined by Section

940, the percentage below four-tenths of 1 percent rounded to the next higher one-hundredth of 1 percent shall be added to the contribution rate.

(B) If the cash balance as of December 31 exceeds seven-tenths of 1 percent of the average fiscal year wages, as defined by Section 940, the percentage over seven-tenths of 1 percent rounded to the next higher one-hundredth of 1 percent shall be deducted from the contribution rate, except that the rate shall not be less than one-tenth of 1 percent.

(c) If the administrator finds that the ability of the School Employees Fund to meet its estimated obligations promptly when due will become endangered, he or she shall from time to time increase the contribution rate otherwise provided by this section to a level estimated to be needed to protect the solvency of the fund and shall notify all school employers participating in the fund of any increased contribution rate under this authority.

(d) 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. 2. 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 1 percent, except as provided for in subdivisions (b) and (c), of the total wages, as defined by Section 940, 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) If the administrator finds that the ability of the School Employees Fund to meet its estimated obligations promptly when due will become endangered, he or she shall from time to time increase the tax rate otherwise provided by this section to a level estimated to be needed to protect the solvency of the fund and shall notify all school employers participating in the fund of any increased tax rate under this authority.

(c) 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. 3. Section 831 is added to the Unemployment Insurance Code, to read:

831. There is hereby created a School Employer Advisory Committee of five persons. The committee shall consist of one person appointed by each of the following: the State Superintendent of Public Instruction, Chancellor of the California Community Colleges, Association of School Administrators, California School Business Officials, and the California School Board Association.

All such members shall serve at the pleasure of the appointing power and their only compensation shall be per diem expenses for attending meetings, which shall be a cost of administration of the School Employees Fund. The advisory committee shall select a chairperson and meet at least semiannually with the administrator to consider and recommend improvements concerning the administration of this article.

SEC. 4. Section 851 of the Unemployment Insurance Code is amended to read:

851. There is hereby created a City-County-Special District Advisory Committee composed of seven representatives who shall be appointed by the League of California Cities, the County Supervisors Association of California, and the administrator with the advice of the special district associations, in the approximate ratio that the number of employees of members of each such organization and of special districts participating in the Local Public Entity Employees Fund bears to the total number of employees of local public entities which are participating members of the Local Public Entity Employees Fund, except that each such organization and the special districts collectively shall be entitled to not less than one member on the advisory committee. The members of the advisory committee shall serve without compensation or expenses, except that per diem expenses for attending meetings may be paid and shall be a cost of administration of the Local Public Entity Employees Fund. The advisory committee shall select a chairperson from its members and members shall serve at the pleasure of their respective appointing powers. The advisory committee shall advise the director concerning the administration of this article.

SEC. 5. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency 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 948

An act to amend Sections 4782 and 4783 of the Welfare and Institutions Code, relating to the developmentally disabled.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 4782 of the Welfare and Institutions Code is amended to read:

4782. Parents of children under the age of 18 who are receiving services purchased by the regional center may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the cost of caring for a normal child at home, as determined by the director. Parental contributions shall be made to the State Department of Developmental Services after determination of amount of parental contribution is made by the appropriate regional center and the method of determination of the amount of the contribution shall be the same, whether the child is placed in the state hospital or in a public or private community facility. In no event, however, shall parents be charged for diagnosis or counseling services received through the regional centers.

SEC. 2. Section 4783 of the Welfare and Institutions Code is amended to read:

4783. Parents of children under the age of 18 who are patients in a state hospital or on leave from a state hospital, and who were admitted to the state hospital prior to July 1, 1971, may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the cost of caring for a normal child at home, as determined by the director. Parental contributions shall be made to the State Department of Developmental Services after determination of amount of parental contribution is made by the appropriate regional center, and the method of determination of the amount of the contribution shall be the same as that provided in Section 4782.

CHAPTER 949

An act to amend Section 4602 of the Civil Code, and to amend Section 437c of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 4602 of the Civil Code is amended to read:

4602. In any proceeding under this part, when so directed by the court, the probation officer or domestic relations investigator shall conduct a custody investigation and file a written confidential report thereon. The report may be considered by the court and shall be made available only to the parties or their attorneys at least 10 days before any hearing regarding the custody of a child. The report may be received in evidence upon stipulation of all interested parties.

When the probation officer or domestic relations investigator is directed by the court to conduct a custody investigation, the court shall make inquiry into the financial condition of the parent, parents, guardian, or such other person charged with the support and maintenance of such minor, and if the court finds such parent, parents, guardian, or other person able, in whole or in part, to pay the expense of such investigation, report and recommendation, the court may make an order requiring such person, persons, guardian, or other person to repay to the county such part, or all, of such expense of investigation, report and recommendation as, in the opinion of the court, is proper. Such repayment shall be made to the county officer designated by the board of supervisors, who shall keep suitable accounts of such expenses and repayments and shall deposit such collections in the county treasury.

SEC. 2. Section 437c of the Code of Civil Procedure is amended to read:

437c. Any party may move for summary judgment in any action or proceeding if it is contended that the action has no merit or that there is no defense thereto. The motion may be made at any time after 60 days have elapsed since the general appearance in the action or proceeding of each party against whom the motion is directed or at such earlier time after such general appearance as the court, with or without notice and upon good cause shown, may direct. Notice of the motion and supporting papers shall be served on the other party to the action at least 10 days before the time fixed for the hearing. The motion shall be heard no later than 45 days before the date of trial, unless the court for good cause orders otherwise. The filing of such motion shall not extend the time within which a party must otherwise file a responsive pleading.

The motion shall be supported or opposed by affidavits, declarations, admissions, answers to interrogatories, depositions and matters of which judicial notice shall or may be taken.

Such motion shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. In determining whether the papers show that there is no triable issue as to any material fact the court shall consider all of the admissible evidence set forth in the papers and all inferences reasonably deducible from such evidence, except summary judgment shall not be granted by

the court based on inferences reasonably deducible from such evidence, if contradicted by other inferences or evidence, which raise a triable issue as to any material fact.

Supporting and opposing affidavits or declarations shall be made by any person on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein.

If a party is otherwise entitled to a summary judgment pursuant to the provisions of this section, summary judgment shall not be denied on grounds of credibility or for want of cross-examination of witnesses furnishing affidavits or declarations in support of the summary judgment, except that summary judgment may be denied in the discretion of the court, where the only proof of a material fact offered in support of the summary judgment is an affidavit or declaration made by an individual who was the sole witness to such fact; or where a material fact is an individual's state of mind, or lack thereof, and such fact is sought to be established solely by the individual's affirmation thereof.

If it appears that the proof supports the granting of such motion as to some but not all the issues involved in the action, or that one or more of the issues raised by a claim is admitted, or that one or more of the issues raised by a defense is conceded, the court shall, by order, specify that such issues are without substantial controversy. At the trial of the action the issue so specified shall be deemed established and the action shall proceed as to the issues remaining.

If it appears from the affidavits submitted in opposition to the motion that facts essential to justify opposition may exist but cannot, for reasons stated, then be presented, the court shall deny the motion, or order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as may be just.

If the court determines at any time that any of the affidavits are presented in bad faith or solely for purposes of delay, the court shall order the party presenting such affidavits to pay the other party the amount of the reasonable expenses which the filing of the affidavits caused such other party to incur.

Except where a separate judgment may properly be awarded in the action, no final judgment shall be entered on a motion for summary judgment prior to the termination of such action, but the final judgment in such action shall, in addition to any matters determined in such action, award judgment as established by the summary proceeding herein provided for

A summary judgment entered under this section is an appealable judgment as in other cases

CHAPTER 950

An act to amend Sections 711, 927.5, and 984 of the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978. Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Section 711 of the Unemployment Insurance Code is amended 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, except that elections approved under subdivision (b) of former Section 710 as in effect prior to January 1, 1978, shall continue in effect as of such date with respect to disability insurance coverage for those employee classifications that are exempt from civil service or merit system status who perform work equivalent to those employees of the building trades crafts that are covered by collective-bargaining agreements with respect to wages, hours, fringe benefits, and other terms and conditions of employment. 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 as otherwise provided by this section and 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. 2. Section 927.5 of the Unemployment Insurance Code is amended to read:

927.5. (a) Notwithstanding Section 927, for the purposes of Part 2 (commencing with Section 2601) of this division only, "wages" shall also mean the amount of cash tips and cash gratuities received by a worker from persons other than his employer in the course of employment by an employer during any calendar month if the amount of the cash tips and cash gratuities is equal to or greater than twenty dollars ($20), and such tips and gratuities shall be treated as remuneration and wages paid by the employer to the worker.

(b) Each worker shall report to his employer in writing the

amount of wages included in subdivision (a) on or before the 10th day of the calendar month following the calendar month in which they were received. The worker's statement required by Section 6053 of the Internal Revenue Code of 1954 may be used to satisfy the requirements of this subdivision.

SEC. 3. 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 calendar year 1978 shall be at the rate of 1.72 percent of the remuneration deemed to have been received under said sections.

(c) Worker contributions required under Sections 708 and 708.5 for calendar year 1979 and after 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. 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:

Both A.B. 1628 (Ch 1142) and A.B. 1379 (Ch. 1143) of the 1977 portion of the 1977–78 Regular Session of the Legislature were signed by the Governor, and, among other things, amended Section 984 of the Unemployment Insurance Code. A.B. 1628, among other things, amended Section 984 in the same manner as does this bill while A.B. 1379 amended Section 984 in another manner. However, because

A.B. 1379 was chaptered after A.B. 1628 the changes made in Section 984 by A.B. 1628 did not become law. In addition, clarifying technical changes in Section 927.5 are necessary which do not constitute a change in, but are declaratory of, the existing law. Thus, in order to carry out the intent of the Legislature, as evidenced by its passage of A.B. 1628 last year, as soon as possible, this bill must take effect immediately.

CHAPTER 951

An act to amend Sections 1296, 1520, 1522, 1524, 1525, 1550, and 1551 of, and to add Section 1525.5 to, and to repeal Section 1552 of, the Health and Safety Code, relating to care facilities.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 1296 of the Health and Safety Code is amended to read:

1296. The director may temporarily suspend any license or special permit prior to any hearing, when in his opinion such action is necessary to protect the public welfare. The director shall notify the licensee or holder of a special permit of the temporary suspension and the effective date thereof and at the same time shall serve such provider with an accusation. Upon receipt of a notice of defense by the licensee or holder of a special permit, the director shall within 15 days set the matter for hearing, which shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits; provided, however, that the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

If the provisions of this chapter or the rules or regulations promulgated by the director are violated by a licensee or holder of a special permit which is a group, corporation, or other association, the director may suspend the license or special permit of such organization or may suspend the license or special permit as to any individual person within such organization who is responsible for such violation.

SEC. 1.1. Section 1520 of the Health and Safety Code is amended to read:

1520 Any person desiring issuance or renewal of a license for a community care facility or a special permit for specialized services under the provisions of this chapter shall file with the state

department, pursuant to regulations, an application on forms furnished by the state department, which shall include, but not be limited to:

(a) Evidence satisfactory to the state department of the ability of the applicant to comply with the provisions of this chapter and of rules and regulations promulgated under this chapter by the state department. Where there is an application for renewal of a license, evidence satisfactory to the department that the licensee has substantially complied for the term of the previous license with the provisions of this chapter, and with the rules and regulations promulgated pursuant to this chapter.

(b) Evidence satisfactory to the state department that the applicant is of reputable and responsible character. If applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the community care facility for which application for issuance or renewal of license or special permit is made.

(c) Such other information as may be required by the state department for the proper administration and enforcement of this chapter.

SEC. 1.3. Section 1522 of the Health and Safety Code is amended to read:

1522. Before issuing a license to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant, facility administrator or manager, or any other adult living in the same location, has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant, facility administrator or manager, or any other adult living in the same location, has been so convicted, the application shall be denied, unless otherwise provided pursuant to this section.

After review of the record, the director may exempt any applicant for a license or certificate from the provisions of this section if the director or person in charge of the county inspection service believes the applicant to be of such good character as to justify issuance of a license.

This section shall become operative only if Senate Bill No. 197 of the 1973–74 Regular Session of the Legislature is chaptered and becomes effective on or before January 1, 1974, whether Senate Bill No 197 is chaptered prior or subsequent to the act enacting this section.

SEC. 1.5. Section 1524 of the Health and Safety Code is amended to read:

1524. Each new license or special permit issued pursuant to this chapter shall expire 12 months from the date of its issuance. Application for renewal of a license or special permit shall be filed with the state department not less than 30 days prior to the expiration date each year. Failure to make a timely renewal shall result in expiration of the license or special permit.

A renewal license or special permit may be issued for a period not to exceed two years, providing the licensee has been found not to be in violation of any statutory requirements or rules or regulations, during the preceding license period.

SEC. 1.7. Section 1525 of the Health and Safety Code is amended to read:

1525. Upon the filing of the application for issuance or renewal of a license or for a special permit and substantial compliance with the provisions of this chapter and the rules and regulations of the department, the director shall issue to the applicant the license or special permit. If the director finds that the applicant is not in compliance with the laws or regulations of this chapter, the director shall deny the applicant a license, license renewal, special permit, or permit renewal.

SEC. 1.9. Section 1525.5 is added to the Health and Safety Code, to read:

1525.5. The director may issue provisional licenses to operate community care facilities for facilities which the director determines are in substantial compliance with the provisions of this chapter and the rules and regulations adopted pursuant thereto, provided, that no life safety risks are involved, as determined by the director. Such a provisional license shall expire six months from the date of issuance, or at such earlier time as the director may determine, and may not be renewed.

SEC. 2. Section 1550 of the Health and Safety Code is amended to read:

1550. The state department may suspend or revoke any license or special permit issued under the provisions of this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee or holder of a special permit of any of the provisions of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of any provision of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct in the operation or maintenance, or both the operation and maintenance, of a community care facility which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

The director may temporarily suspend any license or special permit prior to any hearing when, in his opinion, such action is necessary to protect residents or clients of the facility from physical

or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee or holder of the special permit of the temporary suspension and the effective date thereof and at the same time shall serve such provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee or holder of the special permit, the director shall within 15 days set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of such notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

SEC. 3. Section 1551 of the Health and Safety Code is amended to read:

1551. Proceedings for the suspension, revocation, or denial of a license or special permit 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 state department shall have all the powers granted by such provisions. In the event of conflict between the provisions of this chapter and such provisions of the Government Code, the provisions of the Government Code shall prevail.

SEC. 4. Section 1552 of the Health and Safety Code is repealed.

CHAPTER 952

An act to amend Sections 2 and 3 of Chapter 1066 of the Statutes of 1976, relating to the state park system, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. (a) Notwithstanding the provisions of Section 5098.2 of the Public Resources Code, of the moneys appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation pursuant to Section 1 of Chapter 1066 of the Statutes of 1976, there is hereby reappropriated the sum of three hundred thousand dollars ($300,000), or so much thereof as may be necessary, from such account to the department in augmentation of the moneys appropriated pursuant to Section 2 of Chapter 1066 of the Statutes of 1976.

(b) The unencumbered balance of the funds appropriated in Section 1 of Chapter 1066 of the Statutes of 1976, remaining after reappropriation pursuant to subdivision (a), is hereby reappropriated to the Department of Parks and Recreation and shall be available for expenditure until June 30, 1981.

SEC. 2. Section 2 of Chapter 1066 of the Statutes of 1976 is amended to read:

Sec. 2. Notwithstanding Section 5098.2 of the Public Resources Code, there is hereby appropriated, in accordance with the following schedule, the sum of five hundred sixty thousand dollars ($560,000) to the Department of Parks and Recreation for expenditure, during the period September 1, 1976, to June 30, 1981, inclusive, for a study to determine whether there is available a continuous source of water from wells that is sufficient to supply Lake Elsinore and whether such manner of supplying the lake would be feasible:

Schedule·

(a) Payable from the Harbors and Watercraft Revolving Fund $40,000

(b) Payable from the Park and Recreation Revolving Account in the General Fund $520,000

The study may include, but is not limited to, the installation of equipment necessary for monitoring underground water characteristics, the monitoring of underground water behavior, subsidence surveys, and the construction of a new water well

SEC. 3. Section 3 of Chapter 1066 of the Statutes of 1976 is amended to read:

Sec. 3. If at any time prior to June 30, 1981, the water level of Lake Elsinore recedes to an elevation of 1,227.5 feet above mean sea level, as determined by the Director of Parks and Recreation, an amount, not to exceed three hundred thousand dollars ($300,000) of the funds appropriated in Section 2 of this act, may be expended by the Department of Parks and Recreation for the purpose of purchasing or pumping water from any available source to raise the elevation of the lake.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The high evaporation rate of water in Lake Elsinore is such that the health and safety benefits of additional water supplies which may be secured are jeopardized. It is necessary to drill a new test well at the earliest possible time in order to carry out a study of a possible water supply for the lake; and, because the water level of the lake relates directly to the water quality and recreational benefits of the lake and the neighboring community, it is also necessary that the water level be maintained as high as is practicable during the study period. Therefore, it is necessary that this act take effect immediately.

CHAPTER 953

An act to amend Section 65302 of the Government Code, relating to local planning.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

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

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

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

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

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

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

(1) The reclamation of land and waters.

(2) Flood control.

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

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

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

(6) Protection of watersheds.

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

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

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

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

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

To the extent that a county's seismic safety element is sufficiently detailed containing appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's seismic safety element that pertains to the city planning area within the county's jurisdiction, in satisfaction of this subdivision.

In adopting a county seismic safety element, a city shall follow all requirements regarding the content and adoption of general plan elements as set forth in this article and Article 6 (commencing with Section 65350) of this chapter.

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the seismic safety element and any technical studies used for developing the seismic safety element.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 46050.1 of the Health and Safety Code, and which quantifies the community noise environment in terms of noise exposure contours for both near- and long-term levels of growth and traffic activity. Such noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and also to provide baseline levels and noise source identification for local noise ordinance enforcement.

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

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground

rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

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

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

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

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

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

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

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

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

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the

provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

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

The elements of the general plan may, at the discretion of the county or city, be combined; provided, however, the county or city complies with all requirements regarding the content and adoption of general plan elements of this article and Article 6 (commencing with Section 65350) of this chapter.

The requirements of this section shall apply to charter cities.

SEC. 2. Section 65302 of the Government Code is amended to read:

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

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

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

(c) A housing element, to be developed pursuant to regulations established under Section 41134 of the Health and Safety Code, consisting of standards and plans for the improvement of housing and for provision of adequate sites for housing. This element of the plan shall, to the extent feasible, make adequate provision for the housing needs of all economic segments of the community. "Make adequate provision" means facilitating the development of an appropriate variety and choice of housing through accepted land use and building regulations and financing methods including, but not limited to, application for state and federal funds; and refraining from using such regulations and methods to create obstacles to low- and moderate-income housing. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and

technological factors.

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

(1) The reclamation of land and waters.

(2) Flood control.

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

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

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

(6) Protection of watersheds.

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

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

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

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

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

To the extent that a county's seismic safety element is sufficiently detailed containing appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's seismic safety element that pertains to the city planning area within the county's jurisdiction, in satisfaction of this subdivision.

In adopting a county seismic safety element, a city shall follow all requirements regarding the content and adoption of general plan elements as set forth in this article and Article 6 (commencing with Section 65350) of this chapter.

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the seismic safety element and any technical studies used for developing the seismic safety element.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 46050.1 of the Health

and Safety Code, and which quantifies the community noise environment in terms of noise exposure contours for both near- and long-term levels of growth and traffic activity. Such noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and also to provide baseline levels and noise source identification for local noise ordinance enforcement.

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

(1) Highways and freeways.

(2) Primary arterials and major local streets.

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

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

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

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

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

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

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

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

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

given this supplied data, or they shall provide noise contours as specified in the foregoing statements.

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

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

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

The elements of the general plan may, at the discretion of the county or city, be combined; provided, however, the county or city complies with all requirements regarding the content and adoption of general plan elements of this article and Article 6 (commencing with Section 65350) of this chapter.

The requirements of this section shall apply to charter cities.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 1727 are both chaptered and become effective January 1, 1979, both bills amend Section 65302 of the Government Code, and this bill is chaptered after Assembly Bill No. 1727, that the amendments to Section 65302 proposed by both bills be given effect and incorporated in Section 65302 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 1727 are both chaptered and become effective January 1, 1979, both amend Section 65302, and this bill is chaptered after Assembly Bill No. 1727, in which case Section 1 of this act shall not become operative.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to 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 such that related costs are incurred as part of their normal operating procedures.

CHAPTER 954

An act to add Article 5 (commencing with Section 11850) to Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code, to amend Sections 1803, 13352.5, and 23102.1 of the Vehicle Code, and to repeal Article 5 (commencing with Section 19975.01) of Chapter 1 of Division 11 of the Welfare and Institutions Code, relating to public offenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. 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, which is permitted but not required under Section 23102.3 of the Vehicle Code, 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, subject to the provisions of Section 11851.2, refer a person to an approved program, even though the person's privilege to operate a motor vehicle is suspended or revoked.

(d) 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. (a) The court may, subject to the provisions of Section 11851.2, refer persons only to approved programs. Subject to such provisions, a person is eligible to participate in such a program if it is operating in (1) the county where such person is convicted, or (2) the county where such person resides, or (3) a county that has an agreement with such person's county of residence pursuant to Section 11851, or (4) a county to which a person may request transfer pursuant to subdivision (d). If such person cannot be referred to an approved program pursuant to this section, the provisions of Section 13352 of the Vehicle Code shall apply.

(b) Subject to the provisions of Section 11851.2, if a person has

consented to participate in an approved program and the county where such person is convicted is the same county in which such person resides, the court may order such person to participate in an approved program within such county or, if such county does not have an approved program, the court may order such person to participate in such program within another county, pursuant to the provisions of Section 11851.

(c) Subject to the provisions of Section 11851.2, if a person has consented to participate in an approved program in the county in which such person resides or in a county in which such person's county of residence has an agreement pursuant to Section 11851, and the county where such person is convicted is not the county where such person resides, and if the court grants such person summary probation, the court may order the person to participate in an approved program in such county. In lieu of summary probation, the court may utilize the probation officer to implement the orders of the court. If the county in which such person resides does not have an approved program or an agreement with another county pursuant to Section 11851 and such person consents, the court may order such person to participate in an approved program within the county where such person is convicted, or a county in which such county has an agreement pursuant to Section 11851.

(d) Except as otherwise provided in subdivision (e), subsequent to a person's commencement of participation in a program, such person may request transfer to another approved program (1) in the same county in which such person has commenced participation in such program, upon approval of such county's alcoholism administrator, or (2) in a county other than the county in which such person has commenced participation in such program, upon approval of the alcoholism administrators of the county in which such person is participating and the county in which such person is requesting transfer.

(e) Subdivision (d) shall not be applicable if (1) the court has ordered the person to participate in a specific approved program, unless such court orders the transfer or, (2) the person is under formal probation, unless the probation officer consents to the transfer. The state department shall establish reporting forms and procedures to ensure that the court receives notice of any program transfer pursuant to this subdivision or subdivision (d).

(f) Jurisdiction of all postconviction matters arising pursuant to this section may be retained by the court of conviction.

(g) Upon receiving notice from the court of conviction that a person has not commenced participation in an approved program within 21 days after the date of sentencing, excluding any days of imprisonment served for such offense, the Department of Motor Vehicles shall suspend or revoke such person's privilege to operate a motor vehicle for the period prescribed by law.

(h) The state department, in cooperation with the Department of Motor Vehicles and alcoholism administrators, shall establish

procedures to ensure the effective implementation of this section.

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 convicted 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 other than when such person is participating in any group or other activities of the program. No program activity in which such person is participating shall be interrupted in order to conduct such individual interviews.

(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, except that any profit or surplus, that does not exceed the maximum level established by the state department, may be utilized for any purposes allowable under any other provisions of law. In its standards, the state department shall define, for the purposes of this paragraph, the terms profits and surplus. 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) Not later than March 1, 1979, the state department shall adopt standards by regulation in order to assure effective implementation of the procedure established by this article, which shall be in addition to any of the standards set forth in this section.

(d) A county or program may not prescribe additional program requirements unless such requirements are specifically approved by the state department.

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 not in excess of that 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. (a) 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.

(b) For the purpose of determining a person's eligibility to participate in an approved program where such person's county of residence establishes a program with another county or contracts for services pursuant to subdivision (a) of this section, the following

eligibility requirements shall apply:

(1) Where two or more counties jointly establish a program 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, subdivision (b) of Section 11851.2 shall apply.

(2) Where a county contracts for program services from another county, only those residents 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 the date their county of residence executes a contract pursuant to subdivision (a) of this section to provide program services to their residents shall be eligible to participate in such approved program pursuant to Section 11850.2.

Counties which contract for services pursuant to subdivision (a) of this section shall notify the state department not later than 14 days following such action.

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 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, and who committed such an offense, if at all, on or after the date when a program to which such persons may be referred by the court has been approved by the state department. Such persons who qualify for participation in the program may be referred to such a program, within the discretion of the court of jurisdiction, only subsequent to conviction for that offense.

The Legislature finds and declares that the provisions of this section are declaratory of existing law, as enacted by Chapter 890, Statutes of 1977. The Legislature further finds and declares that the provisions of this section are not intended to alter the application of Chapter 890, Statutes of 1977; rather, the provisions of this section are intended to clarify the original intent of the Legislature in enacting such chapter.

SEC. 1.5. Section 1803 of the Vehicle Code is amended to read:

1803. (a) Every clerk of a court, or judge if there be no clerk, in which a person was convicted of any violation of this code, and of any offense involving use or possession of narcotic controlled substances

under Division 10 (commencing with Section 11000) of the Health and Safety Code, and of any violation of any other statute relating to the safe operation of vehicles shall prepare within 10 days after conviction and immediately forward to the department at its office at Sacramento an abstract of the record of the court covering the case in which the person was so convicted, unless sentencing is not pronounced in conjunction with the conviction in which case the abstract shall be forwarded to the department within 10 days after sentencing, which abstract must be certified by the person so required to prepare the same to be true and correct.

For the purposes of this section, a forfeiture of bail shall be equivalent to a conviction.

(b) The following violations are not required to be reported under subdivision (a) of this section:

(1) Division 3.5 (commencing with Section 9840).

(2) Section 21113, with respect to parking violations.

(3) Chapter 9 (commencing with Section 22500) of Division 11.

(4) Division 12 (commencing with Section 24000), except Sections 24002, 24004, 24250, 24409, 24604, 24800, 25103, Chapter 3 (commencing with Section 26301), 26707, 27151, 27800, and 27801.

(5) Division 15 (commencing with Section 35000), except Chapter 5 (commencing with Section 35550).

(6) Violations for which a person was cited as a pedestrian or while operating a bicycle.

(7) Division 16.5 (commencing with Section 38000).

(c) If the court impounds a license or orders a person to limit his driving pursuant to subdivision (c) of Section 40508, the court shall notify the department concerning the impoundment or limitation on an abstract prepared pursuant to subdivision (a) of this section or on a separate abstract, which shall be prepared within 10 days after the impoundment or limitation was ordered and immediately forwarded to the department at its office in Sacramento.

SEC. 2. Section 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, 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. 3. Section 23102.1 of the Vehicle Code is amended to read:

23102.1. Notwithstanding the requirements of subdivisions (e) and (f) 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.

This section shall not be applicable to any person convicted for a third or subsequent offense, under Section 23102, and shall not affect the imposition of any fines on persons convicted for any offense under Section 23102.

SEC. 4. Article 5 (commencing with Section 19975.01) of Chapter 1 of Division 11 of the Welfare and Institutions Code is repealed.

SEC. 5. This act shall become operative on the effective date of this act or July 1, 1978, whichever is later.

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 recent state government reorganization, effective July 1, 1978, abolished the Office of Alcoholism and transferred its functions and duties to the State Department of Alcohol and Drug Abuse, repealing the relevant provisions in the Welfare and Institutions Code and adding them to the Health and Safety Code. In order to make the provisions for the treatment of drinking drivers, added to the Welfare and Institutions Code prior to the effective date of the reorganization by Chapter 890 of the Statutes of 1977, conform to such reorganization, and in order to clarify and make more effective the implementation of Chapter 890 of the Statutes of 1977, it is necessary that the provisions of this act take effect at the earliest possible time.

CHAPTER 955

An act relating to physicians and surgeons.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. As used in this act, the following definitions shall apply:

(a) "Division" means the Division of Medical Quality.

(b) "Committee" means a medical quality review committee.

(c) "County medical society" means those county medical societies who have volunteered and have been designated by the division to participate in the pilot project.

(d) "Quality assessment organization" means any nonpublic medical or medically related institution that administers a program to evaluate the performance or competence of persons holding physicians' and surgeons' certificates issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. Quality assessment organizations include, but are not limited to, the following:

(1) Hospital participation shall include the involvement, when appropriate, of internal peer review committees charged with reviewing physician performance.

(2) Professional medical and medical specialty society review committees, conduct and ethics committees, and judicial councils.

(3) Insurance underwriters' claims review committees and medical advisory groups.

(4) The quality review committees of foundations for medical care, health clinics, and medical laboratories.

(e) "Professional standards review organization" means any nonprofit corporation under contract to the United States Department of Health, Education, and Welfare as a professional standards review organization which conducts its affairs within the State of California.

SEC. 2. The Division of Medical Quality shall conduct a pilot program for the evaluation of the competence of holders of physicians' and surgeons' certificates by quality assessment organizations and professional standards review organizations in conjunction with medical quality review committees. Participation by such assessment and review organizations shall be on a voluntary basis.

SEC. 3. The division shall select, by July 1, 1979, no less than three medical quality review committees to participate in the pilot project.

SEC. 4. (a) Each committee shall meet with quality assessment organizations and professional standards review organizations active in the district to develop screening criteria capable of indicating substandard medical practices.

(b) The division shall solicit the participation of professional medical societies, consumer groups, and insurance underwriters in drafting prototype screening criteria for use by the committees.

SEC. 5. Each committee shall designate a county medical society or societies to receive copies of reports made pursuant to Section 6.

SEC. 6. Upon approval by the division of the screening criteria

adopted by a committee, participating assessment and review organizations shall conduct their evaluation in accordance with that screening criteria, shall identify deviations from criteria, and shall determine, through review of relevant medical information, whether the exception is justified as acceptable medical practice. When, in the opinion of the review organization, the exception is unjustified, that organization shall report the circumstances both to the committee and the county medical society designated by the committee.

SEC. 7. The county medical society designated pursuant to Section 5 may review all reports made to it pursuant to Section 6, take action as it deems appropriate within its lawful authority and make recommendations to the committee regarding disposition of the case of any certificate holder whose conduct has been found to be substandard pursuant to the criteria adopted pursuant to Section 4.

SEC. 8. Each assessment and review organization participating in the project shall report to the committee the number of cases reviewed by the organization, the number of cases of substandard conduct identified, and the number of cases referred to the medical society designated by the committee.

SEC. 9. At intervals specified by the committee, the designated medical society shall report on the number of allegations of substandard conduct referred to it for review, the number of such allegations deemed justifiable, and the number of cases pending final disposition.

SEC. 10. Nothing in this act shall be construed to limit the authority of the division or a committee or a county medical society to take disciplinary action against a certificate holder as otherwise authorized by law.

SEC. 11. No civil or criminal liability on the part of, and no cause of action for damages shall arise against, any person or hospital for the communication of information in the possession of such person or hospital to any agency, society, organization, body, or person whatsoever, when such communication is authorized by this chapter and if the person or hospital making such communication acts without malice, has made a reasonable effort to obtain the facts of the matter, and acts in a reasonable belief that the action taken is warranted by facts known to the communicator after a reasonable effort to obtain such facts. The communications authorized by this chapter shall not, however, be construed to constitute a waiver of confidentiality of medical records, medical committee reports, or other documents protected under applicable sections of the Evidence Code.

SEC. 12. The Division of Medical Quality shall make an interim report evaluating the success of the pilot project authorized by this act, and alternative methods of financing the remainder of the project, to both the Legislature and the Governor by September 1, 1980. It shall make a final report thereto by March 1, 1981, which shall

include its recommendations as to the feasibility of statewide implementation of the program.

SEC. 13. On and after January 1, 1980, the Board of Medical Quality Assurance shall seek to fund the program for the evaluation of the competence of holders of physicians' and surgeons' certificates established by this act in a manner other than from the revenues derived by the board from license fees received from holders of such certificates, including, but not limited to, general state revenues.

SEC. 14. The provisions of this act shall be operative until July 1, 1981, and shall have no force or effect on and after that date.

CHAPTER 956

An act to amend Section 21222.3 of the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 21222.3 of the Government Code is amended to read:

21222.3. In addition to the increase in allowance authorized by and granted pursuant to the provisions of Section 21222, and notwithstanding the limitation in subdivision (b) of Section 21224, any monthly allowance computed under or limited by Section 21251.1 prior to its repeal by Chapter 266, Statutes of 1972, shall be increased by 15 percent. Such percentage shall be applied to the allowance payable on July 1, 1974, and the allowance as so increased shall be paid for time on and after that date and until the first day of April, 1975. The base allowance shall be increased by the same percentage for annual adjustments beginning with the adjustment effective for time commencing on April 1, 1975.

Notwithstanding Sections 20019.1 and 20493 of this code, this section shall not apply to allowances based on service in employment in which the member was a school member or a local miscellaneous member.

The amendments to this section during the 1975–76 Regular Session shall be applicable to allowances paid on and after July 1, 1974, to retired state members who did not receive an increase under this section prior to such amendment solely because their effective date of retirement was on or after July 1, 1971.

SEC. 2. It is the intent of the Legislature in enacting this act to provide a one-time payment to reflect an equity adjustment, and it is not the intention of the Legislature to institute a policy or establish any precedent for providing retroactive retirement benefit

increases.

SEC. 3. The sum of six thousand two hundred thirty dollars and sixteen cents ($6,230.16) is hereby appropriated from the General Fund to the Public Employees' Retirement Fund for expenditure by the Board of Administration of the Public Employees' Retirement System for carrying out the purposes of Section 21222.3 of the Government Code as amended by this act.

CHAPTER 957

An act to amend Section 2542 of the Business and Professions Code, relating to registered dispensing opticians.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 2542 of the Business and Professions Code is amended to read:

2542. Only a physician and surgeon or optometrist in connection with the fitting of a contact lens or lenses may utilize the service of a registered dispensing optician acting on the advice, direction and responsibility of such physician and surgeon or optometrist A registered dispensing optician shall not fit a contact lens or lenses unless the prescription specifically refers to and authorizes contact lenses.

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

CHAPTER 958

An act to amend Section 3351 and to repeal Section 3359 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 3351 of the Labor Code is amended to read:

3351. "Employee" means every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes:

(a) Aliens and minors.

(b) All elected and appointed paid public officers.

(c) All officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay; provided that, where the officers and directors of any such private corporation are the sole shareholders thereof, the corporation and such officers and directors shall come under the compensation provisions of this division only by election as provided in subdivision (a) of Section 4151.

(d) Except as provided in subdivision (h) of Section 3352, any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of such owner or occupant.

(e) All persons incarcerated in a state penal or correctional institution while engaged in assigned work.

(f) All working members of a partnership receiving wages irrespective of profits from such partnership; provided that where the working members of the partnership are general partners, the partnership and such partners shall come under the compensation provisions of this division only by election as provided in subdivision (a) of Section 4151.

SEC. 2. Section 3359 of the Labor Code is repealed.

CHAPTER 959

An act to add Section 6369.4 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 6369.4 is added to the Revenue and Taxation Code, to read:

6369.4. 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 items and materials when used to modify a vehicle for physically handicapped persons

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

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 provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 25 days after the effective date of this act.

CHAPTER 960

An act to add Chapter 11 (commencing with Section 54980) to Part 1 of Division 2 of Title 5 of the Government Code, relating to municipal services.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978.]

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

SECTION 1. Chapter 11 (commencing with Section 54980) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 11. MUNICIPAL SERVICES AND FUNCTIONS

54980. As used in this chapter:

(a) "Legislative body" means the board of supervisors in the case of a county or a city and county, the city council or board of trustees in the case of a city, and the board of directors or other governing body in the case of a district.

(b) "Local agency" means any county, city, city and county, or public district which provides or has authority to provide or perform municipal services or functions.

(c) "Municipal services or functions" includes, but is not limited to, firefighting, police, ambulance, utility services, and the improvement, maintenance, repair, and operation of streets and highways.

54981. The legislative body of any local agency may contract with any other local agency for the performance by the latter of municipal services or functions within the territory of the former.

54982. Any agreement entered into pursuant to this chapter shall be for valuable consideration.

54983. Authority for entering into agreements pursuant to this chapter shall be construed as supplementing existing authority for legislative bodies of local agencies to enter into agreements for the providing of municipal services and functions and shall not be construed as authorizing the legislative body of any local agency to enter into an agreement for the providing of municipal services or functions which it is prohibited to provide by law or which exceeds the force account limit applicable to the lead agency performing the work.

CHAPTER 961

An act to add and repeal Sections 7852.5, 7852.6, and 7852.7 to the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 7852.5 is added to the Fish and Game Code, to read:

7852.5. A commercial fishing salmon stamp, in addition to a commercial fishing license, shall entitle the holder to take salmon during the commercial salmon season, and no salmon may be taken for commercial purposes by anyone who does not have such a stamp. Stamps shall be issued annually for a fee, as determined by the department, but not to exceed thirty dollars ($30), and shall be valid during the commercial salmon season of the year in which issued.

This section shall remain in effect only until December 31, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1986, deletes or extends such date.

SEC. 2. Section 7852.6 is added to the Fish and Game Code, to read:

7852.6. Moneys collected from the sale of salmon stamps shall be used for raising chinook salmon to a yearling size, at which size they shall be released into state waters. The amount of salmon stamp revenues expended for this purpose in any fiscal year shall not exceed the amount expended by the department for the same purpose during the same period. The calculation of the amount expended by the department for this purpose shall not include expenditures made by the department for which reimbursements are received from state or federal agencies, public utilities, or private entities for raising chinook salmon to yearling size as part of a fish mitigation program instituted to compensate for the adverse effect of a dam on natural salmon production. If the department expends no funds other than moneys collected from the sale of salmon stamps

or moneys for which reimbursements are received as part of an anadromous fish mitigation program for the raising of chinook salmon to yearling size within the period of a fiscal year, the commercial fishing salmon stamp program, as specified in Section 7852.5, shall be discontinued and no fee shall thereafter be collected for the issuance of a salmon stamp.

If the salmon stamps issued pursuant to Section 7852.5 raise more money than is necessary to match the funds expended by the department during any fiscal year, then the excess salmon stamp revenue may be carried over into the following fiscal year.

This section shall remain in effect only until December 31, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1986, deletes or extends such date.

SEC. 3. Section 7852.7 is added to the Fish and Game Code, to read:

7852.7. It is the intent of the Legislature that the department use the moneys generated from the sale of commercial fishing salmon stamps and the matching share contributed by the department to raise approximately two million chinook salmon annually to yearling size to contribute to the replenishing of California's salmon resource. In no case shall moneys from the General Fund be used to match the salmon stamp revenues expended for this program. It is the further intent of the Legislature that the salmon stamp fee authorized in Section 7852.5 shall be determined, subject to the thirty dollar ($30) maximum, so as to generate revenues equal to one-half the amount necessary to raise this number of salmon to yearling size.

This section shall remain in effect only until December 31, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1986, deletes or extends such date.

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 962

An act to amend Section 14998.2 of, and to add Section 14998.8 to, the Government Code, relating to the Motion Picture Development Council, and making an appropriation therefor.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 14998.2 of the Government Code is amended to read:

14998.2. There is in the state government the Motion Picture Council consisting of 14 members. The Governor shall appoint 10 members, the Senate Rules Committee shall appoint two members and the Speaker of the Assembly shall appoint two members. The members of the council appointed by the Governor may include representatives of state and local government, motion picture development companies, employee and professional organizations composed of persons employed in the motion picture industry, and other appropriate members of this or related industries. The Motion Picture Council shall work to encourage motion picture and television filming in California and shall exercise the powers provided in this section of the code and elsewhere in the Government Code. In addition to other duties provided by law, the Motion Picture Council shall also make recommendations to the Department of Economic and Business Development and the agencies of state government on legislative or administrative actions that may be necessary or helpful to maintain and improve the position of the state's motion picture industry in the national and world market.

One of the members appointed by the Senate Rules Committee shall be a Senator and one of the members appointed by the Speaker shall be a member of the Assembly at the time of appointment. Such persons shall be appointed for terms of four years.

Each legislator serving on January 1, 1979, shall serve a term of four years, commencing on that date. The other person appointed by the Senate Rules Committee and by the Speaker shall serve an initial term which shall end on December 31, 1980. The 10 members appointed by the Governor shall serve staggered terms of four years each with the terms of two members to expire December 31, 1979, the terms of three members to expire December 31, 1980, the terms of two to expire December 31, 1981, and the terms of three to expire December 31, 1982. The members appointed by the Governor with the least seniority on the Motion Picture Council shall be assigned to the terms with the earliest expiration date unless the Governor, prior to January 1, 1979, shall designate a different order. Each term thereafter shall expire four years subsequent to the expiration date of the prior term.

SEC. 3. Section 14998.8 is added to the Government Code, to read:

14998.8. The Motion Picture Council is authorized to appoint an advisory commission, production consultants, and other advisory personnel, provided, however, that no such advisory personnel shall receive any compensation other than reimbursement of expenses for attendance at council meetings. No advisory person appointed may use the name of the council on any letterhead, business card, or

identification badge except to the extent that the person is authorized to do so by the council.

SEC. 4. There is hereby appropriated from the General Fund to the Department of Economic and Business Development forty thousand dollars ($40,000) during fiscal year 1979–80 for use by the Motion Picture Council for motion picture development work in the State of California and to be used for staff, office space rental, office expenses and industry communications. After the 1979–80 fiscal year the Legislature shall appropriate annual support funds for the Motion Picture Council as a portion of the budget of the Department of Economic and Business Development and said funds shall be expended in the manner provided in this section. It is the intent of the Legislature that the remainder of support funds for the Motion Picture Council for each year, other than the annual appropriation for the Motion Picture Council to be provided through the Department of Economic and Business Development, shall come from industry fees collected by the Motion Picture Council as otherwise provided by law.

SEC. 5. It is the intention of the Legislature in enacting this act to make the Motion Picture Council self-sufficient with respect to its industry-service function and to provide a General Fund expenditure for an annual appropriation, through the Department of Economic and Business Development, to pay for the functions of the Motion Picture Council in promoting and developing motion picture filming in California for the benefit of the state's economy. With respect to the annual appropriation to the Department of Business Development, the Motion Picture Council shall have authority to determine how such funds shall be spent, subject to normal budgetary controls by the Department of Finance. The Motion Picture Council shall, however, report annually to the Director of Finance and to the Director of the Department of Economic and Business Development as to how all funds received have been spent.

CHAPTER 963

An act to amend Section 217 of the Health and Safety Code, and to add Section 13517 to the Penal Code, relating to peace officers, and making an appropriation therefor.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 217 of the Health and Safety Code is amended to read:

217. All ocean and public beach lifeguards, and firemen in this state shall be trained to administer first aid, including, but not limited

to, cardiopulmonary resuscitation. The training shall meet the standards for first aid training prescribed by the state department and shall be satisfactorily completed by such ocean and public beach lifeguards, and firemen, as soon as practical, but in no event more than one year after the date of employment. Satisfactory completion of a refresher course approved by the state department in cardiopulmonary resuscitation and other first aid every three years shall also be required.

The state department shall designate a public agency or private nonprofit agency to provide for each county the training required by this section. Such training shall be provided at no cost to the trainee.

This section shall not apply to firemen whose duties are primarily clerical or administrative.

As used in this section, "ocean and public beach lifeguard" means any regularly employed and paid officer, employee, or member of a public aquatic safety department or marine safety agency of the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state.

As used in this section, "fireman" means any regularly employed and paid officer, employee, or member of a fire department or fire protection or firefighting agency of the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state or member of an emergency reserve unit of a volunteer fire department or fire protection district.

SEC. 2. Section 13517 is added to the Penal Code, to read:

13517. (a) All policemen, sheriffs, deputy sheriffs, and members of the California Highway Patrol shall be trained to administer first aid, including, but not limited to, cardiopulmonary resuscitation. Satisfactory completion of a refresher course in cardiopulmonary resuscitation and other first aid every three years shall also be required.

(b) The course of training leading to the basic certificate issued by the commission shall, on and after July 1, 1979, include adequate instruction in the procedures described in subdivision (a). No reimbursement shall be made to local agencies based on attendance on or after such date at any such course which does not comply with the requirements of this subdivision.

CHAPTER 964

An act to amend Sections 51213, 51227, and 78202 of the Education Code, relating to curriculum.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 51213 of the Education Code is amended to read:

51213. Instruction in social sciences shall include the early history of California and a study of the role and contributions of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the roles of these groups in contemporary society.

SEC. 2. Section 51227 of the Education Code is amended to read:

51227. *Instruction in social sciences shall include the early history* of California and a study of the role and contributions of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America, with particular emphasis on portraying the roles of these groups in contemporary society.

SEC. 3. Section 78202 of the Education Code is amended to read:

78202. The courses of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

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

CHAPTER 965

An act to amend Sections 101, 102, 256, 258, 350, 400, 403, 406, 500, 503, 530, 535, the heading of Article 1 (commencing with Section 600) of Chapter 5 of Division 1, the heading of Article 4 (commencing with Section 660) of Chapter 5 of Division 1, Sections 680, 682, 683, 751, 754, 758, 759, 760.1, 762, 769, 771, 856, 1202, 1221, 1224, 1225, 1231, 1257, 1336, 1500, 1500.1, 1501, 1503, 1560, 1561, 1564, 1751, 1752, 1756.1, 1902, 1903, 1904, 1912, 1930, 2053, 2055, 2058, 2070, 2071, 2072, 2073, 2093, 2094, 2095, 2096, 3010, 3011, 3012, 3013, 3014, 3015, 3100, 3185, 3186, 3204, 3358, 3359, 3366, 3373, 3374, 3500, 3501, 3504, 3505, 3508, 3511, 3513, 3515, 3521, 3530, 3535, 3545, 3546, 3547, 3548, 3560, 3570, 3580, 31220, and 31951 of, to amend and renumber Sections 661 and

662 of, to add Sections 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, Chapter 1.5 (commencing with Section 180) to Division 1 of, Sections 351, 399, 600, 600.2, 600.4, 600.6, 600.8, 600.10, 600.12, 620, 622, Article 3 (commencing with Section 640) to Chapter 5 of Division 1 of, Sections 660, 661, 663, the heading of Article 4.5 (commencing with Section 670) to Chapter 5 of Division 1 of, Sections 679, 684, 685, 686, 687, 688, Article 5.5 (commencing with Section 689) to Chapter 5 of Division 1 of, Sections 696.5, 1751.5, 1751 9, 2052, 2059, 3110.1, 3126, 3379, 3380, 3500.5, 3502, 3512, and Chapter 23 (commencing with Section 3900) to Division 1 of, and to repeal Section 114, Article 3 (commencing with Section 380) of Chapter 3 of Division 1 of, Sections 502, 600, 620, Article 3 (commencing with Section 640) of Chapter 5 of Division 1 of, Sections 660, 681, 753, 760, 859, 1370, Article 2 (commencing with Section 1520) of Chapter 12 of Division 1 of, Sections 1950, 2052, 3110.1, 3126, 3127, 3128, 3129, 3130, Article 1 (commencing with Section 3135) of Chapter 17 of Division 1 of, and Sections 3241, 3502, 3512, and 3528 of, the Financial Code, relating to financial institutions.

[Approved by Governor September 19, 1978 Filed with Secretary of State September 20, 1978]

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

SECTION 1. Section 101 of the Financial Code is amended to read:

101. All provisions of law applicable to corporations generally (including, but not limited to, the General Corporation Law (Division 1 (commencing with Section 100), Title 1 of the Corporations Code)) shall apply to banks. However, whenever any provision of this division or of any regulation or order issued under any provision (other than this section) of this division applicable to banks is inconsistent with any provision of law applicable to corporations generally, such provision of this division or of such regulation or order shall apply and such provision of law applicable to corporations generally shall not apply.

SEC. 2. Section 102 of the Financial Code is amended to read:

102. The word "bank" as used in this division means any incorporated banking institution which shall have been incorporated to engage in commercial banking business or trust business. The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business shall be deemed to be doing a commercial banking business whether such deposit is made subject to check or is evidenced by a certificate of deposit, a passbook, a note, a receipt, or other writing; provided, that nothing herein shall apply to or include money or its equivalent left in escrow, or left with an agent pending investment in real estate or securities for or on

account of his principal. It shall be unlawful for any corporation, partnership, firm, or individual to engage in or transact a banking business within this state except by means of a corporation duly organized for such purpose.

SEC. 3. Section 114 of the Financial Code is repealed.

SEC. 4. Section 118 is added to the Financial Code, to read:

118. (a) All references in this division and in Division 1 (commencing with Section 100), Title 1 of the Corporations Code to financial statements, balance sheets, income statements and statements of changes in financial position of a bank and all references to assets, liabilities, earnings, retained earnings, shareholders' equity, and similar accounting items of a bank mean such financial statements or such items prepared or determined in conformity with generally accepted accounting principles then applicable, fairly presenting in conformity with generally accepted accounting principles the matters which they purport to present, subject to any specific accounting treatment required by any provision of Division 1 (commencing with Section 100), Title 1 of the Corporations Code, of this division, or of any regulation or order issued under this division.

(b) The superintendent may, by regulation or order, require that any financial statement or accounting item of a bank be prepared or determined in a manner other than in conformity with generally accepted accounting principles if he finds that such other manner is necessary or appropriate to carry out the purposes or provisions of this division.

SEC. 5. Section 119 is added to the Financial Code, to read:

119. References in this division to the voting of shares shall be construed in accordance with Section 111 of the Corporations Code.

SEC. 6. Section 120 is added to the Financial Code, to read:

120. If the articles of a bank provide for more or less than one vote for any share on any matter, the references in Sections 123 and 124 to a majority or other proportion of shares means, as to such matter, a majority or other proportion of the votes entitled to be cast. Whenever, under Division 1 (commencing with Section 100), Title 1 of the Corporations Code or this division, shares are disqualified from voting on any matter, they shall not be considered outstanding for the determination of a quorum at any meeting to act upon, or the required vote to approve action upon, such matter under any provision of Division 1 (commencing with Section 100), Title 1 of the Corporations Code, of this division, or of the articles or bylaws.

SEC. 7. Section 121 is added to the Financial Code, to read:

121. Any requirement in this division for a vote of each class of outstanding shares shall be construed in accordance with Section 117 of the Corporations Code.

SEC. 8. Section 122 is added to the Financial Code, to read:

122. "Approved by (or approval of) the board" has the meaning set forth in Section 151 of the Corporations Code.

SEC. 9. Section 123 is added to the Financial Code, to read:

123. "Approved by (or approval of) the outstanding shares" has the meaning set forth in Section 152 of the Corporations Code and shall include approval by the affirmative vote of a majority of the outstanding shares of each class or series entitled, by any provision of the articles, of this division, or of Division 1 (commencing with Section 100), Title 1 of the Corporations Code, to vote as a class or series on the subject matter being voted upon, and shall also include approval by the affirmative vote of such greater proportion (including all) of the outstanding shares of any class or series if such greater proportion is required by the articles, by this division, or by Division 1 (commencing with Section 100), Title 1 of the Corporations Code.

SEC. 10. Section 124 is added to the Financial Code, to read:

124. "Approved by (or approval of) the shareholders" has the meaning set forth in Section 153 of the Corporations Code and shall include approval or ratification by the affirmative vote or written consent of such proportion (including all) greater than a majority of the shares of any class or series as may be provided in the articles, in this division, or in Division 1 (commencing with Section 100), Title 1 of the Corporations Code for all or any specified shareholder action.

SEC. 11. Section 125 is added to the Financial Code, to read:

125. "Articles" has the meaning set forth in Section 154 of the Corporations Code.

SEC. 12. Section 126 is added to the Financial Code, to read:

126. "Board" has the meaning set forth in Section 155 of the Corporations Code.

SEC. 13. Section 127 is added to the Financial Code, to read:

127. "Certificate of correction" means a certificate executed and filed with the Secretary of State pursuant to Section 109 of the Corporations Code, subject, however, to the provisions of Section 600.10.

SEC. 14. Section 128 is added to the Financial Code, to read:

128. "Certificate of determination" has the meaning set forth in Section 156 of the Corporations Code, subject, however, to the provisions of Section 600.8.

SEC. 15. Section 129 is added to the Financial Code, to read:

129. "Certificate of revocation" means a certificate executed and filed with the Secretary of State pursuant to the second and third sentences of subdivision (c) of Section 110 of the Corporations Code, subject, however, to the provisions of Section 600.12.

SEC. 16. Section 130 is added to the Financial Code, to read:

130. "Common shares" has the meaning set forth in Section 159 of the Corporations Code.

SEC. 17. Section 131 is added to the Financial Code, to read:

131. "Constituent bank" means a bank which is a constituent corporation.

SEC. 18. Section 132 is added to the Financial Code, to read:

132. "Constituent corporation":

(a) When used with respect to a merger, has the meaning set forth

in Section 161 of the Corporations Code.

(b) When used with respect to a consolidation, means a corporation which is consolidated with one or more other corporations.

SEC. 19. Section 133 is added to the Financial Code, to read:

133. "Constituent trust company" means a trust company which is a constituent corporation.

SEC. 20. Section 134 is added to the Financial Code, to read:

134. (a) "Contributed capital" means all of shareholders' equity other than retained earnings. However, nothing in this subdivision shall prohibit a bank from transferring amounts from time to time from its retained earnings to its contributed capital, subject to any applicable statutes, regulations, and generally accepted accounting principles.

(b) For purposes of this division, the contributed capital of a bank shall be deemed to be impaired whenever such bank has deficit retained earnings in an amount exceeding 40 percent of such contributed capital.

SEC. 21. Section 135 is added to the Financial Code, to read:

135. "Directors" has the meaning set forth in Section 164 of the Corporations Code.

SEC. 22. Section 136 is added to the Financial Code, to read:

136. "Disappearing bank" means a bank which is a disappearing corporation.

SEC. 23. Section 137 is added to the Financial Code, to read:

137. "Disappearing corporation" has the meaning set forth in Section 165 of the Corporations Code.

SEC. 24. Section 138 is added to the Financial Code, to read:

138. "Disappearing trust company" means a trust company which is a disappearing corporation.

SEC. 25. Section 139 is added to the Financial Code, to read:

139. "Distribution to its shareholders" has the meaning set forth in Section 166 of the Corporations Code. However, in Division 1 (commencing with Section 100), Title 1 of the Corporations Code and in this division, "distribution to its shareholders" does not include any purchase of shares by a bank or by a majority-owned subsidiary of a bank which is necessary to reduce or avoid loss to such bank or to such subsidiary on an extension of credit previously made in good faith. Also, in this division, "distribution to its shareholders" includes any distribution made by a bank or by a majority-owned subsidiary of a bank to the shareholders of any corporation of which such bank is a majority-owned subsidiary.

SEC. 26. Section 140 is added to the Financial Code, to read:

140. "Majority-owned subsidiary" has the meaning set forth for "subsidiary" in subdivision (a) of Section 189 of the Corporations Code.

SEC. 27. Section 141 is added to the Financial Code, to read:

141. "Resulting bank" means a bank which is a resulting corporation.

SEC. 28. Section 142 is added to the Financial Code, to read:

142. "Resulting corporation":

(a) When used with respect to a consolidation, means the corporation into which the constituent corporations are consolidated.

(b) When used with respect to a conversion, means the corporation into which the converting corporation is converted.

SEC. 29. Section 143 is added to the Financial Code, to read:

143. "Resulting trust company" means a trust company which is a resulting corporation.

SEC. 30. Section 144 is added to the Financial Code, to read:

144. "Series," when used with respect to shares, has the meaning set forth in Section 183 of the Corporations Code.

SEC. 31. Section 145 is added to the Financial Code, to read:

145. "Shares" has the meaning set forth in Section 184 of the Corporations Code.

SEC. 32. Section 146 is added to the Financial Code, to read:

146. "Shareholder" has the meaning set forth in Section 185 of the Corporations Code.

SEC. 33. Section 147 is added to the Financial Code, to read:

147. "Surviving bank" means a bank which is a surviving corporation.

SEC. 34. Section 148 is added to the Financial Code, to read:

148. "Surviving corporation" has the meaning set forth in Section 190 of the Corporations Code.

SEC. 35. Section 149 is added to the Financial Code, to read:

149. "Surviving trust company" means a trust company which is a surviving corporation.

SEC. 36. Section 150 is added to the Financial Code, to read:

150. "Vote" has the meaning set forth in Section 194 of the Corporations Code.

SEC. 37. Section 151 is added to the Financial Code, to read:

151. "Voting power" has the meaning set forth in Section 194.5 of the Corporations Code.

SEC. 37.1. Chapter 1.5 (commencing with Section 180) is added to Division 1 of the Financial Code, to read:

CHAPTER 1.5. TRANSITION PROVISIONS

180. In this chapter, unless the provision or context requires otherwise:

(a) "New General Corporation Law" means Division 1 (commencing with Section 100), Title 1 of the Corporations Code, as in effect on and after January 1, 1977.

(b) "Prior Banking Law" means this division, as in effect on December 31, 1978.

(c) "Prior General Corporation Law" means Division 1 (commencing with Section 100), Title 1 of the Corporations Code, as in effect on December 31, 1976.

(d) "Revised Banking Law" means this division, as in effect on and after January 1, 1979.

(e) "Subject institution" means:

(1) Any corporation incorporated under the laws of this state which is, with the approval of the superintendent, incorporated for the purpose of engaging in, or which is authorized by the superintendent to engage in, the commercial banking business;

(2) Any corporation (other than a corporation described in paragraph (3) of this subdivision) incorporated under the laws of this state which is, with the approval of the superintendent, incorporated for the purpose of engaging in, or which is authorized by the superintendent to engage in, the trust business;

(3) Any corporation incorporated under the laws of this state which is authorized by the Commissioner of Insurance and the superintendent to maintain a title insurance department to engage in title insurance business and a trust department to engage in trust business; or

(4) Any corporation incorporated under the laws of this state which is, with the approval of the superintendent, incorporated for the purpose of engaging in, or which is authorized by the superintendent to engage in, business under Article 1 (commencing with Section 3500), Chapter 19 of this division.

181. For purposes of Chapter 23 (commencing with Section 2300) of the new General Corporation Law, in the case of any subject institution existing on January 1, 1979:

(a) The term "new law" shall mean the new General Corporation Law, subject, however, to the provisions of Section 101 of the revised banking law.

(b) The term "prior law" shall mean the prior General Corporation Law, subject, however, to the provisions of Section 101 of the prior Banking Law.

(c) The term "effective date" shall mean January 1, 1979.

182. (a) Sections 600 and 600.2 of the revised Banking Law shall not apply to any subject institution existing on January 1, 1979, unless and until an amendment of the articles of such subject institution is filed with the Secretary of State pursuant to Section 2302 of the new General Corporation Law.

(b) An amendment of the articles of a subject institution existing on January 1, 1979, which is filed with the Secretary of State pursuant to Section 2302 of the new General Corporation Law may be adopted by approval of the board alone in accordance with the second sentence of Section 2302 of the new General Corporation Law, notwithstanding the fact that such amendment changes such articles to conform to the provisions of Sections 600 and 600.2 of the revised Banking Law.

(c) Neither Article 6 (commencing with Section 690), Chapter 5 of the revised Banking Law nor Section 904 of the new General Corporation Law shall apply to an amendment of the articles of a subject institution existing on January 1, 1979, which is filed with the

Secretary of State pursuant to Section 2302 of the new General Corporation Law on account of the fact that such amendment conforms such articles to the provisions of Section 600.2 of the revised Banking Law.

183. Section 662 of the revised Banking Law shall apply to any subject institution existing on January 1, 1979, whether or not such subject institution amends its articles to conform to the provisions of Section 600.2 of the new Banking Law.

184. In case the board of a subject institution has, prior to January 1, 1979, adopted a resolution levying an assessment on the common shares of such subject institution in accordance with an order issued by the superintendent pursuant to Section 661 of the prior Banking Law:

(a) If the assessment has, prior to January 1, 1979, become a lien on the common shares in accordance with Section 2704 of the prior General Corporation Law, the assessment shall be collected pursuant to the prior General Corporation Law:

(b) Otherwise, the resolution shall be deemed to be rescinded on January 1, 1979.

185. Article 3 (commencing with Section 640), Chapter 5 of the revised Banking Law applies to any distribution to its shareholders made after January 1, 1979. by a subject institution existing on January 1, 1979, except that any such distribution effected pursuant to a contract for the purchase or redemption of shares entered into by such subject institution prior to January 1, 1979, may be made if permissible under the applicable provisions of the revised Banking Law and the new General Corporation Law or under the applicable provisions of the prior Banking Law and the prior General Corporation Law in effect at the time such contract was entered into.

186. Chapter 16 (commencing with Section 2050) of the revised Banking Law shall apply to any purchase, sale, merger, or consolidation which is of a type subject to Chapter 16 of the revised Banking Law and which is consummated after January 1, 1979, unless a required approval of the outstanding shares has been given prior to January 1, 1979, or has been given after January 1, 1979, but at a meeting of shareholders initially called for a date prior to January 1, 1979, in which case the prior Banking Law shall apply.

SEC. 38. Section 256 of the Financial Code is amended to read:

256. During the month of October of each year the superintendent shall, through the Secretary of the Business and Transportation Agency, report to the Governor. The report shall contain the following:

(a) An aggregate abstract of condition for the preceding fiscal year showing assets and liabilities and shareholders' equity of all banks and trust companies required to report to him.

(b) A statement of all banks and trust companies authorized by him to do business during the preceding fiscal year ended June 30th, giving their names and locations, and the date on which they commenced to transact a banking or trust business.

(c) A statement of the banks and trust companies whose business has been closed during the year.

(d) The names of banks and trust companies in process of liquidation under his supervision and the amount of dividends paid thereon.

(e) The names and compensation of all persons employed by the department, as of the preceding June 30th, the receipts and expenses of the department during the fiscal year, and the balance in the State Banking Fund at the end of the fiscal year.

(f) Any amendments to the laws affecting banks or trust companies or the department which in his judgment may be desirable.

(g) Such other information as in his judgment may prove useful.

SEC. 39. Section 258 of the Financial Code is amended to read:

258. The superintendent shall keep in his office in a place accessible to the general public a bulletin board upon which he shall cause to be posted at noon on Friday of each week a detailed statement signed by him, or, in case of his absence from San Francisco or inability to act, by the deputy superintendent in charge, giving general information with regard to the work of the department since the preceding statement. The detailed statement shall include the following:

(a) The name and location of every proposed bank whose application for authorization to establish a bank has been filed in the department and the date the application was filed.

(b) The name and location of every bank authorized by the superintendent to commence business, its contributed capital, and the date of authorization.

(c) The name and location of every bank to which a certificate of authorization has been refused by the superintendent and the date of notice of refusal.

(d) The name and location of every bank which has applied for approval of a change of name and the name proposed.

(e) The name and location of the principal office of every bank which has applied for permission to open a branch office or to change the location of a branch office and the location of the new branch office or of the relocated branch office.

(f) The date on which a call for a report by banks was issued by the superintendent and the day designated as the day with reference to which the report shall be made.

(g) The name and location of every bank whose creditors or depositors have been paid in full by the superintendent and a meeting of whose stockholders has been called, together with date of notice of meeting and date of meeting.

(h) The name and location of every bank supervised by the department whose affairs and business are in course of liquidation or which has been finally liquidated.

(i) The name and residence of every person appointed by the superintendent as an officer or employee of the department, the title

of the office or position to which appointed, the rate of compensation and the date of appointment.

Every such bulletin after having been posted for one week shall be placed on a file for such bulletins in the office of the superintendent. All such bulletins shall be public documents and shall be open to public inspection at all reasonable times during the usual hours when the superintendent's office is open.

SEC. 40. Section 350 of the Financial Code is amended to read:

350. When authorized by the superintendent as provided in this chapter a corporation may be formed by one or more persons in accordance with the laws of this state for the purpose of conducting a commercial banking business or a trust business, or both of them. The Corporate Securities Law shall not apply to securities issued by and representing an interest in or a direct obligation of a bank or trust company incorporated under the laws of this state.

SEC. 41. Section 351 is added to the Financial Code, to read:

351. No bank shall be a close corporation (as defined in Section 158 of the Corporations Code).

SEC. 42. Article 3 (commencing with Section 380) of Chapter 3 of Division 1 of the Financial Code is repealed.

SEC. 43. Section 399 is added to the Financial Code immediately following the heading of Article 4 (commencing with Section 400) of Chapter 3 of Division 1, to read:

399. In this article:

(a) "Preopening expenditure" means any obligation incurred, or sum disbursed, by a bank prior to the time when it commences to transact banking business, for the purpose of organizing such bank.

(b) "Preopening noncapital expenditure" means any preopening expenditure other than such preopening expenditures as may be capitalized.

SEC. 44. Section 400 of the Financial Code is amended to read:

400. The articles of incorporation of the proposed bank or trust company shall be submitted to the superintendent for his approval before they are filed with the Secretary of State pursuant to the Corporations Code. After the articles have been filed with the Secretary of State the proposed bank or trust company shall:

(a) File with the superintendent a copy of its articles of incorporation, certified by the Secretary of State, and a copy of its bylaws certified by its secretary.

(b) File with the superintendent a statement in such form and with such supporting data as he may require showing that the entire contributed capital has been fully paid in lawful money, unconditionally, and that the funds representing such contributed capital, less sums spent as authorized by this article for preopening expenditures are on deposit in a state or national bank in this state, subject to withdrawal on demand.

(c) Pay to the superintendent a fee of two thousand dollars ($2,000).

SEC. 45. Section 403 of the Financial Code is amended to read:

403. No corporation organized to transact a commercial banking or trust business shall transact any business until the superintendent has issued his certificate authorizing it to transact such business. No bank or trust company shall incur any indebtedness except that which is incidental to its organization until the amount of its contributed capital has been fully paid in lawful money to the cashier or chief financial officer thereof.

SEC. 46. Section 406 of the Financial Code is amended to read:

406. It is unlawful to apply any part of the funds collected from subscribers or shareholders to the payment of commissions or fees for obtaining subscriptions or selling shares or, except with the prior approval of the superintendent, to the payment of preopening noncapital expenditures.

SEC. 47. Section 500 of the Financial Code is amended to read:

500. When authorized by the superintendent as provided in this chapter, a bank or trust company, with the approval of its board, may establish and maintain one or more branch offices within the state.

SEC. 48. Section 502 of the Financial Code is repealed.

SEC. 49. Section 503 of the Financial is amended to read:

503. The superintendent may give or withhold his approval of an application in his discretion but he shall not approve an application until he has examined into the matters referred to in subdivisions (b), (c), and (f) of Section 361 and until he has ascertained to his satisfaction that the following are true:

(a) That the public convenience and advantage will be promoted by the establishment of the proposed branch office.

(b) That the bank or trust company has adequate shareholders' equity.

SEC. 50. Section 530 of the Financial Code is amended to read:

530. A bank having adequate shareholders' equity may establish branches in foreign countries or in dependencies or insular possessions of the United States for the furtherance of the foreign commerce of the United States upon obtaining the approval of the superintendent and upon such conditions and under such regulations as he may prescribe.

SEC. 51. Section 535 of the Financial Code is amended to read:

535. The total investment of a bank in all foreign branches shall not exceed 10 percent of its shareholders' equity.

SEC. 52. The heading of Article 1 (commencing with Section 600) of Chapter 5 of Division 1 of the Financial Code is amended to read:

Article 1. Articles, Bylaws, and Name

SEC. 53. Section 600 of the Financial Code is repealed.

SEC. 54. Section 600 is added to the Financial Code, to read:

600. The articles of each bank shall contain the applicable one of the following statements:

(a) In case the bank is, or is proposed to be, a commercial bank

not authorized to engage in trust business, that the purpose of the corporation is to engage in commercial banking business and any other lawful activities which are not, by applicable laws or regulations, prohibited to a commercial bank;

(b) In case the bank is, or is proposed to be, a commercial bank authorized to engage in trust business, that the purpose of the corporation is to engage in commercial banking business and trust business and any other lawful activities which are not, by applicable laws or regulations, prohibited to a commerical bank authorized to engage in trust business;

(c) In case the bank is, or is proposed to be, a trust company (other than a commercial bank authorized to engage in trust business or a corporation authorized to maintain a title insurance department to engage in title insurance business and a trust department to engage in trust business), that the purpose of the corporation is to engage in trust business and any other lawful activities which are not, by applicable laws or regulations, prohibited to a trust company; or

(d) In case the bank is a corporation which is, or is proposed to be, a corporation authorized to maintain a title insurance department to engage in title insurance business and a trust department to engage in trust business, that the purpose of the corporation is to engage in title insurance business and trust business and any other lawful activities which are not, by applicable laws or regulations, prohibited to a corporation authorized to maintain a title insurance department to engage in title insurance business and a trust department to engage in trust business.

SEC. 55. Section 600.2 is added to the Financial Code, to read:

600.2. (a) The articles of each bank (other than a bank which is, or is proposed to be, a corporation authorized to maintain a title insurance department to engage in title insurance business and a trust department to engage in trust business) shall provide that the common shares of such bank are subject to assessment by the bank upon order of the superintendent for the purpose of correcting an impairment of contributed capital in the manner and to the extent provided in this division.

(b) The articles of each bank that is a corporation which is, or is proposed to be, authorized to maintain a title insurance department to engage in title insurance business and a trust department to engage in trust business, shall provide that the common shares of such corporation are subject to assessment by the corporation upon order of the superintendent for the purpose of correcting an impairment of the contributed capital apportioned or segregated to the trust department of the corporation in the manner and to the extent provided in this division.

SEC. 56. Section 600.4 is added to the Financial Code, to read:

600.4. (a) No amendment of the articles of a bank (other than an amendment set forth in an agreement of merger or in a certificate of ownership executed pursuant to Section 1110 of the Corporations

Code which requires the approval of the superintendent pursuant to Article 2 (commencing with Section 2070) or Article 3 (commencing with Section 2090) of Chapter 16 shall become effective unless the certificate of amendment or other instrument setting forth such amendment is filed with the Secretary of State with the superintendent's approval endorsed thereon. Promptly after the amendment becomes effective, such bank shall file with the superintendent a copy of such certificate of amendment or other instrument certified by the Secretary of State.

(b) Any amendment of the articles of a bank set forth in an agreement of merger or in a certificate of ownership executed pursuant to Section 1110 of the Corporations Code which requires the approval of the superintendent pursuant to Article 2 (commencing with Section 2070) or Article 3 (commencing with Section 2090) of Chapter 16, shall become effective at the time when such merger becomes effective pursuant to this division.

SEC. 57. Section 600.6 is added to the Financial Code, to read:

600.6. No restated articles of a bank shall become effective unless the certificate setting forth such restated articles is filed with the Secretary of State with the superintendent's approval endorsed thereon. Promptly after the restated articles become effective, such bank shall file with the superintendent a copy of such certificate certified by the Secretary of State.

SEC. 58. Section 600.8 is added to the Financial Code, to read:

600.8. No certificate of determination of a bank shall become effective unless such certificate of determination is filed with the Secretary of State with the superintendent's approval endorsed thereon. Promptly after the certificate of determination becomes effective, such bank shall file with the superintendent a copy of the certificate of determination certified by the Secretary of State.

SEC. 59. Section 600.10 is added to the Financial Code, to read:

600.10. No certificate of correction of a bank shall become effective unless such certificate of correction is filed with the Secretary of State with the superintendent's approval endorsed thereon. Promptly after the certificate of correction becomes effective, such bank shall file with the superintendent a copy of the certificate of correction certified by the Secretary of State.

SEC. 60. Section 600.12 is added to the Financial Code, to read:

600.12. No certificate of revocation of a bank shall become effective unless such certificate of revocation is filed with the Secretary of State with the superintendent's approval endorsed thereon. Promptly after the certificate of revocation becomes effective, such bank shall file with the superintendent a copy of the certificate of revocation certified by the Secretary of State.

SEC. 61. Section 620 of the Financial Code is repealed.

SEC. 62. Section 620 is added to the Financial Code, to read:

620. A bank may, with the approval of its board, determine and from time to time redetermine the par value of any class or series of its shares unless its articles provide that such shares shall have par

value and specify the par value of such shares.

SEC. 63. Section 622 is added to the Financial Code, to read:

622. No bank shall issue any shares in consideration of:

(a) Services rendered in the organization of such bank; or

(b) Any note (whether or not negotiable and whether or not secured) made by the purchaser of such shares.

SEC. 64. Article 3 (commencing with Section 640) of Chapter 5 of Division 1 of the Financial Code is repealed.

SEC. 65. Article 3 (commencing with Section 640) is added to Chapter 5 of Division 1 of the Financial Code, to read:

Article 3. Distributions to Shareholders

640. This article does not apply to any distribution made to the shareholders of a bank in any proceeding to wind up and dissolve or to liquidate such bank.

641. Section 500 of the Corporations Code does not apply to the making by a bank or by any majority-owned subsidiary of a bank of any distribution to the shareholders of such bank.

642. Neither a bank nor any majority-owned subsidiary of a bank shall make any distribution to the shareholders of such bank in an amount which exceeds the lesser of:

(a) The retained earnings of the bank; or

(b) The net income of the bank for its last three fiscal years, less the amount of any distributions made by the bank or by any majority-owned subsidiary of the bank to the shareholders of the bank during such period.

643. Notwithstanding the provisions of Section 642, a bank or a majority-owned subsidiary of a bank may, with the prior approval of the superintendent, make a distribution to the shareholders of such bank in an amount not exceeding the net income of the bank for its last fiscal year.

644. Notwithstanding the provisions of Section 642, a bank may:

(a) With the prior approval of the superintendent, make a distribution to its shareholders by means of redeeming its redeemable shares; and

(b) With the prior approval of its outstanding shares and of the superintendent, otherwise make a distribution to its shareholders in connection with a reduction of its contributed capital.

645. If the superintendent finds that the shareholders' equity of a bank is not adequate or that the making by a bank or by any majority-owned subsidiary of a bank of a distribution to the shareholders of such bank would be unsafe or unsound for the bank, the superintendent may order such bank and its majority-owned subsidiaries not to make any distribution to the shareholders of the bank.

646. (a) For purposes of Section 506 of the Corporations Code, the making by a bank or by any majority-owned subsidiary of a bank of a distribution to any shareholder of such bank in violation of any

provision of this article shall be deemed to be prohibited by, and to be a violation of, Section 500 of the Corporations Code.

(b) The superintendent may, in the name of the people of this state, bring or intervene in an action under Section 506 of the Corporations Code for the benefit of a bank against any shareholder of such bank on account of receiving, with knowledge of facts indicating the impropriety thereof, any distribution prohibited by any provision of this article or by any provision of Sections 501, 502, and 503 of the Corporations Code, to the same extent as a creditor of the bank who did not consent to the illegal distribution to such shareholder and who had a valid claim against the bank which arose prior to the time of the illegal distribution to the shareholder and which exceeded the amount of the illegal distribution to the shareholder, might bring such an action in the name of the bank.

SEC. 66. The heading of Article 4 (commencing with Section 660) of Chapter 5 of Division 1 of the Financial Code is amended to read:

Article 4. Shareholders' Equity

SEC. 67. Section 660 of the Financial Code is repealed.

SEC. 68. Section 660 is added to the Financial Code, to read:

660. In determining for purposes of this division whether the shareholders' equity of a bank or of a proposed bank is adequate, the superintendent shall consider:

(a) The nature and volume of the business of the bank;

(b) The amount, nature, quality, and liquidity of the assets of the bank;

(c) The amount and nature of the liabilities (including, but not limited to, any capital notes or debentures and any contingent liabilities) of the bank;

(d) The amount and nature of the fixed charges of the bank;

(e) The history of, and prospects for, the bank to earn and retain income;

(f) The quality of the operations of the bank;

(g) The quality of the management of the bank;

(h) The nature and quality of the ownership of the bank; and

(i) Such other factors as are in the opinion of the superintendent relevant.

SEC. 69. Section 661 is added to the Financial Code, to read:

661. For purposes of any statute, regulation, or requirement of any governmental official or agency which refers to the capital (including, without limitation, stated capital, paid-in capital, and paid-up capital, but excluding contributed capital), surplus, or undivided profits of a bank, a bank, with the approval of its board, may establish and maintain capital, surplus, and undivided profits accounts and may from time to time allocate and reallocate its shareholders' equity among such accounts; provided, however:

(a) That no part of the contributed capital of the bank shall be

allocated to the undivided profits account of the bank;

(b) That the undivided profits account of the bank shall at no time exceed the retained earnings of the bank; and

(c) That, in case the articles of the bank provide that any of the bank's shares shall have par value and specify the par value of such shares or in case the bank has determined the par value of any of its shares pursuant to Section 620, the capital account of the bank shall be not less than the aggregate par value of such shares which are outstanding.

SEC. 70. Section 661 of the Financial Code, as amended by Chapter 394 of the Statutes of 1978, is amended and renumbered to read:

662. Whenever it appears that the contributed capital of a bank or trust company is impaired, the superintendent shall order the bank to correct such impairment within 60 days of the date of his order. The bank or trust company to which the order is issued, unless the impairment of contributed capital is otherwise corrected, shall levy and collect an assessment upon its common shares pursuant to Section 423 of the Corporations Code. 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 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. 71. Section 663 is added to the Financial Code, to read:

663. A bank which has deficit retained earnings may, with the prior approval of its outstanding shares and of the superintendent, readjust its accounts in a quasi-reorganization. Such readjustment may include, without limitation, eliminating such deficit retained earnings.

SEC. 71.1. The heading of Article 4.5 (commencing with Section 670) is added to Chapter 5 of Division 1 of the Financial Code immediately following Section 663, to read:

Article 4.5. Capital Notes and Debentures

SEC. 71.2. Section 662 of the Financial Code is amended and renumbered to read:

670. A bank at any time may, with the approval of its board, issue, sell or hypothecate its capital notes or debentures which may be payable upon such terms and may bear such rate of interest, if any, as may be provided therein or which may be convertible into shares. Such capital notes and debentures shall be subordinate to the claims of creditors and depositors and it shall be provided in any such capital notes or debentures that in the event of liquidation all depositors and other creditors of the bank shall be entitled to be paid in full with such interest as may be provided by law before any payment shall be made on account of principal of or interest on such capital notes

or debentures and it may be provided in any such capital notes or debentures that after payment in full of all sums owing to such depositors and creditors the holders of such capital notes or debentures shall be entitled to be paid from the remaining assets of the bank the unpaid principal amount of the capital notes or debentures plus accrued and unpaid interest thereon before any payment or other distribution, whether in cash, property or otherwise, shall be made on account of any shares of the bank. It shall be provided in such capital notes or debentures that no payment shall at any time be made on account of the principal thereof, unless following such payment the aggregate of the shareholders' equity and capital notes or debentures thereafter outstanding shall be the equal of such aggregate at the date of the original issue of such capital notes or debentures, or as may be otherwise authorized by the superintendent.

SEC. 72. Section 679 is added to the Financial Code immediately following the heading of Article 5 (commencing with Section 680) of Chapter 5 of Division 1, to read:

679. Any reference in this article to the time a notice is given or sent shall be construed in accordance with Section 118 of the Corporations Code.

SEC. 73. Section 680 of the Financial Code is amended to read:

680. The board of a bank or trust company hereafter organized shall consist of not less than five nor more than 25 directors, and no bank or trust company shall amend its articles or bylaws so as to reduce the number of directors below five.

SEC. 74. Section 681 of the Financial Code is repealed.

SEC. 75. Section 682 of the Financial Code is amended to read:

682. Each director of a bank or trust company, upon taking office, shall make an oath or affirmation that he will administer the affairs of the bank or trust company diligently and honestly, so far as the duty devolves upon him; and that he will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to the bank or trust company. Such oath shall be subscribed by the director, certified by the officer before whom it is taken, and be immediately filed with the superintendent.

SEC. 76. Section 683 of the Financial Code is amended to read:

683. The board of each bank and of each trust company shall hold a meeting at least once each calendar month. Regular meetings of the board shall be held within this state. Any regular or special meeting is valid wherever held if held upon written consent of all members of the board given either before or after the meeting and filed with the secretary of the corporation. Special meetings of the board may be held upon four days' notice by mail, unless the articles or bylaws provide otherwise, or 24 hours' notice delivered personally or by telephone or by telegraph, unless the articles or bylaws provide for a shorter period.

SEC. 77. Section 684 is added to the Financial Code, to read:

684. (a) The superintendent, whenever in his opinion such

action is necessary or appropriate to carry out the purposes and provisions of this division, may call a meeting of the board of a bank.

(b) A meeting of the board of a bank called by the superintendent shall be held upon four days' notice by mail or 24 hours' notice delivered personally or by telephone or telegraph. Such notice shall be given by the superintendent or, if the superintendent so orders, by an officer of such bank.

(c) A meeting of the board of a bank called by the superintendent shall be held at such place within this state as may be designated by the superintendent and specified in the notice of such meeting.

(d) The expenses of a meeting of the board of a bank called by the superintendent shall be paid by such bank.

SEC. 78. Section 685 is added to the Financial Code, to read:

685. The superintendent may, in the name of the people of this state, bring or intervene in an action under Section 709 of the Corporations Code to determine the validity of any election or appointment of any director of a bank to the same extent as a shareholder of such bank might bring such an action.

SEC. 79. Section 686 is added to the Financial Code, to read:

686. (a) The superintendent shall be deemed to be a party in interest within the meaning of Section 306 of the Corporations Code with respect to a bank and may, in the name of the people of this state, bring or intervene in an action under Section 306 of the Corporations Code for the appointment of directors of a bank.

(b) The superintendent may, in the name of the people of this state, bring or intervene in an action under Section 308 of the Corporations Code for the appointment of a provisional director or directors of a bank to the same extent as a shareholder who held 50 percent of the voting power of such bank might bring such an action.

SEC. 80. Section 687 is added to the Financial Code, to read:

687. (a) For purposes of Section 316 of the Corporations Code, to the extent that the making by a bank or by any majority-owned subsidiary of a bank of a distribution to any shareholder of such bank is contrary to any provision of Article 3 (commencing with Section 640), the making of such distribution shall, to such extent, be deemed to be contrary to the provisions of Section 500 of the Corporations Code.

(b) The superintendent may, in the name of the people of this state, bring or intervene in an action under Section 316 of the Corporations Code for the benefit of a bank against any or all of the directors of such bank or of any majority-owned subsidiary of such bank on account of the making of a distribution to any shareholder of the bank contrary to any provision of Article 3 (commencing with Section 640) or any provision of Sections 501, 502, and 503 of the Corporations Code, to the same extent as a creditor of the bank who did not consent to the illegal distribution and who had a valid claim against the bank which arose prior to the time of the illegal distribution, and which exceeded the amount of the illegal distribution, might bring such an action in the name of the bank.

SEC. 81. Section 688 is added to the Financial Code, to read:

688. (a) For purposes of Section 316 of the Corporations Code, the making of a loan or guarantee by a bank or any other extending of credit by a bank contrary to any provision of this division shall be deemed to be contrary to Section 315 of the Corporations Code.

(b) The superintendent may, in the name of the people of this state, bring or intervene in an action under Section 316 of the Corporations Code for the benefit of a bank against any or all of the directors of such bank on account of the making of a loan or guarantee or any other extending of credit contrary to any provision of this division, to the same extent as a creditor of the bank who did not consent to the illegal making of the loan or guarantee or the other illegal extending of credit and who had a valid claim against the bank which arose prior to the time of the illegal making of the loan or guarantee or the other illegal extending of credit and which exceeded the amount of loss suffered by the bank as a result of the illegal making of the loan or guarantee or the other illegal extending of credit, might bring such an action in the name of the bank.

SEC. 82. Article 5.5 (commencing with Section 689) is added to Chapter 5 of Division 1 of the Financial Code, to read:

Article 5.5. Shareholders

689. (a) Paragraph (1) of subdivision (b) of Section 1501 of the Corporations Code does not apply to the annual report of any bank with respect to any transaction consisting of an extension of credit by such bank or by any of its majority-owned subsidiaries.

(b) The annual report of a bank which would, but for the provisions of subdivision (a), be subject to paragraph (1) of subdivision (b) of Section 1501 of the Corporations Code, shall disclose such information regarding debts owing to such bank or to any of its majority-owned subsidiaries and transactions consisting of extensions of credit by the bank or by any of its majority-owned subsidiaries, as the superintendent may by regulation require. In issuing any such regulation, the superintendent shall give due consideration to regulations regarding such matters issued by federal bank regulatory agencies under the Securities Exchange Act of 1934.

SEC. 83. Section 696.5 is added to the Financial Code, to read:

696.5. Whenever a bank applies for a permit to issue any security or to deliver any other consideration (whether or not such security or such transaction is exempt from, or not subject to, the provisions of Section 691) in exchange for one or more bona fide outstanding securities (as defined in Section 25019 of the Corporations Code), claims, or property interests, or partly in such exchange and partly for cash, the superintendent is authorized to approve the terms and conditions of such issuance and exchange or such delivery and exchange and the fairness of such terms and conditions and is authorized to hold a hearing on the fairness of such terms and conditions, at which all persons to whom it is proposed to issue any

security or to deliver any other consideration in such exchange shall have the right to appear.

SEC. 84. Section 751 of the Financial Code is amended to read:

751. Any real property not held for any purpose permitted by subdivision (a) of Section 750 shall be sold whenever the same can be sold for an amount sufficient to reimburse the bank or trust company for all loss arising out of the loan for which such real property was security or arising out of the original investment. A bank or trust company shall not by the retention of any real property acquired pursuant to this section engage in any business not authorized by this division except to the extent necessary in the orderly liquidation of an indebtedness owing to the bank.

SEC. 85. Section 753 of the Financial Code is repealed.

SEC. 86. Section 754 of the Financial Code is amended to read:

754. A bank or trust company may become a member of the Federal Reserve System, may subscribe for, purchase, and hold such amounts of the capital stock of the Federal Reserve bank serving the district in which such bank or trust company is located as may be required to maintain such membership and, when not in conflict with the laws of this state, may exercise all powers conferred upon such members and may assume and discharge all obligations required of such members.

With the written consent of the superintendent a bank or trust company may become a member of a federal home loan bank in the manner provided in the Federal Home Loan Bank Act, and, for the purpose of becoming a member, may invest such part of its shareholders' equity in the capital stock of such federal home loan bank as may be required by the provisions of the Federal Home Loan Bank Act.

SEC. 87. Section 758 of the Financial Code is amended to read:

758. With the prior written consent of the superintendent, a bank or trust company may purchase and hold not less than 75 percent of the outstanding shares of the stock of a corporation authorized to conduct a safe deposit business, organized and existing under the laws of this state and conducting a safe deposit business in the same city or locality in which an office of such bank or trust company is situated. No such safe deposit corporation shall conduct a safe deposit business in any city or locality in which such bank or trust company does not maintain an office. The aggregate investment of any bank or trust company in such corporation at any one time shall not exceed 10 percent of the shareholders' equity of such bank or trust company.

SEC. 88. Section 759 of the Financial Code is amended to read:

759. With the prior written consent of the superintendent, a bank may purchase and hold the whole or any part of the stock of not more than one corporation authorized to conduct a trust business, organized and existing under the laws of this state and transacting a trust business in the same county in which the head office of such bank is situated. No bank's investment in any such corporation at any one time shall exceed 25 percent of the bank's shareholders' equity.

No such trust company shall engage in or combine the business of a commercial bank or a title insurance company.

SEC. 89. Section 760 of the Financial Code is repealed.

SEC. 90. Section 760.1 of the Financial Code is amended to read:

760.1. A bank may invest in shares of the stock of one or more corporations which are engaged primarily in civic, public, or social welfare activities. The total amount invested by a bank in shares of the stock of any one such corporation shall not exceed 2 percent of the bank's shareholders' equity and the total amount invested by a bank in shares of the stock of all such corporations shall not exceed 5 percent of the bank's shareholders' equity.

SEC. 91. Section 762 of the Financial Code is amended to read:

762. A bank or trust company may acquire stock in settlement or reduction of a loan or in exchange for an investment previously made in good faith where the acquisition of such stock is necessary in order to minimize or avoid loss arising out of such loan or investment. Whenever any such stock can be sold for an amount sufficient to reimburse the bank or trust company for all loss arising out of the loan for which such stock was security or arising out of the original investment the bank or trust company shall sell the same. A bank or trust company shall not by the retention of any stock acquired pursuant to this section engage in any business not authorized by this division except to the extent necessary in the orderly liquidation of an indebtedness owing to the bank.

SEC. 92. Section 769 of the Financial Code is amended to read:

769. A bank may purchase and hold the stock of small business investment companies authorized to operate under the Small Business Investment Act, as amended, in an amount not aggregating more than 10 percent of the bank's shareholders' equity.

SEC. 93. Section 771 of the Financial Code is amended to read:

771. With the prior written consent of the superintendent, two or more banks may invest in the stock of a corporation engaged exclusively in the business of performing for one or more banks such bank services as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank; provided that the aggregate investment of any bank in such corporation at any one time shall not exceed 10 percent of the shareholders' equity of the bank; and provided, further, that the corporation shall furnish to the superintendent satisfactory assurances that the performance of services by such corporation will be subject to regulation and examination by the superintendent to the same extent as if such services were being performed by the bank itself on its own premises.

SEC. 94. Section 856 of the Financial Code is amended to read:

856. A bank shall not have on deposit at any one time moneys of the State of California, of the cities, counties, and other political

subdivisions of the state, and of the public corporations and districts of the state, which, in the aggregate, exceed in amount 400 percent of its entire shareholders' equity. The amount of such moneys on deposit secured by surety bonds shall not at any time, in the aggregate, exceed the amount of the bank's entire contributed capital.

SEC. 95. Section 859 of the Financial Code is repealed.

SEC. 96. Section 1202 of the Financial Code is amended to read:

1202. A commercial bank may borrow money for temporary purposes by discounting or otherwise to an amount not in excess of its shareholders' equity, but shall not borrow money except as provided in Sections 1204 and 1205 in excess of such amount without the prior written approval of the superintendent.

The amounts of moneys so borrowed by a commercial bank together with the amount of any of its deposits secured by surety bonds shall not at any one time exceed the amount of its shareholders' equity without the prior written approval of the superintendent.

SEC. 97. Section 1221 of the Financial Code is amended to read:

1221. The obligations, as defined in Section 1220, excepting the obligations described in Section 1226 and the obligations described in Section 1224, of any one person owing to a commercial bank at any one time shall not exceed the following limitations:

(a) Obligations which are unsecured shall not exceed 10 percent of the sum of the shareholders' equity, capital notes, and debentures of the bank.

(b) Obligations, secured and unsecured, in all shall not exceed 20 percent of the sum of the shareholders' equity, capital notes, and debentures of the bank.

Obligations arising out of the discount of commercial or business paper actually owned by the person negotiating the same and endorsed by such person without limitation, together with the secured and unsecured obligations, if any, of such person, shall not exceed 40 percent of the sum of the shareholders' equity, capital notes, and debentures of the bank.

No commercial bank shall be required, solely by reason of the amendments of this article, to dispose of or reduce any loan which complied with the applicable limitations of this division at the time such loan was made, nor shall any such bank be prevented solely by reason of the provisions of this article from renewing any such loan from time to time.

SEC. 98. Section 1224 of the Financial Code is amended to read:

1224. In addition to the limitations contained in Section 1221 a commercial bank may issue letters of credit and a commercial bank may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace, which grow out of transactions involving the importation or exportation of goods, or which grow out of transactions involving the domestic shipment of goods; provided, shipping documents conveying or securing title

are attached at the time of acceptance, or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples. A commercial bank shall not accept such drafts or bills in the aggregate to an amount exceeding 50 percent of the sum of its shareholders' equity, capital notes, and debentures or, when authorized by the superintendent, to an amount exceeding 100 percent of the sum of its shareholders' equity, capital notes, and debentures nor accept such drafts or bills for any one person to an amount exceeding 10 percent of the sum of its shareholders' equity, capital notes, and debentures, unless the bank is and remains secured by either attached documents or some other actual security growing out of the same transaction as the acceptance.

SEC. 99. Section 1225 of the Financial Code is amended to read:

1225. With the approval of the superintendent a commercial bank may accept drafts or bills of exchange drawn upon it having not more than three months' sight to run, exclusive of days of grace, drawn by banks or bankers in foreign countries for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries; provided, no commercial bank shall accept such drafts or bills of exchange for any one bank to any amount exceeding 10 percent of the sum of the shareholders' equity, capital notes, and debentures of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or unless the bank is secured by some other adequate security. A commercial bank shall not accept such drafts or bills, whether secured or unsecured, in the aggregate to an amount exceeding 50 percent of the sum of its shareholders' equity, capital notes, and debentures.

SEC. 100. Section 1231 of the Financial Code is amended to read:

1231. No loan shall be made by any commercial bank upon the securities of one or more corporations, the payment of which loan is undertaken, in whole or in part, severally, but not jointly, by two or more persons:

(a) If the borrowers or underwriters are obligated absolutely or contingently to purchase the securities, or any of them, collateral to such loan, unless the borrowers or underwriters have paid on account of the purchase of such securities an amount in cash, or its equivalent, equal to at least 25 percent of the several amounts for which they remain obligated in completing the purchase of such securities.

(b) If the commercial bank making such loan is liable, directly or indirectly, or contingently, for the repayment of such loan or any part thereof.

(c) If its term, including any renewal thereof by agreement, express or implied, exceeds the period of one year.

(d) Or to an amount under any circumstances in excess of 25 percent of the sum of the commercial banks' shareholders' equity, capital notes, and debentures.

SEC. 101. Section 1257 of the Financial Code is amended to read:

1257. A bank or trust company, by a majority vote of all its directors, may nominate another bank or other banks located within the United States as its reserve depositary or depositaries. The superindendent, in his discretion, may approve or disapprove such nomination. If he approves the same he shall designate the bank so nominated as a reserve depositary of the nominating bank.

SEC. 102. Section 1336 of the Financial Code is amended to read:

1336. A commercial bank shall not invest an amount exceeding 10 percent of its shareholders' equity in the securities of any one obligor or maker, except:

(a) Obligations of the United States and those for which the faith and credit of the United States are pledged for the payment of principal and interest;

(b) Bonds, consolidated bonds, collateral trust debentures, or other obligations issued by the Federal Financing Bank, the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended; in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended; in consolidated notes, bonds, debentures and other obligations issued by federal land banks, federal intermediate credit banks, and banks for cooperatives under the Farm Credit Act of 1971; in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act; in the bonds of any federal home loan bank established under said act; and in stock, bonds, debentures, participations, and other obligations of or issued by the Student Loan Marketing Association, the Federal National Mortgage Association and the Government National Mortgage Association;

(c) Obligations of the State of California and those for which the credit of the State of California is pledged for the payment of principal and interest; and

(d) Obligations of a local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of such bonds upon all property within its boundaries subject to taxation by such local agency or district.

SEC. 103. Section 1370 of the Financial Code is repealed.

SEC. 104. Section 1500 of the Financial Code is amended to read:

1500. No corporation shall engage in the trust business unless:

(a) Its articles comply with the requirements of subdivision (b), (c), or (d) of Section 600; and

(b) It has received from the superintendent a certificate of authority pursuant to Section 401 to engage in the trust business, or, if it is a bank, has received the authorization of the superintendent to engage in the trust business pursuant to Section 1500.1; and

(c) It has deposited with the State Treasurer money or securities in compliance with Article 3 (commencing with Section 1540) of this chapter.

SEC. 105. Section 1500.1 of the Financial Code is amended to read:

1500.1. Any commercial bank, with the prior authorization of the superintendent, may engage in the trust business, if its articles comply with the requirements of subdivision (b) of Section 600. Any bank so authorized shall, in the conduct of its trust business, comply with and be governed by all of the provisions of this chapter, except the provisions of Section 1560. An application for such authorization shall be in such form and contain such information as the superintendent may require, and be accompanied by a fee of five hundred dollars ($500).

SEC. 106. Section 1501 of the Financial Code is amended to read:

1501. A corporation authorized to transact a title insurance business under the Insurance Code may engage in the trust business and maintain a trust department as well as a title insurance department if it complies with the following requirements:

(a) It shall first obtain the consent of both the superintendent and the Commissioner of Insurance. The application for such consent of the superintendent shall be in such form and contain such information as the superintendent may require and be accompanied by a fee of five hundred dollars ($500).

(b) In its application for such consent it shall include a statement making a segregation of its shareholders' equity for each department. When such apportionment is approved by the superintendent and the Commissioner of Insurance the part of such shareholders' equity apportioned to each department shall be segregated and shall be treated as the separate shareholders' equity of each such department as if each such department was a separate business.

(c) (1) It shall amend its articles to comply with the requirements of subdivision (d) of Section 600. (2) It shall amend its articles to comply with the requirements of subdivision (b) of Section 600.2. Section 904 of the Corporations Code shall not apply to such amendment; however, the amendment must be approved by not less than two-thirds of each class of its outstanding shares which would become assessable under the amendment.

(d) It shall make the deposits of money or securities with the State Treasurer pursuant to Article 3 of this chapter.

(e) As to its trust department it shall be subject to and shall comply with all the requirements of this division applicable to trust companies and the rules and regulations of the superintendent.

SEC. 107. Section 1503 of the Financial Code is amended to read:

1503. No foreign corporation, other than a national banking association which is authorized to conduct a trust business in this state, shall have or exercise the powers of a trust company nor directly or indirectly transact or conduct in this state a trust business as defined in Section 106; but any foreign corporation which is authorized by its articles to exercise trust powers may act as trustee for the following purposes:

(a) To deliver bonds and receive payments therefor.

(b) To deliver permanent bonds in exchange for temporary bonds of the same issue.

(c) To deliver refunding bonds in exchange for those of a prior issue or issues.

(d) To register bonds or to exchange registered bonds for coupon bonds of coupon bonds for registered bonds.

(e) To pay interest on such bonds, and take up and cancel coupons representing such interest payment.

(f) To redeem and cancel bonds when called for redemption or to pay and cancel bonds when due.

(g) To certify registered bonds for the purpose of exchanging registered bonds for coupon bonds.

A foreign corporation which is authorized by its articles to exercise trust powers may be appointed and may accept appointment and act as trustee under any mortgage, deed of trust, or other instrument securing bonds or other obligations issued or to be issued by any railroad corporation which owns a railroad operating in the State of California and extending into another state.

A foreign corporation exercising in this state the powers conferred by this section shall not establish or maintain directly or indirectly any branch office or agency in this state unless it has complied with all of the applicable provisions of Chapter 14 (commencing with Section 1750).

SEC. 108. Article 2 (commencing with Section 1520) of Chapter 12 of Division 1 of the Financial Code is repealed.

SEC. 109. Section 1560 of the Financial Code is amended to read:

1560. A trust company may invest its contributed capital only in the securities and properties in which a commercial bank is permitted to invest its funds pursuant to Sections 1352 to 1366, inclusive, of Chapter 10 (commencing with Section 1200) and in loans on real property which commercial banks are permitted to make pursuant to Article 2 (commencing with Section 1220) of Chapter 10.

SEC. 110. Section 1561 of the Financial Code is amended to read:

1561. Trust funds received by any trust company in connection with its trust business, if invested, shall be invested as provided in the Civil Code, subject to such provisions as may be contained in any trust instrument.

SEC. 110.1. Section 1564 of the Financial Code is amended to read:

1564. For purposes of this section, two or more trust companies shall be deemed to be affiliated if they are members of the same affiliated group, within the meaning of Section 1504 of the Internal Revenue Code.

Any trust company may establish and administer common trust funds composed of property permitted by law for the investment of trust funds, for the purpose of furnishing investments to any one or more of the following: (1) itself, as fiduciary; (2) itself and others, as cofiduciaries; (3) any affiliated trust company (including, without

limitation, any foreign affiliated trust company), as fiduciary; and (4) any affiliated trust company (including, without limitation, any foreign affiliated trust company) and others, as cofiduciaries. Any trust company may as such fiduciary or cofiduciary invest funds which it lawfully holds for investment in interests in such common trust funds administered by itself or by any affiliated trust company organized under laws of this state, if such investment is not prohibited by the instrument, judgment, decree, order, or statute creating or governing such fiduciary relationship, and if, in the case of cofiduciaries, the trust company procures the consent of its cofiduciaries to such investment.

Each common trust fund established hereunder shall be treated as an entity separate and distinct from the fiduciary relationships participating therein. No fiduciary in administering a participating fiduciary relationship shall be required to make any apportionment or allocation between the principal and income of such relationship different from that made for such common trust fund. No such participating fiduciary relationship, nor any person having an interest in such relationship, shall have or be deemed to have any ownership in any particular property of such common trust fund, but each such participating fiduciary relationship shall have a proportionate undivided interest in such fund and its income; and the ownership of all property of such common trust fund shall be in the trustee of such fund.

This section shall apply to fiduciary relationships now in existence or hereafter established, whether the same be revocable or irrevocable. The superintendent, at his direction, may make an examination of any common trust fund established hereunder at such times and to such extent as he may deem advisable. The provisions of the Corporate Securities Law shall not apply to the creation, administration, or termination of common trust funds, nor to participation therein.

SEC. 111. Section 1751 of the Financial Code is amended to read:

1751. A foreign banking corporation shall not after October 1, 1949, commence to do business in this state until it has met the following requirements:

(a) It is authorized by its charter to transact the character of business described in Section 1756 and has complied with the laws of the state or country under which it is incorporated.

(b) It has filed with the superintendent a certified copy of its charter or articles and of its bylaws and an application in such form and containing such information as the superintendent may require, accompanied by a fee of one thousand five hundred dollars ($1,500).

(c) It has furnished to the superintendent such proof of the nature and character of its business and its financial condition, stock ownership, and management as he may require.

(d) It has designated the superintendent and his successor in office by a duly executed instrument in writing, its agent, upon whom process directed to the corporation may be served. The

superintendent shall forward by mail, postage prepaid, a copy of every process served upon him under the provisions of this subdivision, addressed to the manager or agent of such corporation at its principal place of business in this state. For each copy of process the superintendent shall collect the sum of twenty-five dollars ($25) which shall be paid by the plaintiff or moving party at the time of service, to be recovered by him as a part of his costs.

(e) It has complied with all applicable requirements of the Corporations Code of California relating to foreign corporations, subject, however, to the provisions of Section 101.

(f) Its manager or agent residing in this state has taken an oath that he will, as far as the duty devolves upon him, diligently and honestly administer the affairs of the corporation and will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to the corporation and the oath, subscribed by the manager or agent taking it, has been transmitted to the superintendent and filed in his office.

(g) It has deposited with the State Treasurer for the faithful performance of all obligations entered into in California cash in an amount, or securities of the kind described in Section 1542 having a market value in an amount, not less than such amount as the superintendent may determine to be adequate.

(h) It has received from the superintendent his certificate licensing it to do business.

SEC. 112. Section 1751.5 is added to the Financial Code, to read:

1751.5. (a) Whenever the superintendent finds that the amount, if any, of cash or securities which a foreign banking corporation is required to maintain on deposit with the State Treasurer is not adequate, he may order such foreign banking corporation to deposit and thereafter maintain on deposit with the State Treasurer cash in an amount, or securities of the kind described in Section 1542 having a market value in an amount, not less than such higher amount as the superintendent may determine to be adequate.

(b) Whenever the superintendent finds that the amount of cash or securities which a foreign banking corporation is required to maintain on deposit with the State Treasurer is more than adequate, he may by order relieve such foreign banking corporation of the requirement that it maintain such amount of cash or securities on deposit with the State Treasurer and require that it deposit and thereafter maintain on deposit with the State Treasurer cash in an amount, or securities of the kind described in Section 1542 having a market value in an amount, not less than such lower amount as he may determine to be adequate.

SEC. 112.1. Section 1751.9 is added to the Financial Code, to read:

1751.9. In determining for purposes of this article whether an amount of cash or securities deposited or to be deposited by a foreign banking corporation with the State Treasurer is adequate, the superintendent shall consider:

(a) The nature (including, but not limited to, whether the foreign

banking corporation is authorized to transact in this state the business of accepting deposits under subdivision (c) of Section 1756 and Section 1756.1 or under Section 1756.2) and volume of the California business of the foreign banking corporation;

(b) The amount, nature, quality, and liquidity of the assets of the California business of the foreign banking corporation;

(c) The amount and nature of the liabilities (including, but not limited to, any contingent liabilities) of the foreign banking corporation;

(d) The quality of the operations of the California business of the foreign banking corporation;

(e) The quality of the management of the California business of the foreign banking corporation;

(f) Such other factors as are in the opinion of the superintendent relevant.

SEC. 113. Section 1752 of the Financial Code is amended to read:

1752. Money or securities deposited with the State Treasurer by a foreign banking corporation pursuant to Section 1751 or 1751.5 shall first be approved by the superintendent and upon his order shall be deposited with the State Treasurer.

Upon receiving any such deposit the State Treasurer shall give his receipt therefor and shall hold such deposit for the sole benefit of the creditors of such corporation's California business. The state is responsible for the custody and safe return of any such deposits excepting only money or securities applied for the benefit of such creditors pursuant to an order of court. The State Treasurer shall deposit any such moneys under the provisions of Sections 16370 to 16375 of the Government Code.

Securities deposited pursuant to this section may be exchanged from time to time, with the approval of the superintendent, for other like securities of equal market value. Upon written request to the superintendent, any such corporation shall be entitled to withdraw from the State Treasurer, from time to time, any amount of its securities so deposited in excess of the amount it is required to maintain on deposit in order to conform with the requirements of this chapter Upon receiving a written request for such withdrawal or exchange, and satisfactory proof of the facts warranting the same, the superintendent shall forthwith deliver to the State Treasurer a written order directing the withdrawal or exchange of such securities so as to conform with the provisions of this chapter. The State Treasurer shall comply with such written order. So long as the corporation so depositing such securities shall continue solvent and shall discharge its California obligations promptly, it shall have the right and shall be permitted by the State Treasurer to receive the interest and dividends on any securities deposited by it.

Should any security so depreciate in value as to reduce the deposit below the amount required, additional money or securities shall be deposited promptly in amount sufficient to meet such requirements. The superintendent may make an investigation of the value of any

security deposited at the time such security is presented for deposit or at any time thereafter. The superintendent may make such charge as may be reasonable and proper for such investigation.

The State Treasurer may sell and transfer any securities deposited pursuant to this chapter and may dispose of the proceeds only on the order of a court of competent jurisdiction and for the benefit of the creditors of such corporation's business in California.

SEC. 114. Section 1756.1 of the Financial Code is amended to read:

1756.1. A foreign banking corporation shall not commence to transact in this state the business of accepting deposits, or transact such business thereafter unless it has met the following requirements:

(a) It has been approved for Federal Deposit Insurance Corporation insurance.

(b) It holds in this state currency, bonds, notes, debentures, drafts, bills of exchange or other evidences of indebtedness or other obligations payable in the United States or in United States funds or, with the prior approval of the superintendent, in funds freely convertible into United States funds, in an amount not less than 108 per centum of the aggregate amount of liabilities of such foreign banking corporation payable at or through its branch or branches in this state, including acceptances, but excluding (1) accrued expenses, and (2) amounts due and other liabilities to other offices or branches of, and wholly owned (except for a nominal number of directors' shares) subsidiaries of, such foreign banking corporation. For the purposes of this subdivision, the superintendent shall value marketable securities at principal amount or market value, whichever is lower, shall have the right to determine the value of any nonmarketable bond, note, debenture, draft, bill of exchange, other evidence of indebtedness, or of any other obligation held by or owed to the foreign banking corporation or its branch or branches within the state, and in determining the amount of assets for the purpose of computing the above ratio of assets to liabilities, shall have the power to exclude any particular asset but shall give credit to assets required to be maintained pursuant to subdivision (a) of this section, to reserves required to be maintained pursuant to subdivision (c) of this section, and, subject to such rules and regulations as the superintendent may from time to time promulgate, to deposits and credit balances with unaffiliated banking institutions outside this state if such deposits or credit balances are payable in United States funds or in currencies freely convertible into United States funds; provided that credit given for such deposits and credit balances shall not exceed in aggregate amount such percentage, but not less than 8 per centum, as the superintendent may from time to time prescribe of the aggregate amount of liabilities of such foreign banking corporation, determined as hereinabove provided in this subdivision. If, by reason of the existence or the potential occurrence of unusual and extraordinary circumstances, the superintendent deems it

necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest, and to maintain public confidence in the business of the branch or branches of a foreign banking corporation, he may, notwithstanding anything to the contrary contained in this subdivision, reduce the credit to be given as above provided for deposits and credit balances with unaffiliated banking institutions outside this state and he may require such foreign banking corporation to deposit, in accordance with such rules and regulations as he shall from time to time promulgate, the assets required to be held in this state pursuant to this subdivision with such banks or trust companies or national banks located in this state, as such foreign banking corporation may designate and the superintendent may approve.

(c) It has such reserves against such deposits as may be required from time to time by the laws of this state to be maintained by banks and trust companies. Amounts carried on the books of any such foreign banking corporation as credits to the account of another office or branch or wholly owned (except for a nominal number of directors' shares) subsidiary of such foreign banking corporation shall not be deemed to be deposits.

(d) It certifies, at such intervals of time as the superintendent may require, the amount of its shareholders' equity, expressed in the currency of the country of its incorporation, the dollar equivalent of which amount as determined by the superintendent, shall be deemed to be the amount of its shareholders' equity. Loans, purchases, and discounts of notes, bills of exchange, bonds, debentures and other obligations, and extensions of credit and acceptances by such foreign banking corporation within this state shall be subject to the same limitations as to amount in relation to shareholders' equity as may be imposed from time to time by the laws of this state upon banks and trust companies.

SEC. 115. Section 1902 of the Financial Code is amended to read:

1902. The board of every bank and of every trust company, or a committee thereof composed of at least three directors, none of whom is an officer of such bank or trust company, shall examine such bank or trust company at least once in each calendar year. No such examination shall be commenced within three months of the completion of the examination for the preceding year. Such examination shall show the actual financial condition of the bank or trust company and shall set forth such matters and shall be in such form as the superintendent may require. Such examination shall include an examination of the books, papers, and affairs of the bank and particularly of its loans and discounts and of the security given therefor. The board may employ such assistance in making any examination as it deems necessary. Within 30 days after the examination is completed, a report thereof, verified by the directors who made it, shall be filed with the board and thereafter shall be kept available for inspection by the superintendent.

SEC. 116 Section 1903 of the Financial Code is amended to read.

1903. If the board of any bank or trust company fails to make such examination or to cause it to be made or to file copies of the report in the manner and within the time required by Section 1902, the superintendent may cause an extra examination of such bank or trust company to be made at its expense.

SEC. 117. Section 1904 of the Financial Code is amended to read:

1904. In lieu of an examination pursuant to Section 1902, the board of any bank or trust company may request the superintendent to cause a special examination or audit to be made. Within 60 days after the receipt of a certified copy of the board's resolution requesting such examination, the superintendent shall cause a special examination or audit to be made either by the department or by certified public accountants at the expense of such bank or trust company. Within 30 days after the completion of the examination or audit, the superintendent shall deliver to the board a true copy of the report of the examination or audit.

SEC. 118. Section 1912 of the Financial Code is amended to read:

1912. If it appears to the superintendent that a bank, trust company, or foreign banking corporation is violating or failing to comply with its articles or with any law of this state, he may direct such bank, trust company, or foreign banking corporation to comply with its articles or with the law by an order issued over his official seal, or if it appears to the superintendent that any bank, trust company, or foreign banking corporation is conducting its business in an unsafe or injurious manner he may in like manner direct it to discontinue the unsafe or injurious practices. The order shall require the bank, trust company, or foreign banking corporation to show cause before the superintendent at a time and place to be fixed by him why the order should not be observed.

SEC. 119. Section 1930 of the Financial Code is amended to read:

1930. Every bank and every trust company shall make and file with the superintendent whenever required by him a report in such form as he may prescribe, verified by two of its principal officers, showing its financial condition and such other information as the superintendent may require at the close of business on any past day designated by him. The verification shall state that each of the officers making it has a personal knowledge of the matters in the report and that each of them believes that each statement in the report is true.

SEC. 120. Section 1950 of the Financial Code is repealed.

SEC. 121. Section 2052 of the Financial Code is repealed.

SEC. 122. Section 2052 is added to the Financial Code, to read:

2052. The agreement of purchase and sale shall be approved by the purchasing bank and by the selling bank, as follows:

(a) In case the bank is a bank organized under the laws of this state.

(1) If the purchase and sale constitutes a reorganization (as defined in Section 181 of the Corporations Code), as required by Chapter 12 (commencing with Section 1200), Division 1, Title 1 of

the Corporations Code;

(2) Otherwise, by the board of the bank and by the outstanding shares of the bank.

(b) In case the bank is any bank other than a bank organized under the laws of this state, in accordance with the laws of the jurisdiction under the laws of which the bank is organized.

SEC. 123. Section 2053 of the Financial Code is amended to read:

2053. When the agreement has been executed by the appropriate officers of each of the banks and when the same has been approved by each of the banks in accordance with Section 2052, the original or a duplicate original thereof shall be filed with the superintendent. There shall be attached to the agreement filed with the superintendent certificates executed by the secretary of each of the banks respectively, certifying that the agreement has been approved by the bank of which he is secretary in accordance with Section 2052. Such agreement shall not become effective until it has been approved in writing by the superintendent. 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). When the agreement has been executed and approved by each of such banks in accordance with Section 2052 and has been approved by the superintendent notice of such agreement shall be published once a week for four successive weeks in a newspaper published in the county in which the selling bank has its principal place of business, or if a branch or a branch business is sold then in a newspaper published in the county in which such branch office is located, and in the county in which the purchasing bank has its principal place of business. Within 10 days after the last publication of such notice an affidavit showing publication in compliance herewith shall be filed in the office of the superintendent.

SEC. 124. Section 2055 of the Financial Code is amended to read:

2055. The selling bank shall maintain for a period of at least one year after the last date of the publication of the notice provided for in Section 2053, such amount, if any, of its contributed capital or its shareholders' equity as the superintendent in his discretion may require.

SEC. 125. Section 2058 of the Financial Code is amended to read:

2058. Subject to the prior approval of the Superintendent of Banks, the affirmative vote of two-thirds of all of its directors, and, in case the transaction constitutes a reorganization (as defined in Section 181 of the Corporations Code), to the provisions of Chapter 12 (commencing with Section 1200), Division 1, Title 1 of the Corporations Code, a bank or trust company may purchase in one transaction 100 percent of the outstanding shares of any state bank or of a national banking association, or trust company operating in this State, in accordance with a plan by which:

(a) The bank whose stock has been purchased shall immediately be merged with the purchasing bank in the manner contemplated

by law; or

(b) The bank whose stock has been purchased, shall immediately be dissolved, its assets vested in its shareholders and its deposits and all other liabilities, including trust liabilities, shall be assumed by the acquiring bank or trust company, subject to the right of each depositor of the bank whose stock has been purchased to withdraw his deposit and of the right of trustors and beneficiaries under trusts held by such bank to nominate another trustee as in the case of the purchase and sale of the business of a bank under Section 2051.

The acquiring bank may permit directors of the bank or trust company, whose shares are so acquired, to retain their respective qualifying shares until dissolution; provided, that each such director agrees to accept the purchase price of his shares in lieu of his proportionate share of the assets upon dissolution.

Upon the approval by the superintendent of the plan, he shall fix a time when the consummation of such plan shall become effective. Upon completion of the plan, the acquiring bank 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 bank or trust company whose stock has been purchased 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 shall succeed to and be entitled to take and execute the appointment to all executorships, trusteeships, guardianships and other fiduciary and representative capacities to which the bank whose stock has been purchased 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, all subject to all other provisions of this code.

Before granting the approval required by this section, the superintendent may direct the purchasing bank to continue banking facilities at the location, or locations, of the purchased bank, if, in his judgment, public convenience would require the continuation of such banking facilities. The superintendent may also impose such other terms and conditions as will, in his judgment, be considered necessary to insure the faithful carrying out of the requirements hereof.

SEC. 126. Section 2059 is added to the Financial Code, to read:

2059. The provisions of Chapter 13 (commencing with Section 1300), Division 1, Title 1 of the Corporations Code shall not apply to the shareholders of a purchasing bank in any purchase and sale which is subject to this article or to the shareholders of a surviving bank in any merger which is subject to Section 2058.

SEC. 127. Section 2070 of the Financial Code, as amended by Chapter 394 of the Statutes of 1978, 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 Chapters 11 (commencing with Section 1100), 12 (commencing with Section 1200), and 13 (commencing with Section 1300), Division 1, Title 1 of the Corporations Code,; provided, that the provisions of Chapter 13 (commencing with Section 1300), Division 1, Title 1 of the Corporations Code shall not apply to shareholders of the surviving bank or trust company. The merger 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. 127.1. Section 2071 of the Financial Code, as amended by Chapter 394 of the Statutes of 1978, is amended to read:

2071. Any agreement for the merger of two or more banks or trust companies and any certifiate of ownership executed pursuant to Section 1110 of the Corporations Code pertaining to such a merger 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. 127.2 Section 2072 of the Financial Code, as amended by Chapter 394 of the Statutes of 1978, is amended to read:

2072. When 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. 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. 127.3. Section 2073 of the Financial Code, as amended by Chapter 394 of the Statutes of 1978, is amended to read:

2073. Whenever any bank qualified to do a trust business or any trust company has been merged into a bank or trust company, the surviving bank or trust company 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 disappearing 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 disappearing 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 127.4. Section 2093 of the Financial Code, as amended by

Chapter 394 of the Statutes of 1978 is amended to read:

2093. Nothing in this division restricts one or more national banking associations from merging into a bank organized under the laws of this state. For the purpose of effecting any such merger a national banking association shall be deemed a "foreign corporation" as that term is used in Section 1108 of the Corporations Code and the laws of Congress shall be deemed the "laws of the state" in which a national banking association is formed. The provisions of Chapters 11 (commencing with Section 1100) and 12 (commencing with Section 1200), Division 1, Title 1 of the Corporations Code shall apply to such a merger; however, the provisions of Chapter 13 (commencing with Section 1300), Division 1, Title 1 of the Corporations Code shall not apply to such a merger.

SEC. 128. Section 2094 of the Financial Code, as amended by Chapter 394 of the Statutes of 1978, is amended to read:

2094. Whenever a state bank survives the merger of one or more national banking associations with a state bank and the agreement for 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 shall be and become effective for all purposes. 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. 129. Section 2095 of the Financial Code is amended to read:

2095. Whenever: (a) a national banking association authorized and qualified to conduct a trust business in this state has been heretofore or is hereafter created by the conversion of a state bank likewise authorized and qualified; or (b) a state bank likewise authorized and qualified has been heretofore or is hereafter created by the conversion of a national banking association likewise authorized and qualified; or (c) one or more national banks likewise authorized and qualified has been heretofore or is hereafter merged or consolidated with one or more other national banking associations likewise authorized and qualified; or (d) one or more state banks likewise authorized and qualified consolidate with or merge into one or more national banking associations likewise authorized and qualified; or (e) one or more national banking associations likewise authorized and qualified merge into a state bank likewise authorized and qualified; or (f) a national banking association authorized and qualified to conduct a trust business in this state purchases or has purchased the trust business and assets of another national banking association or of a bank organized under the laws of this state, the resulting or surviving state bank or national banking association, or

the purchasing national banking association, as the case may be, ipso facto and by operation of law and without further transfer, substitution, act, or deed succeeds to the rights, obligations, properties, assets, investments, deposits, demands, agreements, and trusts of the former or selling state bank or national banking association under all trusts, executorships, administrations, guardianships, agencies, and under 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 or representative capacities to which the former or selling state bank or national banking association, as the case may be, is or may be named in wills, whenever probated, or to which the former or selling state bank or national banking association is or may be named or appointed by any other instrument.

SEC. 130. Section 2096 of the Financial Code is amended to read:

2096. Whenever one or more state banks and one or more national banking associations have been merged or consolidated, the resulting national banking association or the surviving state bank or national banking association, as the case may be, succeeds without other transfer to all the rights and property of each of the constituent banks or national banking associations and is subject to all the debts and liabilities of each such constituent bank or national banking association in the same manner as if the resulting national banking association or the surviving state bank or national banking association had incurred them.

All rights of creditors and all liens upon the property of each of the constituent banks or national banking associations are preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the time of the consolidation or merger.

Any action or proceeding pending by or against any one of the constituent banks or national banking associations may be prosecuted through judgment, which binds the resulting national banking association or the surviving state bank or national banking association; or the resulting national banking association or the surviving state bank or national banking association may be proceeded against or substituted in the place of the constituent state bank or national banking association.

SEC. 131. Section 3010 of the Financial Code is amended to read:

3010. Whenever: (a) a sale of the whole of the business of any bank authorized to engage in the trust business, or of the trust business of any bank or of any branch office of any bank has been completed; or (b) two or more state banks, one or more of which is authorized to engage in the trust business, are merged; or (c) one or more national banks, one or more of which is authorized to engage in the trust business, are merged into a state bank, the superintendent, upon request, shall issue under his official seal a certificate in writing duly acknowledged by him in substantially the

following form:

"State Banking Department

State of California
City and County of San Francisco } ss.

I, _____, Superintendent of Banks of the State of California, do hereby certify (1) that _____ has purchased (the whole of the business, or the whole of the _____ business or the whole of the _____ business of the _____ branch or the whole of the business of the _____ branch, as the case may be) of _____ bank, and that the agreement of purchase and sale as approved by me on _____ has been filed in my office; or (2) that _____ bank has merged into the _____ bank and that the agreement of merger or certificate of ownership certified to by the Secretary of State was filed in my office at _____ o'clock on _____ _____, _____; and I do further certify that the (purchase and sale) (merger) above referred to has been approved by me in the manner required by law and that such (purchase and sale) (merger) has been fully completed and consummated.

Given under my official seal this _____ day of _____, 19__.

_____, Superintendent of Banks."

The recordation of such certificate in the office of the recorder of any county shall be to all persons constructive notice that all of the rights, benefits, privileges, duties, and obligations of whatever kind or nature held or possessed by or imposed upon the selling or disappearing bank are retained by and imposed upon the purchasing or surviving bank.

Such certificate shall be prima facie evidence in all courts and places of the regularity of the proceedings taken and of the fact of such sale or merger.

SEC. 132. Section 3011 of the Financial Code is amended to read:

3011. Whenever: (a) a national banking association authorized and qualified to conduct a trust business in this state is created by the conversion of a state bank likewise authorized and qualified; or (b) a state bank, likewise authorized and qualified, is created by the conversion of a national banking association, likewise authorized and qualified; or (c) one or more national banks, likewise authorized and qualified, are merged with or consolidated into one or more other national banking associations likewise authorized and qualified; or (d) one or more state banks, likewise authorized and qualified, are merged with or consolidated into one or more national banking associations likewise authorized and qualified; or (e) a national banking association authorized and qualified to conduct a trust business in this state purchases or has purchased the trust business and assets of another national banking association or of a bank organized under the laws of this state, there may be executed by the

president and secretary or the cashier of the resulting state bank or the resulting, surviving, or purchasing national banking association, as the case may be, its certificate in substantially the following form:

"State of California } ss.
County of _____ }

The undersigned, _____, president, and _____ (secretary or cashier) of _____ (name of bank), being duly sworn, each for himself, certifies as follows:

WHEREAS, The _____ (name of bank) is a (national bank organized under the laws of the United States, or a bank organized under the laws of the State of California, as the case may be); and

WHEREAS, Said _____ (name of bank) was created in the following manner: (by consolidation, merger or conversion, as the case may be) or said _____ (name of bank) purchased the trust business and assets of _____ (name of bank); and

WHEREAS, The _____ (name of bank) is authorized and qualified under the laws of the State of California to conduct a trust business in this state; and

WHEREAS, Said _____ (name of bank) has received from (the Comptroller of the Currency or the Superintendent of Banks, or both, as the case may be) authorization or approval for the conduct of said business under the name of _____, of which authorization the following is a full, true and correct copy:

(Insert copy of authorization or approvals)

Now, Therefore, It Is Hereby Certified that the business formerly conducted by _____ has been succeeded to and is now being conducted by _____, with its principal place of business in the (City of _____, County of _____, or city and county, as the case may be)."

Such certificate shall be sworn to and duly acknowledged before a notary public by the persons executing the same.

The recordation of such certificate in the office of the recorder of any county shall be to all persons constructive notice that all of the rights, benefits, privileges, duties, and obligations of whatsoever kind or nature held or possessed by or imposed upon the bank so converted, merged, consolidated, or whose trust business and assets have been sold, are retained by and imposed upon the successor bank or national banking association. Any such certificate shall be prima facie evidence in all courts and places of the regularity of the proceedings taken and of the fact of such conversion.

SEC. 133. Section 3012 of the Financial Code is amended to read:

3012. Whenever all of the business and assets of any bank or trust company have been purchased by another bank or trust company or whenever any bank or trust company has been merged into another bank or trust company or whenever one or more banks or trust companies have been consolidated into a new bank or trust company or whenever a state bank has been converted into a national banking

association the selling bank or trust company, the disappearing bank or trust company, the constituent banks or trust companies, or the converted bank, as the case may be, shall surrender their respective certificates of authority to do a banking business to the superintendent for cancellation.

SEC. 134. Section 3013 of the Financial Code is amended to read:

3013. Whenever a national banking association has converted into a state bank and whenever a state bank has converted into a national banking association, the resulting state bank or national banking association, as the case may be, shall be deemed the same corporate entity as the bank from which it was converted and any reference to the converting bank in any writing, whether executed or taking effect before or after the conversion, shall be deemed a reference to the resulting bank if not inconsistent with the other provisions of such writing.

SEC. 135. Section 3014 of the Financial Code is amended to read:

3014. Whenever a state bank or a national banking association has merged into a state bank and whenever a national banking association or state bank has merged into a national banking association the surviving state bank or national banking association, as the case may be, shall be deemed the same corporate entity as the disappearing bank and any reference to the disappearing bank in any writing, whether executed or taking effect before or after the merger, shall be deemed a reference to the surviving bank if not inconsistent with the other provisions of such writing.

SEC. 136. Section 3015 of the Financial Code is amended to read:

3015. Whenever one or more state banks or national banking associations have consolidated into a new national banking association, the resulting national banking association shall be deemed the same corporate entity as the constituent state bank or banks or national banking association or associations, as the case may be, and any reference to the constituent state bank or banks or to the national banking association or associations in any writing, whether executed or taking effect before or after the consolidation, shall be deemed a reference to the resulting national banking association if not inconsistent with the other provisions of such writing.

SEC. 137. Section 3100 of the Financial Code is amended to read:

3100. Whenever it appears to the superintendent that:

(a) The contributed capital of any bank is impaired;

(b) Any bank has violated its articles or any law of this state;

(c) Any bank is conducting its business in an unsafe or unauthorized manner;

(d) Any bank refuses to submit its books, papers, and affairs to the inspection of any examiner;

(e) Any officer of any bank refuses to be examined upon oath touching the concerns of such bank;

(f) Any bank has suspended payment of its obligations;

(g) Any bank is in such condition that it is unsound, unsafe, or inexpedient for it to transact business; or

(h) Any bank neglects or refuses to observe any order of the superintendent made pursuant to Section 1913 unless the enforcement of such order is restrained in a proceeding brought by the bank; the superintendent may forthwith take possession of the property and business of such bank and retain possession until such bank resumes business or its affairs be finally liquidated as herein provided. Such bank, with the consent of the superintendent, may resume business upon such conditions as he may prescribe. The term "bank" wherever used in this chapter includes trust companies and foreign banking corporations licensed to do and doing a banking business in this state.

SEC. 138. Section 3110.1 of the Financial Code is repealed.

SEC. 139. Section 3110.1 is added to the Financial Code, to read:

3110.1. (a) The superintendent may, with the approval of the court and of the superintendent, sell any part or the whole of the business of the bank to any other bank. Such purchase and sale shall be approved by the purchasing bank, as follows:

(1) In case the purchasing bank is a bank organized under the laws of this state, by two-thirds of all of its directors.

(2) In case the bank is any bank other than a bank organized under the laws of this state, in accordance with the laws of the jurisdiction under the laws of which the bank is organized.

(b) (1) Subject to any applicable federal statutes and regulations, any bank organized under the laws of this state may, with the approval of two-thirds of all of its directors and of the superintendent, purchase from the receiver of a national banking association the whole or any part of the business of such national banking association.

(2) Subject to any applicable federal statutes and regulations and any applicable laws of the jurisdiction under the laws of which such foreign banking corporation is organized, any foreign banking corporation which is licensed by the superintendent under Article 1 (commencing with Section 1750) of Chapter 14 to transact banking business in this state and which is authorized under Sections 1756 and 1756.1 to accept deposits in this state, may, with the approval of the superintendent, purchase from the receiver of a national banking association the whole or any part of the business of such national banking association.

(c) The provisions of Chapter 12 (commencing with Section 1200) and Chapter 13 (commencing with Section 1300), Division 1, Title 1 of the Corporations Code shall not apply to any purchase and sale of the type described in subdivision (a) or (b).

(d) When a purchase and sale of the type described in subdivision (a) or (b) becomes effective or, in case the receiver of a national banking association sells the whole or any part of the business of such national banking association to another national banking association, when such purchase and sale becomes effective, the purchasing bank shall, ipso facto and by operation of law and without further transfer, substitution, act, or deed, to the extent provided in the agreement

of the purchase and sale or in the order of the court approving the purchase and sale and except as withheld or limited by such agreement or by such order:

(1) Succeed to the rights, obligations, properties, assets, investments, deposits, demands, and agreements of the bank whose business is sold, subject to the right of every depositor of such bank whose deposit is sold to withdraw his deposit in full on demand after such sale, irrespective of the terms under which the deposit was made;

(2) Succeed to the rights, obligations, properties, assets, investments, deposits, demands, and agreements of the bank whose business is sold under all trusts, executorships, administrations, guardianships, agencies, and other fiduciary or representative capacities, to the same extent as though the purchasing bank had originally assumed, acquired, or owned the same, subject to the rights of trustors and beneficiaries under the trusts so sold to nominate another or succeeding trustee of the trust so sold after the sale; and

(3) Succeed to and be entitled to take and execute the appointment to executorships, trusteeships, guardianships, and other fiduciary and representative capacities to which the bank whose business is sold is or may be named in wills, whenever probated, or to which it is or may be named or appointed by any other instrument.

(e) For purposes of subdivision (d), any purchase and sale of the type referred to in subdivision (d) shall be deemed to be effective at such time as is provided in the agreement of such purchase and sale or in the order of the court approving the purchase and sale.

SEC. 140. Section 3126 of the Financial Code is repealed.

SEC. 141. Section 3126 is added to the Financial Code, to read:

3126. (a) When the superintendent has completed the liquidation of the bank, he shall petition the court for an order declaring the bank duly wound up and dissolved.

(b) After such notice as the court may direct and a hearing, the court may make an order declaring the bank duly wound up and dissolved. Such order shall declare:

(1) That the bank has been duly wound up;

(2) That any tax or penalty due under the Bank and Corporation Tax Law has been paid or secured and that the bank's other known debts and liabilities have been paid or adequately provided for, or that such taxes, penalties, debts, and liabilities have been paid so far as the bank's assets permitted, as the case may be. If there are known debts or liabilities for the payment of which adequate provision has been made, the order shall describe such provision, setting forth such 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 all known assets of the bank have been distributed to its shareholders or wholly applied on account of the bank's debts and liabilities; and

(4) That the bank is dissolved.

(c) The court may make such additional orders and grant such further relief as it deems proper upon the evidence submitted.

(d) Upon the making of the order declaring the bank dissolved, the corporate existence of the bank shall cease, except for the purposes of any necessary further winding up.

(e) Upon the making of the order declaring the bank dissolved, the superintendent shall forthwith file with the Secretary of State a copy of such order, certified by the clerk of the court. Notwithstanding the provisions of Section 23334 of the Revenue and Taxation Code, there need not be filed with the Secretary of State any certificate of satisfaction of the Franchise Tax Board that all taxes due from the bank have been paid or secured.

SEC. 142. Section 3127 of the Financial Code is repealed.

SEC. 143. Section 3128 of the Financial Code is repealed.

SEC. 144. Section 3129 of the Financial Code is repealed.

SEC. 145. Section 3130 of the Financial Code is repealed.

SEC. 146. Article 1.5 (commencing with Section 3135) of Chapter 17 of Division 1 of the Financial Code is repealed.

SEC. 147. Section 3185 of the Financial Code is amended to read:

3185. If the superintendent becomes satisfied that it may safely be done and that it would be in the public interest he may terminate the conservatorship and permit the bank for whom a conservator was appointed to resume the transaction of its business under the direction of its board, subject to such terms, conditions, restrictions, and limitations as he may prescribe.

SEC. 148. Section 3186 of the Financial Code is amended to read:

3186. In any case in which a bank for which a conservator has been appointed has been permitted to accept deposits since the appointment of a conservator, the conservator, before the date upon which the bank may be permitted to resume business under direction of its board, shall cause to be published in a newspaper selected by him as most likely to give proper notice, a notice giving the date on which the affairs of the bank will be returned to its board and stating that the provisions of Section 3184 will not be effective after 30 days from such date. The form of such notice and the newspaper in which the same is to be published shall be first approved by the superintendent. On the date of the publication of such notice the conservator shall mail to every person who made any deposit in such bank after the date of the appointment of the conservator a copy of such notice addressed to such person at the address appearing upon the books of the bank and shall mail a similar notice to every person making a deposit in the bank after the date of the publication of such notice and prior to the time when the affairs of the bank are returned to its board.

SEC. 149. Section 3204 of the Financial Code is amended to read:

3204. When any plan of reorganization becomes effective all books, records, and assets of such bank shall be disposed of in accordance with the provisions of the plan and the affairs of the bank

shall be conducted by its board in the manner provided by the plan and under the conditions, restrictions, and limitations which may have been prescribed by the superintendent. When any plan of reorganization adopted and approved as herein provided becomes effective all depositors and other creditors and stockholders of the bank, whether or not they have consented to the plan of reorganization, shall be fully and in all respects subject to and bound by its provisions and claims of all depositors and other creditors shall be treated as if they had consented to the plan of reorganization.

SEC. 150. Section 3241 of the Financial Code is repealed.

SEC. 151. Section 3358 of the Financial Code is amended to read:

3358. No bank shall publish a statement of its resources or liabilities in connection with those of any other bank, unless such statement shall show the resources and liabilities of each bank separately.

SEC. 152. Section 3359 of the Financial Code is amended to read:

3359. (a) A bank shall not purchase or invest in its own shares or loan on the security of its own shares unless such purchase or loan shall be necessary to prevent loss to the bank on debts previously contracted in good faith. A bank violating this section shall be liable to the people of the state for twice the market or book value of the shares, whichever is greater.

(b) Subdivision (a) does not apply to the redemption by a bank of any of its redeemable shares in accordance with applicable provisions of this division and of Division 1 (commencing with Section 100), Title 1 of the Corporations Code.

SEC. 153. Section 3366 of the Financial Code is amended to read:

3366. Any officer or employee of any bank organized under the laws of this state, who intentionally conceals from the directors of the bank any discounts or loans made by it between the regular meetings of its board, or the purchase of any securities or the sale of its securities during that period, or knowingly fails to report to the board when required to do so by law, all discounts or loans made by it and all securities purchased or sold by it between the regular meetings of its board, is guilty of a misdemeanor.

SEC. 154. Section 3373 of the Financial Code is amended to read:

3373. For the purpose of this article "loan" includes any extension of credit. The board of the bank may fix the aggregate amount of credit which may be extended during a given period not in excess of 12 months to any borrower pursuant to this article. Such bank may make advances and renewals pursuant to the board's authorization without further action by the board.

SEC. 155. Section 3374 of the Financial Code is amended to read:

3374. Whenever a bank is required to report a loan to the superintendent such report shall show the following information in form satisfactory to him:

(a) Name of the borrower;

(b) Name of each director or officer interested and the extent of his interest. If to a corporation, the number of shares outstanding of

the borrowing corporation and the number of shares owned by any officer or director of the bank;

(c) Amount, date, maturity, and interest rate of the loan;

(d) Description of security, if any;

(e) Names of directors who voted to authorize or ratify the loan.

The action of the board in authorizing, confirming, or refusing to confirm such loan shall be reported to the superintendent within five days after the time when the board authorizes, confirms, or refuses to confirm the same, and in any event the fact of the making of the loan shall be reported to the superintendent within 45 days after the same is made. When any loan required to be reported to the superintendent is paid, the bank shall report such fact and the date thereof to the superintendent.

SEC. 156. Section 3379 is added to the Financial Code, to read:

3379. Notwithstanding any provision of this article or of Article 2 (commencing with Section 1220) of Chapter 10, a bank may advance money to a director, officer, employee or agent of such bank pursuant to Section 317 of the Corporations Code.

SEC. 157. Section 3380 is added to the Financial Code, to read:

3380. Notwithstanding any provision of this article, a bank may advance money to a director, officer, or employee of such bank for expenses reasonably anticipated to be incurred in the performance of the duties of such director, officer, or employee, provided that in the absence of such advance such director, officer, or employee would be entitled to be reimbursed for such expenses by such bank.

SEC. 158. Section 3500 of the Financial Code is amended to read:

3500. As used in this article, unless the context otherwise requires, "corporation" means a corporation organized under the laws of this state for the purpose of transacting business pursuant to this article.

SEC. 159. Section 3500.5 is added to the Financial Code, to read:

3500.5. The provisions of Chapter 1 (commencing with Section 99) applicable to, or with respect to, banks shall apply to, or with respect to, as the case may be, corporations.

SEC. 160. Section 3501 of the Financial Code is amended to read:

3501. When authorized by the previous written consent of the superintendent as provided by Chapter 3 (commencing with Section 350) one or more persons may organize a corporation.

SEC. 161. Section 3502 of the Financial Code is repealed.

SEC. 162. Section 3502 is added to the Financial Code, to read:

3502. The articles of a corporation shall provide that the purpose of the corporation is to engage in the business of international and foreign banking and other international and foreign financial operations, the business of banking and other financial operations in any dependency or insular possession of the United States, and any other lawful activities which are not, by applicable laws or regulations, prohibited to a corporation transacting business under this article.

SEC. 163. Section 3504 of the Financial Code is amended to read:

3504. Each corporation shall have power, under such rules and regulations as the superintendent may prescribe:

(a) To purchase, sell, discount, and negotiate, with or without its endorsement or guaranty, notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell, with or without its endorsement or guaranty, securities, including the obligations of the United States or of any state thereof but not including shares of stock in any corporation except as herein provided; to accept bills or drafts drawn upon it subject to such limitations and restrictions as the superintendent may impose; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the superintendent may prescribe, but in no event having liabilities outstanding thereon at any one time exceeding 10 times its shareholders' equity; to receive deposits outside of the United States and to receive only such deposits in this state or in any other state of the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States.

(b) Generally, to exercise such powers as are incidental to the powers conferred by this article or as may be usual, in the determination of the superintendent, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with the power specifically granted herein. Nothing contained in this article shall be construed to prohibit the superintendent, under his power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation receives deposits in the United States authorized by this article it shall carry reserves in such amounts as the superintendent may prescribe, but in no event less than 10 per centum of its deposits.

(c) To establish and maintain for the transaction of its business branches or agencies in foreign countries, their dependencies or colonies, and in any state of the United States, and in the dependencies or insular possessions of the United States, at such places as may be approved by the superintendent and under such rules and regulations as he may prescribe, including any state of the United States, or countries or dependencies not specified in the original organization certificate.

(d) With the consent of the superintendent to purchase and hold stock or other certificates of ownership in any other corporation organized under the laws of this state for the purpose of transacting business pursuant to this article, or under the laws of the United States, or under the laws of any foreign country or a colony of dependency thereof, or under the laws of any state, dependency or

insular possession of the United States but not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States, and not transacting any business in the United States except such as in the judgment of the superintendent may be incidental to its international or foreign business.

SEC. 164. Section 3505 of the Financial Code is amended to read:

3505. Except with the approval of the superintendent, no corporation shall invest in any one corporation an amount in excess of 10 per centum of its own shareholders' equity, except in a corporation engaged in the business of banking, when 15 per centum of its shareholders' equity may be so invested.

SEC. 165. Section 3508 of the Financial Code is amended to read:

3508. No corporation shall carry on any part of its business in the United States except such as, in the judgment of the superintendent, shall be incidental to its international or foreign business. Except such as is incidental and preliminary to its organization no corporation shall exercise any of the powers conferred by this article until it has been duly authorized by the superintendent to commence business under the provisions of this article.

SEC. 166. Section 3511 of the Financial Code is amended to read:

3511. No corporation shall be organized without adequate shareholders' equity.

SEC. 167. Section 3512 of the Financial Code is repealed.

SEC. 168. Section 3512 is added to the Financial Code, to read:

3512. The provisions of Chapter 5 (commencing with Section 600) (except the provisions of Section 621) applicable to, or with respect to, banks shall apply to, or with respect to, as the case may be, corporations.

SEC. 169. Section 3513 of the Financial Code is amended to read:

3513. Any bank may invest in the shares of any corporation organized under the provisions of this article, but the aggregate amount of stock held in all corporations engaged in business of the kind described in this chapter, together with such bank's investment in foreign branches established under the provisions of Article 2 (commencing with Section 530) of Chapter 4, shall not exceed 10 per centum of the subscribing bank's shareholders' equity.

SEC. 170. Section 3515 of the Financial Code is amended to read:

3515. Whenever it shall appear to the superintendent that any corporation has violated the provisions of its articles of incorporation or any law of this state, or is conducting its business in an unsafe or unauthorized manner, or if the contributed capital of any such corporation is impaired, or if the corporation shall refuse to submit its books, papers and concerns to the inspection of any examiner of the department or if any officer thereof shall refuse to be examined upon oath touching the concerns of the corporation or if the corporation shall suspend payment of its obligations, or if from any examination or report provided for by this article the superintendent shall have reason to conclude that the corporation is in an unsound

or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, or if any corporation shall neglect or refuse to observe any order of the superintendent specified in Section 662, 1912, or 1913, the superintendent may forthwith take possession of the property and business of such corporation and retain such possession until such corporation shall resume business, or its affairs be finally liquidated as provided by this code for the liquidation of banks.

SEC. 171. Section 3521 of the Financial Code is amended to read:

3521. Each official communication directed by the superintendent to a corporation or to any officer thereof, relating to an examination or investigation conducted by the department or containing suggestions or recommendations as to the conduct of the business of such corporation, shall be submitted, by the officer receiving it, to the board at the next meeting of such board, and duly noted in the minutes of the meetings of such board.

SEC. 172. Section 3528 of the Financial Code is repealed.

SEC. 173. Section 3530 of the Financial Code is amended to read:

3530. No officer, director, clerk or other employee of any corporation shall borrow, directly or indirectly, from such corporation any sum of money without the written approval of a majority of all of the directors thereof filed in the office of such corporation or embodied in a resolution adopted by a majority vote of all of the directors exclusive of the director to whom the loan is made. If an officer, director, clerk or other employee of any such corporation shall own or control a majority of the stock of any other corporation a loan to that corporation shall be considered as a loan to such officer, director, clerk or other employee. Every person violating this section shall, for each offense, forfeit to the people of the state twice the amount which he shall have borrowed.

SEC. 174. Section 3535 of the Financial Code is amended to read:

3535. At the time the application certificate is first submitted to the superintendent, such corporation shall also submit a duly authenticated copy of its charter, or articles, and its bylaws.

SEC. 175. Section 3545 of the Financial Code is amended to read:

3545. Nothing in this division restricts one or more international or foreign banking or financing corporations organized under the laws of the United States from merging into one or more state, international or foreign banking or financing corporations. For the purpose of effecting any such merger any such international or foreign banking or financing corporation shall be deemed a "foreign corporation" as that term is used in Section 1108 of the Corporations Code and the laws of Congress shall be deemed the "laws of the state" in which such international or foreign banking or financing corporation is formed.

SEC. 176. Section 3546 of the Financial Code is amended to read:

3546. Whenever a state international or foreign banking or financing corporation survives the merger of one or more international or foreign banking or financing corporations and the

agreement for merger 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 shall be and become effective for all purposes.

SEC. 177. Section 3547 of the Financial Code is amended to read:

3547. Whenever one or more state international or foreign banking or financing corporations and one or more international or foreign banking or financing corporations organized under the laws of the United States have been merged or consolidated, the surviving or resulting international or foreign banking or financing corporation succeeds without other transfer to all the rights and property of each constituent international or foreign banking or financing corporation and is subject to all the debts and liabilities of each such constituent corporation in the same manner as if the surviving or resulting international or foreign banking or financing corporation had incurred them.

All rights of creditors of each constituent international or foreign banking or financing corporation are preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the time of the consolidation or merger.

Any action or proceeding pending by or against any one of the constituent international or foreign banking or financing corporations may be prosecuted through judgment, which binds the resulting or surviving international or foreign banking or financing corporation; or such consolidated or surviving corporation may be proceeded against or substituted in the place of any such constituent corporation.

SEC. 178. Section 3548 of the Financial Code is amended to read:

3548. Whenever an international or foreign banking or financing corporation organized under the laws of the United States converts into a state international or foreign banking or financing corporation, or whenever such state corporation converts into such corporation organized under the laws of the United States, or if any such state corporation merges or consolidates with any such corporation organized under the laws of the United States, the surviving or resulting corporation shall be deemed to be the same corporate entity as the converting or constituent corporation and any reference to the converting corporation or to any constituent corporation, whether executed or taking effect before or after the conversion, merger or consolidation, shall be deemed a reference to the surviving or resulting corporation.

SEC. 179. Section 3560 of the Financial Code is amended to read:

3560. Any bank may, with the consent of the Superintendent of Banks, upon such conditions and under such regulations as he may prescribe, invest in the stock of one or more corporations organized under the laws of the United States for the purpose of engaging in international or foreign banking or other international or foreign financial operations, or in banking or other financial operations in a

dependency or insular possession of the United States, either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions and to act when required by the Secretary of the Treasury of the United States as fiscal agents of the United States; provided, however, that the aggregate amount of stock held in all corporations engaged in business of the kind described in this chapter, together with such bank's investment in foreign branches established under the provisions of Article 2 (commencing at Section 530) of Chapter 4, shall not exceed 10 per centum of the subscribing bank's shareholders' equity.

SEC. 180. Section 3570 of the Financial Code is amended to read:

3570. Any bank may, with the consent of the superintendent, upon such conditions and under such regulations as he may prescribe, invest in the stock of one or more corporations organized under the laws of any state of the United States (other than a corporation organized under the laws of this state for the purposes of transacting business under the provisions of Article 1 (commencing with Section 3500) of this chapter) and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions; provided, however, that said stock at the time of the acquisition would constitute a permissible investment for a national bank; and provided, further, that the aggregate amount of stock held in all corporations engaged in business of the kind described in this chapter, together with such bank's investment in foreign branches established under the provisions of Article 2 (commencing with Section 530) of Chapter 4, shall not exceed 10 percent of the subscribing bank's shareholders' equity. Nothing in this section shall be construed in any way to limit the powers conferred by Section 3513.

SEC. 181. Section 3580 of the Financial Code is amended to read:

3580. Any bank may, with the consent of the superintendent, upon such conditions and under such regulations as he may prescribe, acquire and hold, directly or indirectly, the stock or other evidences of ownership in one or more banks organized under the laws of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the superintendent, shall be incidental to the international or foreign business of such bank. An application for such consent shall be in such form and contain such information as the superintendent may require, and be accompanied by a fee of five hundred dollars ($500). The aggregate amount invested by any bank in such stock or other evidences of ownership shall not in any way be subject to, or included in, the limitations prescribed in Sections 535, 3513, 3560, and 3570, but such aggregate amount invested directly or indirectly (other than

through a corporation organized under the laws of this state for the purpose of transacting business under Article 1 (commencing with Section 3500) or operating under Article 2 (commencing with Section 3560) or Article 3 (commencing with Section 3570) in the stock or other evidences of ownership of all foreign banks, taken together with investments by the subscribing bank in the shares of corporations organized under the laws of this state for the purpose of transacting business under Article 1 (commencing with Section 3500) or operating under Article 2 (commencing with Section 3560) or Article 3 (commencing with Section 3570) and in foreign branches established under the provisions of Article 2 (commencing with Section 530) of Chapter 4, shall not at any one time exceed 25 percent of the subscribing bank's shareholders' equity.

SEC 182. Chapter 23 (commencing with Section 4000) is added to Division 1 of the Financial Code, to read:

CHAPTER 23. APPROVAL OF NAMES OF NONBANK CORPORATIONS

3900. In this chapter:

(a) "Nonbank corporation" means any corporation incorporated or proposed to be incorporated under the laws of this state, other than (1) any bank or (2) any corporation incorporated or proposed to be incorporated under the laws of this state for the purpose of transacting business under Article 1 (commencing with Section 3500) of Chapter 19.

(b) "Subject name", means a name of a nonbank corporation which, as set forth, or as proposed to be set forth, in the articles of such nonbank corporation, includes "bank", "trust", "trustee", or related words.

3901. An application for a certificate of approval of the subject name of a nonbank corporation shall be in such form, shall contain such information, shall be signed in such manner, and shall (if the superintendent so requires by regulation or order) be verified in such manner, as the superintendent may by regulation or order require.

3902. The fee for filing with the superintendent an application for a certificate of approval of the subject name of a nonbank corporation shall be twenty-five dollars ($25).

3903 If the superintendent finds, with respect to an application for a certificate of approval of the subject name of a nonbank corporation, that such subject name does not indicate that such nonbank corporation is engaged in the banking or trust business, he shall issue a certificate of approval of the subject name. If the superintendent finds otherwise, he shall deny the application.

3904. Promptly after the articles of a nonbank corporation, with the certificate of approval of the subject name of such nonbank corporation attached thereto, are filed with the Secretary of State, such nonbank corporation shall file with the superintendent a copy of such articles certified by the Secretary of State.

SEC. 183. Section 31220 of the Financial Code is amended to read:

31220. Notwithstanding any other law of this state, but subject to the provisions of Section 31550:

(a) Any commercial bank or trust company organized under the laws of this state may, with the prior approval of the superintendent, acquire and hold securities issued by a licensee; provided, however, that the aggregate amount of securities issued by licensees which are held by such commercial bank or trust company shall not at any time exceed 2½ percent of the shareholders' equity of such commercial bank or trust company. This subdivision shall not apply to any loan or other extension of credit made by a commercial bank organized under the laws of this state to a licensee in acccordance with the Banking Law (Division 1 (commencing with Section 99)).

(b) Any savings and loan association organized under the laws of this state may, with the prior approval of the Savings and Loan Commissioner, acquire and hold securities issued by a licensee; provided, however, that the aggregate amount of securities issued by licensees which are held by such savings and loan association shall not at any time exceed ½ percent of the total outstanding loans of such savings and loan association.

(c) Any insurance company admitted to transact insurance business in this state may, with the approval of the Insurance Commissioner, acquire and hold securities issued by a licensee; provided, however, that the aggregate amount of securities issued by licensees which are held by such insurance company shall not at any time exceed 2½ percent of the unassigned surplus of such insurance company.

(d) Any public utility licensed or regulated by the Public Utilities Commission may, with the approval of the Public Utilities Commission, acquire and hold securities issued by a licensee; provided, however, that the aggregate amount of securities issued by licensees which are held by such public utility company shall not at any time exceed ½ percent of the total assets of such public utility company.

SEC. 184. Section 31951 of the Financial Code is amended to read:

31951. Except as otherwise provided in Sections 31004 and 31952, the provisions of the General Corporation Law (Division 1 (commencing with Section 100), Title 1 of the Corporations Code) shall, on and after the effective date of this division, apply to each old corporation; provided, however, that, for purposes of the provisions of Chapter 23 (commencing with Section 2300) of the General Corporation Law, with respect to each old corporation:

(a) The term "effective date" shall mean the effective date of this division.

(b) The term "prior law" shall mean the old law.

(c) Each old corporation shall be deemed to be a corporation referred to in Section 162 of the Corporations Code.

CHAPTER 966

An act to amend Section 69583 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Section 69583 of the Government Code is amended to read:

69583. In the County of Fresno there shall be 13 judges of the superior court.

SEC. 2. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies or school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

CHAPTER 967

An act to amend Section 72602.13 of the Government Code, relating to courts.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 72602.13 of the Government Code is amended to read:

72602.13. In addition to the number of judges prescribed by Section 72602, there shall be three additional judges for the Inglewood Municipal Court 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 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 968

An act to add Section 69587 to the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 69587 is added to the Government Code, to read:

69587. In the County of Madera there shall be two judges.

SEC. 2. The sum of eighty-four thousand one hundred twenty-seven dollars ($84,127) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section except that provided for by Section 2 of this act, nor shall there be any appropriation made by this act other than that made by Section 2 of 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 969

An act to amend Section 69592 of, and to add Section 74143.1 to, the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 69592 of the Government Code is amended to read:

69592. In the County of Riverside there shall be 16 judges of the superior court.

SEC. 2. Section 74143.1 is added to the Government Code, to read:

74143.1. In the Three Lakes Judicial District the clerk may appoint the traffic referee-assistant clerk appointed pursuant to Section 74141 to also serve as the traffic referee-assistant clerk in the

Three Lakes Judicial District. Upon such appointment, one-fifth of the traffic referee-assistant clerk's salary and benefits shall be apportioned to the Three Lakes Judicial District and four-fifths of such salary and benefits to the Mt. San Jacinto Judicial District.

SEC. 3. The sum of ninety thousand dollars ($90,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies or school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred on or after January 1, 1979, by them pursuant to this act.

CHAPTER 970

An act to amend and renumber Section 6460.1 of, to add Section 6460.1 to, and to add Chapter 14.5 (commencing with Section 5330) to Division 7 of, the Streets and Highways Code, relating to the Improvement Act of 1911, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Chapter 14.5 (commencing with Section 5330) is added to Division 7 of the Streets and Highways Code, to read:

CHAPTER 14.5. ASSESSMENTS OF INDIAN-OWNED PROPERTY

5330. Notwithstanding any other provision of this division, the provisions of this chapter shall apply to, and govern the assessment of, Indian-owned property.

5331. As used in this chapter, "Indian-owned property" means any tax exempt trust property to which an American Indian has rights as determined by federal laws, as administered by the Bureau of Indian Affairs of the Department of Interior.

5332. Whenever Indian-owned property is leased, and a possessory interest is created thereby, the leasehold interest may be subject to assessment in proceedings conducted under this division. In such instances, the city shall first obtain the written consent of the Bureau of Indian Affairs, the owner of the underlying fee, and any owner of an existing prior recorded possessory interest in the property.

5333. Any such assessment shall be secured by an assignment to the city of the possessory interest which shall be recorded in the office of the county recorder of the county in which the real property is located.

5334. When bonds are to be issued to represent unpaid

assessments against a possessory interest created by a lease in Indian-owned property, the term of the lease remaining at the time of issuance shall exceed, by at least 15 years, the term of the bonds issued.

If bonds are to be issued to represent assessments against such a possessory interest, the legislative body shall so declare in the resolution of intention.

5335. All notices required by this division to be given to the owner of property subject to an assessment, shall be given to the fee owner, the owner of an existing prior recorded possessory interest, and the assignor of the possessory interest created by a lease. The notices shall refer to the possessory interest against which the assessment is made.

Where the provisions of this division otherwise require any notice or documents to refer to the property subject to assessment, the notice or document shall refer instead to the possessory interest and shall contain a legal description of the possessory interest created by the lease on such property. If the legal description of the possessory interest describes an area less than the entire property ownership, the notice or document shall also contain a reference to the record of the acquisition instrument to the entire parcel from which the possessory interest was created.

SEC. 2. Section 6460.1 of the Streets and Highways Code is amended and renumbered to read:

6460.5. The bond shall be manually signed by the treasurer of the city or county, except that a facsimile signature may be reproduced thereon whenever the treasurer is authorized by law to have a deputy, in which event such bond may be manually signed or countersigned on behalf of the treasurer by any deputy who has been authorized by the treasurer in writing to countersign.

A facsimile signature of the treasurer is one that is printed, lithographed, engraved, stamped, or otherwise mechanically reproduced.

A facsimile signature of the treasurer may be reproduced upon the coupons without reproducing the signature of the deputy.

SEC. 3. Section 6460.1 is added to the Streets and Highways Code, to read:

6460.1. Bonds issued pursuant to Chapter 14.5 (commencing with Section 5330) to represent an assessment against a possessory interest created by a lease in Indian-owned property shall be substantially in the following form:

STREET IMPROVEMENT BOND

Series (designating it), in the City (or County) of (naming it)
$_____ No._____

Under and by virtue of the Improvement Act of 1911 (Part 5 (commencing with Section 6400) of Division 7 of the Streets and

Highways Code), I, out of the fund of the above-designated streets improvement bonds, series _____, will pay to _____ or order, the sum of _____ dollars ($_____) with interest at the rate of _____ percent per annum, all as specified herein, and at the office of the Treasurer of the _____ of _____, State of California.

This bond is issued to represent the cost of certain street work upon _____, in the _____ of _____, as the work is more fully described in assessment number _____ issued by the street superintendent of the _____, after the acceptance of the work, and recorded in his office. Its amount is the amount assessed in the assessment against the possessory interest created by a lease in the lot or parcel of land numbered therein, and in the diagram attached thereto, as number _____, and which now remains unpaid, and is secured by the assignment of a possessory interest, as it is described herein and in the recorded assessment with its diagram, to wit: the lot or parcel of land in the _____ of _____, County of _____, State of California.

This bond is payable exclusively from the fund, and neither the (insert here the city or county) nor any officer thereof is to be holden for payment otherwise of its principal or interest. The term of this bond is _____ years from the second day of January next succeeding the next September 1st following its date and, at the expiration of that time, the whole sum then unpaid shall be due and payable. On the second day of January of each year, following the next September 1st after its date, an even annual proportion of its whole amount is due and payable, upon presentation of the coupon therefor, until the whole is paid, with all accrued interest at the rate of _____ percent per annum.

The interest is payable semiannually on the second days of January and of July in each year hereafter, upon presentation of the coupons therefor, hereto attached, the first of which is for the interest to the next second day of _____, and thereafter the interest coupons are for semiannual interest.

This bond may be redeemed by the owner or any person interested in any possessory interest in the lot or parcel of land described herein, in the manner provided in the Streets and Highways Code, at any time before maturity, and before commencement of proceedings for sale, upon payment to the treasurer, for the holder of this bond, of the amount then unpaid on the principal sum thereof, with interest thereon (if not previously paid) up to the next succeeding January 2nd or July 2nd, as the case may be, at the rate named in the bond, and all penalties accrued and unpaid.

Should default be made in the annual payment upon the principal, or in any payment of interest from the holder of the possessory interest, or anyone in his behalf, the holder of this bond is entitled, on or after the second day of January or July, as the case may be, following such default to declare the whole unpaid amount to be due and payable, and to have the possessory estate advertised and sold

forthwith, in the manner provided by law for the sale of a lot or parcel of land pursuant to Chapter 6 (commencing with Section 6500).

At the _____ of _____ this _____ day of _____, in the year one thousand nine hundred and _____.

Treasurer of the _____ of _____.

SEC. 4. This act is an urgency statute necessary for the preservation of the public peace, 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 improvements may be made at the earliest opportunity to eliminate dangers of flood in portions of the state, it is necessary that this act take immediate effect.

CHAPTER 971

An act to amend Sections 23320 and 25615 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. 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) Beer manufacturers that produce 60,000 barrels or less a year	100.00 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. 2. Section 25615 of the Business and Professions Code is amended to read:

25615. Any person who sells or otherwise disposes of, except for export, any draught beer containing more than 4 percent of alcohol by weight, and any person who sells or otherwise disposes of, except for export, any bottled beer containing more than 4 percent of alcohol by weight is guilty of a misdemeanor. This section does not apply to the sale of ale, porter, brown, malt liquor, and stout in bottles bearing labels properly describing the contents or to draught ale, porter, brown, malt liquor, and stout, served from spigots bearing a notice properly describing the contents under any licenses, other than on-sale beer licenses.

CHAPTER 972

An act to amend Section 94304 of, and to repeal and add Article 7 (commencing with Section 8120) of Chapter 1 of Part 6 of Division 1 of Title 1 of the Education Code, relating to the California Occupational Information System.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Article 7 (commencing with Section 8120) of Chapter 1 of Part 6 of Division 1 of Title 1 of the Education Code is repealed.

SEC. 2. Article 7 (commencing with Section 8120) is added to Chapter 1 of Part 6 of Division 1 of Title 1 of the Education Code, to read:

Article 7. California Occupational Information System

8120. It is the intent of the Legislature in enacting this article to insure that all employment training and vocational education programs are planned and implemented so as to provide trainees and students with skills which will be in demand by employers at the conclusion of such training and vocational education.

8121. In creating the California Occupational Information System pursuant to this article, the Legislature finds that accurate and timely labor market information, including information relating to current and future labor supply as well as job and skill demands, is presently not available to vocational education and employment training entities to permit careful planning of programs and prudent allocation of resources. The Legislature further finds that:

(a) The educational system, state and local governments, and all entities involved in developing job skills for California youth and other unemployed and underemployed persons, will more effectively use their resources by modifying curricula and training programs if timely information is provided about current and future career skills that will be needed by employers.

(b) Accurate information regarding how many students and trainees in a labor market area are being prepared for specific job categories in relation to projected job demands will be of assistance in making vocational education and training program evaluations and decisions.

(c) Students, in making career choices, and their counselors, need information about future job demands, job duties, and other job characteristics, and the supply of students and trainees preparing to enter the various job categories.

(d) Information about future job demands and labor supply would

be of substantial benefit to private industry in identifying locations where projected skill needs arising from new industrial sitings or expansions can be met.

(e) Industry has offered to provide to the state information about projected job skill needs and has formally recommended through the Job Development and Business Expansion Task Force that the state proceed with developing a comprehensive California Occupational Information System.

8122. The California Occupational Information System is hereby designated as the official state program for the production of occupational planning, administration and guidance information for use by vocational educators, education and training planners, students, and counselors.

8123. The Director of Employment Development, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, the Director of the Department of Rehabilitation, and the Chairperson of the California Employment and Training Advisory Council shall each designate a representative, and the Council for Private Postsecondary Educational Institutions in the Department of Education shall designate a proprietor of a private postsecondary institution, who shall cooperate jointly as the State Occupational Information Coordinating Committee (hereafter referred to as the SOICC) to develop and implement the California Occupational Information System. The SOICC shall consult with other potential users of the system to maximize the collection of data and the development of a uniform system that can be used to the greatest extent feasible.

8124. The Employment Development Department, in consultation with the Department of Education, the California Community Colleges, the Department of Rehabilitation, the California Employment and Training Advisory Council, the Council for Private Postsecondary Educational Institutions, and other potential users, including but not limited to the California Postsecondary Education Commission and the Division of Apprenticeship Standards in the Department of Industrial Relations, shall be responsible for the preparation of occupational employment demand information concerning job skills that employers are projected to need in the future in the various labor markets.

8125. The Department of Education and the California Community Colleges, in consultation with the other entities listed in Section 8124, and other potential users, shall be responsible for the production of uniform public and private educational supply information concerning the number of students and trainees in courses related to each job category and in each school or center.

8126. The Employment Development Department, in consultation with other entities listed in Section 8124, and other potential users, shall develop and produce, to the maximum extent feasible, socioeconomic information that is related to employment and training.

8127. The California Employment and Training Advisory Council, in consultation with other entities listed in Section 8124, and other potential users, shall be responsible for the production of federal Comprehensive Employment and Training Act training supply information concerning trainees enrolled in and completing training programs in each job category in each prime sponsor or labor market area.

8128. The Department of Rehabilitation, in consultation with the other entities listed in Section 8124, and other potential users, shall be responsible for the production of information concerning training activities and other rehabilitation data required for the California Occupational Information System.

8129. The entities listed in Section 8124 shall jointly develop and produce, to the extent feasible, other data required for the California Occupational Information System.

8130. The SOICC shall seek to maximize the dissemination and effective use of information developed pursuant to this article. The respective roles of each of the entities shall be fully set out in written agreements. Each entity is authorized to enter into agreements with each other and with any other entity for the purposes of this article. Appropriations to each entity for the purpose of administration of the California Occupational Information System under this article shall be separately identified by purpose and amount and shall not be included in appropriations to the entity for any other purpose.

8131. The information produced by the California Occupational Information System shall be used by the entities listed in Section 8124 to plan programs, curricula, staff developmental training for vocational education and training personnel; to counsel students; and for all other uses related to effectively carrying out the intent and purposes of this article. The information shall be available to students to aid them in making career choices, to operators of employment and training programs, and to other potential users to the maximum extent feasible.

8132. The Department of Rehabilitation and the California Employment and Training Advisory Council shall cooperate with the Employment Development Department, the Department of Education, and the California Community Colleges, which three entities shall report annually to the Legislature, not later than the fifth legislative day, on the progress made toward the establishment of the program and on the use by the entities listed in Section 8124 of the information provided pursuant to this article.

8133. Each entity responsible for any function or activity pursuant to this article shall seek and obtain funds or in-kind contributions to the maximum extent possible from federal and private sources, and may accept and use any such funds or in-kind contributions for the purposes of this article. Each entity shall perform the function or activity with which it is charged under this article to the maximum extent possible with the appropriations, funds and in-kind contributions made available.

8134. This article shall remain in effect only until December 31, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1982, deletes or extends such date.

SEC. 3. Section 94304 of the Education Code is amended to read:

94304. (a) There is in the Department of Education a Council for Private Postsecondary Educational Institutions consisting of the superintendent, or his designee, and 14 additional members who shall be appointed by the superintendent, subject to the concurrence of the State Board of Education, as follows:

(1) Seven members shall be administrative heads of institutions operating under the authority of this chapter. Four such members shall be selected from institutions operating under subdivision (c) or (d) of Section 94311; one member shall be selected from an institution operating under subdivision (a) or (b) of Section 94310; and one member shall be selected from an institution operating under subdivision (c) of Section 94310. If an individual ceases to be an administrative head of an institution operating under the authority of this chapter, then the council position becomes vacant.

(2) Seven shall represent the public. Four members shall be appointed who have a strong interest in developing private postsecondary academic, vocational, technical, and professional education; two members representing the public shall be representatives of business and labor that employ substantial numbers of persons in positions requiring vocational and technical skills.

(3) In addition, the following shall serve as ex officio members of the council:

(i) The Director of the Department of Consumer Affairs, or his or her designee.

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

(iii) The Director of the California Postsecondary Education Commission, or his or her designee.

Ex officio members have no vote.

It is the intent of the Legislature that the council shall provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the structure of postsecondary education in California. The work of the council shall at all times be directed toward maintaining and continuing, to the maximum degree permissible, private control and autonomy in the administration of the private postsecondary schools amd colleges in this state.

(b) The first members shall be appointed on or before January 15, 1973, and the superintendent shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1973, and the members shall enter upon their terms of office by lot so that the terms of four members shall expire on

January 15, 1974; the terms of four members shall expire on January 15, 1975; and the terms of four members shall expire on January 15, 1976.

The terms of the members of the council shall be four years. No appointee shall serve on the council for more than eight consecutive years.

Any member of the council who misses two consecutive regular meetings of the council without cause forfeits the office, thereby creating a vacancy.

No person shall be deemed to be a member of the council until his appointment has been concurred in by the State Board of Education, which shall take action regarding such appointment at the board meeting next following the appointment.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairman and one to serve as vice chairman. The vice chairman shall preside over all meetings of the council in the absence of the chairman.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the director, not to exceed Board of Control expense allowances.

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall:

(1) Advise the superintendent on the establishment of policy for the administration of this chapter.

(2) Establish a process, in cooperation with the superintendent, for the development and promulgation of rules and regulations. The process developed should not be inconsistent with the provisions of this chapter and allow for the input of consumers and institutions.

(3) Adopt procedures necessary or appropriate for the conduct of its work and the implementation of the provisions of this chapter consistent with rules and regulations.

(4) Review minimum criteria utilized by the superintendent in conformity with subdivision (b) of Section 94310 and subdivision (d) of Section 94311 and Section 94312, including quality of education, ethical and business practices, health and safety, and fiscal responsibility, which applicants for authorization to operate, or for an agent's permit, shall meet before such authorization or permit may be issued, and to continue such authorization or permit in effect. Criteria to be developed hereunder shall be such as will effectuate the purposes of this chapter but will not unreasonably hinder legitimate education innovation.

(5) In cooperation with the superintendent, prepare and submit an annual report to the California Postsecondary Education Commission to be used by the commission for the review and inclusion in the annual update of the five-year plan for postsecondary education.

(6) Review appeals and complaints from educational institutions, agents and consumers. Make recommendations to the superintendent regarding the disposition of such appeals and complaints.

(7) Represent private postsecondary educational institutions on the State Occupational Information Coordinating Committee.

(g) All actions with the exception of those regarding the operating procedures of the council shall be adopted according to the affirmative vote of the majority of the council and shall be in writing.

SEC. 4. Section 94304 of the Education Code, as amended by Section 2 of Assembly Bill No. 3744, is amended to read:

94304. (a) There is in the Department of Education a Council for Private Postsecondary Educational Institutions consisting of the superintendent, or his designee, and 14 additional members who shall be appointed by the superintendent, subject to the concurrence of the State Board of Education, as follows:

(1) Seven members shall be administrative heads of institutions operating under the authority of this chapter. Four such members shall be selected from institutions operating under subdivision (c) or (d) of Section 94311; one member shall be selected from an institution operating under subdivision (a) or (b) of Section 94310; and one member shall be selected from an institution operating under subdivision (c) of Section 94310. If an individual ceases to be an administrative head of an institution operating under the authority of this chapter, then the council position becomes vacant.

(2) Seven shall represent the public. Four members shall be appointed who have a strong interest in developing private postsecondary academic, vocational, technical, and professional education; two members representing the public shall be representatives of business and labor that employ substantial numbers of persons in positions requiring vocational and technical skills.

(3) In addition, the following shall serve as ex officio members of the council:

(i) The Director of the Department of Consumer Affairs, or his or her designee.

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

(iii) The Director of the California Postsecondary Education Commission, or his or her designee.

Ex officio members have no vote.

It is the intent of the Legislature that the council shall provide leadership and direction in the continuing development of private postsecondary education as an integral and effective element in the

structure of postsecondary education in California. The work of the council shall at all times be directed toward maintaining and continuing, to the maximum degree permissible, private control and autonomy in the administration of the private postsecondary schools and colleges in this state.

(b) The first members shall be appointed on or before January 15, 1973, and the superintendent shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1973, and the members shall enter upon their terms of office by lot so that the terms of four members shall expire on January 15, 1974; the terms of four members shall expire on January 15, 1975; and the terms of four members shall expire on January 15, 1976. The terms of office of the two members added to the council pursuant to Chapter 1202 of the Statutes of 1977 shall expire on January 15, 1982.

The terms of the members of the council shall be four years. No appointee shall serve on the council for more than eight consecutive years.

Any member of the council who misses two consecutive regular meetings of the council without cause forfeits the office, thereby creating a vacancy.

No person shall be deemed to be a member of the council until his appointment has been concurred in by the State Board of Education, which shall take action regarding such appointment at the board meeting next following the appointment.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairman and one to serve as vice chairman. The vice chairman shall preside over all meetings of the council in the absence of the chairman.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the director, not to exceed Board of Control expense allowances

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall:

(1) Advise the superintendent on the establishment of policy for the administration of this chapter.

(2) Establish a process, in cooperation with the superintendent, for the development and promulgation of rules and regulations. The process developed should not be inconsistent with the provisions of this chapter and allow for the input of consumers and institutions

(3) Adopt procedures necessary or appropriate for the conduct of its work and the implementation of the provisions of this chapter consistent with rules and regulations.

(4) Review minimum criteria utilized by the superintendent in conformity with subdivision (b) of Section 94310 and subdivision (d) of Section 94311 and Section 94312, including quality of education, ethical and business practices, health and safety, and fiscal responsibility, which applicants for approval to operate, or for an agent's permit, shall meet before such approval or permit may be issued, and to continue such approval or permit in effect. Criteria to be developed hereunder shall be such as will effectuate the purposes of this chapter but will not unreasonably hinder legitimate education innovation.

(5) In cooperation with the superintendent, prepare and submit an annual report to the California Postsecondary Education Commission to be used by the commission for the review and inclusion in the annual update of the five-year plan for postsecondary education.

(6) Review appeals and complaints from educational institutions, agents and consumers. Make recommendations to the superintendent regarding the disposition of such appeals and complaints.

(7) Represent private postsecondary educational institutions on the State Occupational Information Coordinating Committee.

(g) All actions with the exception of those regarding the operating procedures of the council shall be adopted according to the affirmative vote of the majority of the council and shall be in writing.

SEC. 5. It is the intent of the Legislature, if this bill and Assembly Bill No. 3744 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 94304 of the Education Code, and this bill is chaptered after Assembly Bill No. 3744, that Section 94304 of the Education Code, as amended by Section 2 of Assembly Bill No. 3744 be further amended on the operative date of this act in the form set forth in Section 4 of this act to incorporate the changes in Section 94304 proposed by this bill. Therefore, Section 4 of this act shall become operative only if this bill and Assembly Bill No. 3744 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 94304, and this bill is chaptered after Assembly Bill No. 3744, in which case Section 4 of this act shall become operative on the operative date of this act and Section 3 of this act shall not become operative.

CHAPTER 973

An act to amend Sections 5091 and 5342 of the Education Code, relating to school elections.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 30 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 30 days after he or she files the resignation with the county superintendent of schools.

In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 30-day period as required by this section, the county superintendent of schools shall call an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next established election date provided pursuant to Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code not less than 98 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) If a provisional appointment is made within the 30-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the appropriate percentage of registered voters of the district who voted in the last regular election for governing board members, as follows:

(1) In districts in which less than 75,000 voters voted 5 percent of the number of such voters.

(2) In districts in which 75,000 or more, but less than 200,000, voters voted 3,750 plus 2½ percent of the number, over 75,000, of such voters.

(3) In districts in which 200,000 or more voted 6,875 plus 1 percent of the number, over 200,000, of such voters.

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is

terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination.

(d) A provisional appointment made pursuant to subdivision (a) confers no powers or duties of a governing board member upon the appointee during the 30-day period following his appointment and within which a petition calling for special election may be filed. If a petition is not filed within the 30-day period, the appointee shall thereafter have all the powers and perform all the duties of a governing board member.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) Whenever a petition calling for a special election is circulated, the petition shall contain the clerk's estimate of the cost of conducting the special election.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 2. Section 5342 of the Education Code is amended to read:

5342. Whenever any school district election or community college district election is scheduled to be held on the same day, in the same territory, or in territory that is in part the same, as an election or elections called to be held by any other district, city, county or other political subdivision, the district election may be either completely or partially consolidated with such election or elections pursuant to the provisions of Chapter 4 (commencing with Section 23300) of Part 2 of Division 14 of the Elections Code.

Such consolidation may be effected by the officer conducting the election upon receipt of resolutions from two or more political subdivisions calling elections to be held on the same day whose boundaries are totally or partially the same territory; provided such resolutions are delivered to the officer conducting the election at least 74 days prior to the date of the election.

CHAPTER 974

An act to amend Sections 1806, 16072, and 16075 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 1806 of the Vehicle Code is amended to read:

1806. The department shall file all accident reports and abstracts of court records of convictions received under this code, and in connection therewith, shall maintain convenient records or make suitable notations in order that an individual record of each license showing the convictions of the licensee and the traffic accidents for which he was cited for a violation under this code are readily ascertainable. At its discretion the department may file and maintain these accident reports and abstracts by electronic recording and storage media and after transcribing electronically all available data from the accident reports and abstracts of conviction may destroy the original documents. Notwithstanding any other provisions of law, the recorded facts from any electronic recording and storage device maintained by the department shall constitute evidence of such facts in any administrative actions instituted by the department.

SEC. 2. Section 16072 of the Vehicle Code is amended to read:

16072. The suspension of the driving privilege as provided in Section 16070 shall not be terminated until three years have elapsed from the date of the accident or until such person files and thereafer maintains proof of ability to respond in damages pursuant to Section 16022.

SEC. 3. Section 16075 of the Vehicle Code is amended to read:

16075. (a) The suspension provisions of this article shall not apply to a driver or owner until 20 days after the department sends to the driver or owner notice of its intent to suspend his driving privilege and advises the driver or owner of his right to a hearing as hereinafter provided.

(b) The department shall conduct the hearing upon written demand of the driver or owner, within 60 days of such demand, to determine the applicability of this chapter to such driver or owner, including a determination of whether:

(1) The accident has resulted in property damage of less than two hundred fifty dollars ($250), or bodily injury, or death.

(2) The driver or owner has established financial responsibility, as provided in Article 3 (commencing with Section 16050) of this chapter, was in effect at the time of the accident.

(c) The demand for the hearing shall be in writing. The application for hearing made by the affected person within 20 days of receiving notice of the department's action shall operate to stay the suspension by the department from the date of such demand until the hearing is completed and a decision has been made.

(d) The hearing provided for by this section shall be held in the county of residence of the person requesting the hearing. Such hearing shall be conducted pursuant to Article 3 (commencing with Section 14100) of Chapter 3 of Division 6.

SEC 4. Section 16075 of the Vehicle Code is amended to read.

16075. (a) The suspension provisions of this article shall not apply to a driver or owner until 20 days after the department sends to the driver or owner notice of its intent to suspend his driving privilege and advises the driver or owner of his right to a hearing as hereinafter provided.

(b) The department shall conduct the hearing upon written demand of the driver or owner, within 60 days of such demand, to determine the applicability of this chapter to such driver or owner, including a determination of whether:

(1) The accident has resulted in property damage of less than three hundred fifty dollars ($350), or bodily injury, or death.

(2) The driver or owner has established financial responsibility, as provided in Article 3 (commencing with Section 16050) of this chapter, was in effect at the time of the accident.

(c) The demand for the hearing shall be in writing. The application for hearing made by the affected person within 20 days of receiving notice of the department's action shall operate to stay the suspension by the department from the date of such demand until the hearing is complete and the decision made.

(d) The hearing provided for by this section shall be held in the county of residence of the person requesting the hearing. Such hearing shall be conducted pursuant to Article 3 (commencing with Section 14100) of Chapter 3 of Division 6.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill No. 1446 are both chaptered and become effective January 1, 1979, both bills amend Section 16075 of the Vehicle Code and this bill is chaptered after Senate Bill No. 1446, that the amendments to Section 16075 proposed by both bills be given effect and incorporated in Section 16075 in the form set forth in Section 4 of this act. Therefore, Section 4 of this act shall become operative only if this bill and Senate Bill No. 1446 are both chaptered and become effective January 1, 1979, both amend Section 16075, and this bill is chaptered after Senate Bill No. 1446, in which case Section 3 of this act shall not become operative.

CHAPTER 975

An act to add Sections 94342, 94343, 94343.5, and 94344 to the Education Code, relating to private educational institutions, and making an appropriation therefor.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. The Legislature finds that continuing and recent consumer interest exists with respect to the responsibility of the Department of Education to insure that students enrolled in privately supported postsecondary educational institutions do not incur financial loss due to the closure or business failure of an authorized or approved private educational institution. Under Chapter 1202 of the Statutes of 1977, there are provisions which set forth criteria regarding the operation of private postsecondary educational institutions. Specifically, Section 94312 of the Education Code provides certain minimum standards for the protection of some consumer interests; however, no specific provision exists to financially protect students in the case of an institution's business failure. After substantial review and study of this matter, the Legislature hereby declares its intent that the Department of Education, as a part of its increasing active consumer protection responsibilities, provide for a state supported tuition indemnification system for students enrolled in private postsecondary educational institutions. Further, the Legislature encourages those institutions to assist students to complete their education through alternatives, such as "teach outs," in the event of a midterm school closure or business failure.

SEC. 2. Section 94342 is added to the Education Code, to read:

94342. The superintendent shall establish and maintain a Student Tuition Recovery Fund for the purpose of relieving or mitigating pecuniary losses suffered by any California resident who is a student of an approved or authorized postsecondary educational institution which charges prepaid tuition, as a result of such institution ceasing its operation for any reason. The Council for Private Postsecondary Educational Institutions acting in its established capacity and relationship may offer advice with regard to the administration of this section.

Payments from the fund to any student shall be at the discretion of the superintendent and shall be subject to such regulations and conditions as the superintendent shall prescribe. The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the superintendent made pursuant to this section.

SEC. 3. Section 94343 is added to the Education Code, to read:

94343. Commencing January 1, 1979, the superintendent may annually assess institutions authorized, or approved, under this chapter, who charge and collect prepaid tuition. Each such institution shall be assessed a charge of one-tenth of 1 percent, maximum charge not to exceed two dollars ($2), of tuition paid by each student enrolled during each fiscal, calendar, or school year, in such institutions. Said assessments shall be paid into the State Treasury and credited to the Student Tuition Recovery Fund, and said deposits shall be allocated, except as otherwise provided for in this act, solely for the payment of valid claims to students. In no event shall assessments be levied if, on June 30 of any year, the balance in

the fund exceeds seven hundred fifty thousand dollars ($750,000); provided that, regardless of the balance in the fund, assessments shall be made on any newly approved or authorized institution. The moneys so deposited in the Student Tuition Recovery Fund are continuously appropriated to the Department of Education for the purpose of paying claims to students pursuant to Section 94342. Not more than fifty thousand dollars ($50,000) per fiscal year shall be used for the administration of the tuition recovery program authorized by Section 94342 and this section. The interest earned on money in the fund shall be credited to the fund. Institutions which are accredited by a regional accrediting association recognized by the U.S. Department of Health, Education and Welfare, or which meet the student tuition indemnification requirements of a California state agency, or which demonstrate to the superintendent that an acceptable alternative method of protecting their students against loss of prepaid tuition has been established, shall be exempted from the provisions of this section.

In the event of a closure by any institution authorized, or approved under this chapter, any assessments which have been made against such institutions, but have not been paid into the State Treasury, shall be recovered by appropriate action taken by the Superintendent of Public Instruction. The moneys so deposited in the Student Tuition Recovery Fund shall be exempt from execution and shall not be the subject of litigation or liability on the part of creditors of such institutions or students.

SEC. 3.5. Section 94343.5 is added to the Education Code, to read:

94343.5. Students enrolling in institutions which come under provisions of Sections 94342 and 94343, shall disclose in writing, if applicable, the source of any and all guaranteed or insured loans granted for the purposes of paying tuition to such institution. In the event of a closure of any such institution, the Superintendent of Public Instruction shall provide any lending institution which is the source of any guaranteed or insured student loan with the names of students maintaining loans with any such lending institution.

SEC. 4. Section 94344 is added to the Education Code, to read:

94344. The superintendent with the advice of the Council for Private Postsecondary Educational Institutions, shall adopt rules and regulations necessary to implement Sections 94342 and 94343.

CHAPTER 976

An act to add Chapter 7.5 (commencing with Section 175) to Division 1 of the Labor Code, relating to liquefied petroleum gas.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978]

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

SECTION 1. Chapter 7.5 (commencing with Section 175) is added to Division 1 of the Labor Code, to read:

CHAPTER 7.5. DIVISION OF OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

175. The Division of Occupational Safety and Health Administration shall be the lead agency in providing for public health and safety as well as worker health and safety in the construction, maintenance, and operation of any liquefied petroleum gas storage facility, other than a facility owned or maintained by a public utility, having a capacity of 100,000 barrels or more, including storage vessels, and related piping, pumping, distribution, and transfer apparatus. As the lead agency, the division shall request any state or local agency having statutory public health and safety jurisdiction over any part of the construction, maintenance, or operation of any such liquefied petroleum gas storage facility, other than a facility owned or maintained by a public utility, to exercise its statutory jurisdiction in relation to such facility, and shall report to the Legislature any instance in which such jurisdiction was not exercised.

CHAPTER 977

An act making an appropriation for the state park system.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978]

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

SECTION 1. Notwithstanding the provisions of Section 5098.2 of the Public Resources Code, the sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation for expenditure, without regard to fiscal years, for planning and for working drawings of a visitors' center, biking and hiking trails, and other facilities and extension of utilities at the San Pasqual Battlefield State Historic Park; provided, that such funds shall not be encumbered unless and until the Department of Parks and Recreation approves the lease of additional lands from the City of San Diego to the state for the state historic park.

CHAPTER 978

An act making an appropriation for the state park system.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Notwithstanding the provisions of Section 5098.2 of the Public Resources Code, the sum of fifty thousand dollars ($50,000) is hereby appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation for expenditure, without regard to fiscal years, for planning and preliminary site preparation for an interpretive center, museum, and related facilities in connection with the Poppy Preserve Project.

CHAPTER 979

An act making an appropriation for cooperative salmon and steelhead rearing facilities.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the Wildlife Restoration Fund to the Department of Fish and Game for the purpose of funding cooperative agreements for management and operation of rearing facilities for salmon and steelhead made pursuant to Article 6 (commencing with Section 1200) of Chapter 3 of Division 2 of the Fish and Game Code.

CHAPTER 980

An act to amend Section 8016 of the Business and Professions Code, relating to shorthand reporters.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 8016 of the Business and Professions Code is amended to read:

8016. No person shall engage in the practice of shorthand reporting as defined in this chapter, unless such person is the holder of a certificate in full force and effect issued by the board. This section does not apply to a salaried, full-time employee of a district attorney or of any department or agency of the state who is employed as a hearing reporter. Nothing in this chapter shall be construed to prohibit the employment of any shorthand reporter not holding a certificate until a certified shorthand reporter is available. Oral depositions may be reported by a person not certified under this chapter only upon stipulation on the record, at the commencement of the deposition, by the parties or their counsel present at the deposition.

CHAPTER 981

An act to add and repeal Section 72246.5 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Section 72246.5 is added to the Education Code, to read:

72246.5. The governing board of any community college district may require community college students to secure medical insurance coverage as a prerequisite to enrollment and participation in courses involving hazardous activities, and may require such students to sign a statement waiving all claims against the community college district or the State of California for any injury, accident, illness, or death arising out of ordinary negligence and caused by participation in community college courses defined as hazardous. A student shall not be precluded from enrolling and participating in any course if the cost to the student of obtaining medical insurance exceeds four dollars ($4) per semester.

The Board of Governors of the California Community Colleges shall adopt regulations within 90 days after the operative date of this section for the effective implementation of this section.

The Chancellor of the California Community Colleges shall conduct a study concerning the extent of problems incidental to obtaining student medical insurance coverage for hazardous courses, and assessing the impact of this section. The Chancellor shall, within one year of the effective date of this section, submit to the Legislature a report on the results of such study.

This section shall remain in effect only until one year after the effective date thereof, and as of such time is repealed, unless a later enacted statute, which is chaptered prior to such time deletes or extends the time of such repeal.

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 colleges may have the opportunity to continue to provide courses that involve hazardous activities and yet keep the taxpayers' expense for such courses at a minimum, commencing with the 1978–79 school year, it is essential that this act take effect immediately.

CHAPTER 982

An act to amend Sections 25915, 25921, and 25926 of, and to add Section 25921.1 to, the Public Resources Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Section 25915 of the Public Resources Code is amended to read:

25915. (a) "Approved testing lab" means any testing facility which is determined by rule and regulation of the commission to have adequate personnel, facilities, equipment, and expertise to carry out the testing of such systems. Testing of insulation material by the manufacturer in his own approved testing lab or in an approved independent testing lab under contract to the manufacturer may be utilized in the initial certification process and the continued maintenance of such certifications.

(b) "Insulation material" means any material placed within or contiguous to a wall, ceiling, or floor of a room or building, or contiguous to the surface of any appliance or its intake or outtake mechanism, for the purpose of reducing heat transfer and thus the electrical or gas energy requirements for heating or cooling the building or operating the appliance, or reducing adverse temperature fluctuations of the building, room, or appliance.

(c) "R-value" means a measure of thermal resistance of material or composite materials. "R-value" as used here is equal to the reciprocal of the conductance of a given material, or

$$\text{R-value} = \frac{1}{\text{conductance of the material}}$$

where the conductance of the material is: Btu (hour × square foot × Fahrenheit degree average temperature difference between two surfaces).

(d) "Quality assurance program" means a system of procedures employed at the place of manufacture of insulation material designed to assure that insulation material produced at that place continues to meet the standards established by the commission pursuant to this chapter. Such program shall include, without limitation, regular periodic testing by an approved testing lab.

SEC. 2. Section 25921 of the Public Resources Code is amended to read:

25921. One hundred and eighty days after the date of adoption of such standards and testing criteria insulation material may only be sold or installed in the state which has been certified by the manufacturer to have been tested in accordance with such standards and which bears a visible commission-approved statement by the manufacturer certifying that the insulation material meets such standards and has been tested and approved by an approved testing laboratory. Such testing criteria shall be designed to determine whether insulation materials have met or exceeded minimum established standards.

SEC. 3. Section 25921.1 is added to the Public Resources Code, to read:

25921.1. Within 180 days after the date of adoption of such standards, each manufacturer of insulation material shall develop and implement a quality assurance program. Each manufacturer shall keep a record of any testing performed pursuant to such program for a period of three years after it is performed.

SEC. 4. Section 25926 of the Public Resources Code is amended to read:

25926. After one hundred and eighty days following the adoption of these standards, the commission may monitor compliance with its standards by conducting periodic inspections with its own personnel, or by requiring inspections conducted by an approved independent third party laboratory, of manufacturers, distributors, or retailers of insulation material sold within the state in order to determine their compliance with this article. The commission may require those manufacturers, distributors, or retailers that are inspected and found not in compliance with this article, or any regulation implementing it, to pay such reasonable fees as are necessary to cover the costs of inspections and testing necessary to investigate and enforce compliance by those manufacturers, distributors, and retailers. The commission may also conduct, or contract with approved independent third party laboratories to conduct, independent performance tests of insulation materials sold in the state, in order to determine compliance with its adopted standards.

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 allow insulation material standards to be implemented this year for the protection of insulation material consumers, it is necessary that this act take effect immediately.

CHAPTER 983

An act to amend Section 2 of Chapter 297 of the Statutes of 1976, relating to genetic diseases, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978.]

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

SECTION 1. The Legislature finds and declares that the state's policy to detect sickle cell anemia as early as possible requires that the public screening of normal and asymptomatic individuals be carried out in a manner which provides the maximum positive benefits to such individuals, and limits as much as possible stigmatization and breaches of individual rights to privacy.

SEC. 2. The sum of one hundred seventy thousand three hundred fifty-five dollars ($170,355) is hereby appropriated from the General Fund to the State Department of Health Services for the purpose of implementing regulations adopted pursuant to the provisions of Section 325 of the Health and Safety Code.

SEC. 3. 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 erythematosus. The State Department of Health Services 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.

With regards to grants, the State Department of Health Services shall comply with advance payment schedules adopted by the committee, provided that the research is being performed at a campus site of the University of California. The payment schedule shall not be more frequently than quarterly, and payments shall be spread out equally over the term of the project. The first payment shall coincide with the actual commencement of the research project

and the department shall have at least a 30-day notice before the first payment shall be required to be made.

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 Department of Health Services may implement the sickle cell testing regulations at the earliest possible date and hire the personnel to monitor the program to assure fulfillment of the criteria, and in order that greater precautions for lupus erythematosus research are provided at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 984

An act to add Chapter 3.7 (commencing with Section 50540) to Part 2 of Division 31 of the Health and Safety Code, relating to mobilehome parks.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Chapter 3.7 (commencing with Section 50540) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 3.7. MOBILEHOME PARKS FOR SENIOR CITIZENS DEMONSTRATION PROJECT

50540. (a) The Legislature finds and declares that mobilehomes provide a significant source of home ownership for elderly persons of low income but that the costs of mobilehome park development and construction, the costs of financing such parks, and the low vacancy rates in existing mobilehome parks increasingly render mobilehome living unaffordable to those elderly most in need of affordable housing.

(b) The Legislature finds and declares that state government can play an important role in meeting the problems which confront elderly mobilehome park residents through financing the development of demonstration mobilehome parks which reduce the costs of mobilehome living. It is the intent of the Legislature, in enacting this chapter, to establish a demonstration program which provides state financing and is designed to reduce rental space charges, to allow mobilehome park residents to own their own mobilehome park, and to encourage and assist the efforts of private and public entities seeking to assist the development of mobilehome parks for elderly persons of low income.

50541. For the purposes of this chapter:

(a) "Mobilehome park" means a "mobilehome park" as defined by Section 18214.

(b) "Mobilehome" means any housing unit, construction of which is subject to the provisions of Part 2 (commencing with Section 18000) of Division 13.

(c) "Nonprofit corporation" means a corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation which is a "cooperative corporation," as defined by Section 12201 of the Corporations Code, and which is also a "stock cooperative," as defined by Section 11003.2 of the Business and Professions Code.

50542. The department shall select and make loans to one local governmental agency and one nonprofit corporation for the development and construction of mobilehome parks to be occupied by elderly persons of low income. Funds loaned pursuant to this section may be used for site acquisition and development, predevelopment costs provided for by Section 50515, and any other costs associated with the development of such mobilehome parks. Loan funds may be used for the construction of necessary support, recreational, and community facilities. Loan funds may not be used for the acquisition and installation of mobilehomes.

50543. The local governmental agency and nonprofit corporation receiving loans pursuant to Section 50542 shall repay to the General Fund the full amount of such loans over a period not to exceed 40 years and pursuant to a repayment and installment schedule established by the department. The loans shall not bear interest.

50544. With respect to the mobilehome park owned by a local governmental agency and financed pursuant to this chapter, the department shall fix and may alter, from time to time, a schedule of rents for mobilehome spaces as may be necessary to meet the repayment schedule established by the department pursuant to Section 50543 and to provide mobilehome park residents with affordable rents to the extent consistent with the maintenance of the financial integrity of the mobilehome park and with the requirements for repayment established by the department. The local governmental agency may not alter such rent without the prior permission of the department which shall be given only if such an alteration is necessary to avoid jeopardizing the financial integrity of the mobilehome park.

50545. With respect to the mobilehome park owned by a nonprofit corporation and financed pursuant to this chapter, the department shall establish the amount of the initial membership payment and shall fix the amount of monthly carrying charges in such a manner as may be necessary to meet the repayment schedule established by the department pursuant to Section 50543 and to provide the mobilehome park residents with affordable monthly carrying charges to the extent consistent with the maintenance of

the financial integrity of the mobilehome park and with the requirements for repayment established by the department. The nonprofit corporation may not alter monthly carrying charges without the prior permission of the department which shall be given only if such an alteration is necessary to avoid jeopardizing the financial integrity of the mobilehome park.

50546. Within two years of the completion of the mobilehome parks financed pursuant to this chapter and, in any event, no later than January 1, 1983, the department shall undertake an evaluation of such mobilehome parks to determine the feasibility and desirability of establishing a more comprehensive program of state financing for mobilehome park development. The department shall submit a report with its recommendations to the Legislature no later than March 1, 1983. Such report shall also include an examination of rental and carrying charges; the affordability of such charges to residents; the average income of residents and the distribution of income among such residents; data, if any, on delinquencies in repayment; and the costs of development and recommendations on ways in which such costs can be reduced.

50547. The department shall attempt to secure funding from an agency or agencies of the United States for the purposes of, and in an amount sufficient to, make the loans and defray costs of administering the loan program specified in this chapter. The department shall not undertake any other activities under this chapter until such time as, and to the extent that, federal funding is available therefor.

CHAPTER 985

An act to amend Section 7090.5 of the Business and Professions Code, relating to contractors.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 7090.5 of the Business and Professions Code is amended to read:

7090.5. In the event a licensee commits a fraudulent act which is a ground for disciplinary action under Section 7116 of this article, the correction of any condition resulting from such act shall not in and of itself preclude the registrar from taking disciplinary action under this article.

If the registrar finds a licensee has engaged in repeated acts which would be grounds for disciplinary action under this article, and if by correction of conditions resulting from those acts the licensee avoided disciplinary action as to each individual act, the correction

of those conditions shall not in and of itself preclude the registrar from taking disciplinary action under this article.

CHAPTER 986

An act relating to school buildings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978]

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

SECTION 1. The governing board of a school district which has leased facilities for a continuation high school under a lease which terminates in 1978 and which has not completed construction of new facilities, or been able to acquire other adequate facilities to lease or buy, may continue to use such facilities until October 1, 1979, or until suitable replacement facilities are obtained and such lease is terminated, whichever occurs first. During such period of extended use, 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 the Education Code.

This section shall apply only to a high school district which had an average daily attendance of less than 22,000 in the 1977–78 fiscal year and which, during the 1978 calendar year and prior to the effective date of this act, has been unable to obtain replacement facilities for use following expiration of the original term of the lease and will be unable, because of a decline in revenue for fiscal year 1978–79, to construct suitable replacement facilities prior to October 1, 1979.

This section shall remain in effect until October 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 new facilities can be located or constructed, thus avoiding harm to presently functioning successful programs and their student participants, it is necessary that this act take effect immediately.

CHAPTER 987

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

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978]

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

SECTION 1. Of the unencumbered balance of moneys reappropriated from the Bagley Conservation Fund by subdivision (d) of Section 1 of Chapter 1521 of the Statutes of 1974, the sum of one hundred seventy-five thousand dollars ($175,000), or so much thereof as may be necessary, is hereby reappropriated to the Department of Parks and Recreation for expenditure, without regard to fiscal years, for the acquisition of the following described lands adjacent to the Marshall Gold Discovery State Historic Park as an addition to the state historic park:

(a) Property identified by the El Dorado County Assessor as parcel #06-281-04, containing six acres, more or less.

(b) Property identified by the El Dorado County Assessor as parcel #06-281-03, containing 5.33 acres, more or less.

SEC. 2. None of the funds appropriated for acquisition of parklands by this act may be encumbered for 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.

SEC. 3. The acquisitions authorized by this act shall be made pursuant 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:

In order that the state may acquire and preserve lands of significant environmental and recreational value, it is necessary that this act take effect immediately.

CHAPTER 988

An act to amend the heading of Chapter 9 (commencing with Section 19600) of Part 11 of, and Section 19600 of, and to add Article 2.5 (commencing with Section 19670) to Chapter 9 of Part 11 of the Education Code, relating to unincorporated towns or villages.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978]

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

SECTION 1. The heading of Chapter 9 (commencing with Section 19600) of Part 11 of the Education Code is amended to read:

CHAPTER 9. LIBRARY DISTRICTS AND MUSEUMS IN UNINCORPORATED TOWNS AND VILLAGES

SEC. 2. Section 19600 of the Education Code is amended to read:

19600. Any unincorporated town or village of this state may establish, equip, and maintain a public library for the dissemination of knowledge of the arts, sciences, and general literature, in accordance with this chapter. Any unincorporated town or village of this state may also establish, equip, and maintain a public museum in accordance with this chapter.

SEC. 3. Article 2.5 (commencing with Section 19670) of Chapter 9 of Part 11 is added to the Education Code, to read:

Article 2.5. Museums

19670. The board of library trustees may vote to establish a public museum in the library district and to constitute the board of library trustees as the board of museum trustees for the purposes of managing such museum in accordance with the provisions of this chapter.

19671. The board of museum trustees shall meet at least once a month, at such time and place as it may fix by resolution.

19672. Special meetings may be called at any time by three trustees, by written notices served upon each member at least 12 hours before the time specified for the meeting.

19673. Three members constitute a quorum for the transaction of business.

19674. At its first meeting held after being constituted, the board shall organize by electing one of its number president, and another one of its number secretary. They shall serve as such for one year or until their successors are elected and qualified.

19675. The board shall cause a proper record of its proceedings to be kept, and at the first meeting of the board of trustees, it shall immediately cause to be made out and filed with the Department of

Education at Sacramento a certificate showing that the museum has been established, with the date thereof, the names of the trustees, and the officers of the board chosen for the current fiscal year.

19676. The board of museum trustees shall make and enforce all rules, regulations, and bylaws necessary for the administration, government, and protection of the museum under its management, and all property belonging to it.

19677. The board of museum trustees shall administer any trust declared or created for the museum, and receive by gift, devise, or bequest, and hold in trust or otherwise, property situated in this state or elsewhere, and where not otherwise provided, dispose of the property for the benefit of the museum.

Any funds from private sources which are used for the support of any public museum established pursuant to this chapter shall be deposited in a special fund in the county treasury of the county in which the public museum is located. Such fund shall be under the control of and administered by the board of museum trustees.

19678. The board of museum trustees shall prescribe the duties and powers of the curator, secretary, and other officers and employees of the museum, determine the number of and appoint all officers and employees, and fix their compensation. The officers and employees shall hold their offices and positions at the pleasure of the board.

19679. The board of museum trustees shall purchase necessary objects of artistic, scientific, or historical interest, and other personal property.

19680. The board of museum trustees shall also purchase such real property, and erect or rent and equip, such building or rooms, as in its judgment is necessary to properly carry out the provisions of this chapter.

19681. The board of museum trustees shall do and perform any and all other acts and things necessary or proper to carry out the provisions of this chapter.

19682. The board of museum trustees shall designate the hours during which the museum is open for the use of the public. All public museums established under this chapter shall be open for the use of the public during every day in the year except on legal holidays as may be determined by the board of museum trustees.

19683. In any library district formed under the provisions of this chapter, which maintains a public museum, in accordance with this chapter, the board of museum trustees shall furnish to the board of supervisors of the county in which the library district is situated, each and every year, on or before the first day of September, an estimate of the cost of any or all of the following:

(a) Leasing temporary quarters.

(b) Purchasing a suitable lot.

(c) Procuring plans and specifications and erecting a suitable building.

(d) Furnishing and equipping the building and fencing and

ornamenting the grounds, for the accommodation of the public museum.

(e) Conducting and maintaining the museum for the ensuing fiscal year.

19684. The title to all property acquired for the purposes of the museum, when not inconsistent with the terms of its acquisition, or not otherwise designated, vests in the district in which museums are, or are to be situated.

19685. It is the intent of the Legislature that public museums established pursuant to this chapter shall be funded primarily by private funds. The board of supervisors of the county in which such a public museum is located is authorized, but not required, to allocate county funds for the support of such museum.

CHAPTER 989

An act to amend Sections 33080, 33080.1, and 37912 of, and to add Section 33080.3 to, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 33080 of the Health and Safety Code is amended to read:

33080. Every agency shall file with the department, within six months of the end of the agency's fiscal year, a copy of the report required by Section 38080.1.

SEC. 1.5. Section 33080.1 of the Health and Safety Code is amended to read:

33080.1. Every redevelopment agency shall present a report to its legislative body within six months of the end of the agency's fiscal year. The report shall contain all of the following:

(a) An independent financial audit report for the previous fiscal year. "Audit report" means an examination of, and opinion on, the financial statements of the agency which present the results of the operations and financial position of the agency. Such audit shall be conducted in accordance with generally accepted auditing standards and the rules governing audit reports promulgated by the State Board of Accountancy. The audit report shall also include an opinion of the agency's compliance with laws, regulations and administrative requirements governing activities of the agency.

(b) A work program for the coming year, including goals.

(c) An examination of the previous year's achievements and a comparison of the achievements with the goals of the previous year's work program, and

(d) Recommendations for needed legislation to carry on properly a program of housing and community development in California.

SEC. 1.7. Section 33080.3 is added to the Health and Safety Code, to read:

33080.3. Notwithstanding the provisions of Section 33080 or 33080.1, that portion of the report required by subdivision (a) of Section 33080.1 for the 1977–78 fiscal year which includes an opinion of the agency's compliance with laws, regulations and administrative requirements governing activities of the agency, and that portion required by subsections (b), (c) and (d) of Section 33080.1 for the fiscal year 1977–78, shall be filed with the department and presented to the agency's legislative body on or before March 1, 1979.

SEC. 2. Section 37912 of the Health and Safety Code is amended to read:

37912. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (k), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Citizen participation" means action by the local agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(1) Holding a public meeting prior to the hearing by the legislative body considering selection of the area for designation.

(2) Consultation with an elected or appointed citizen advisory board of a proposed residential rehabilitation area. The members of the board shall include, to the greatest extent feasible, representatives of resident owners, nonresident owners, and resident tenants of both single-family and multiple-family residential structures who are not apartment managers, resident agents, or employees of property owners. The duties of the board are to develop a plan for public improvements and the rules and regulations for implementation of the proposed residential rehabilitation program.

(3) Dissemination, at least seven days prior to the original hearing, by mailing to property owners within the proposed residential rehabilitation area at the address shown on the latest assessment roll and by distribution to residents of such area by a manner determined appropriate by the local agency, of information relating to the time and location of the hearing, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program.

"Citizen participation" also includes any other means of citizen

involvement determined appropriate by the legislative body.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a planning or rehabilitation official designated by the legislative body. Public meetings shall be held at times and places convenient to residents and property owners.

(c) "Financing" means the lending of moneys or any other thing of value for the purpose of residential rehabilitation and includes refinancing of outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation or the purchase of structures rehabilitated by a redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(d) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(e) "Local agency" means any of the following:

(1) Any city, county, or city and county.

(2) Any redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.

(3) Any housing authority functioning pursuant to Part 2 (commencing with Section 34200) of this division.

(f) "Participating party" means any person, company, corporation, partnership, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions shall be eligible to be a participating party under the provision of this part.

(g) "Qualified mortgage lender" means a mortgage lender authorized by a local agency to do business with the agency and to aid in financing pursuant to this part on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing authorized by this part. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this part.

(h) "Residential rehabilitation" means the construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that such structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(1) Defective design and character of physical construction.

(2) Faulty interior arrangement and exterior spacing.

(3) Inadequate provision for ventilation, lighting, and sanitation.

(4) Obsolescence, deterioration, and dilapidation.

(i) "Residence" means real property improved with a residential structure and, in residential rehabilitation areas only, also includes real property improved with a commercial or mixed residential and commercial structure which, in the judgment of the local agency, is an integral part of a residential neighborhood. "Residence" also includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(j) "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of residences located in residential rehabilitation areas or rehabilitated pursuant to Section 37922.1, including any higher standards adopted by the local agency as part of its residential rehabilitation financing program.

(k) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the local agency from the financing of residential rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

(*l*) "Residential rehabilitation area" means the geographical area designated by the local agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this part.

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:

Housing and redevelopment requires broad participation and reporting to make it responsive and effective. Redevelopment agencies cannot meet the date for the completion of the audit procedure specified in existing law and tenant representatives are being excluded from participating in residential rehabilitation advisory boards. In order that broad participation and reporting in housing and redevelopment occurs, and that there are not violations of the law and exclusion from citizen participation, it is necessary that this act take effect immediately.

CHAPTER 990

An act to add and repeal Section 52178.5 of the Education Code, relating to bilingual education.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 52178.5 is added to the Education Code, to read:

52178.5. An extension of a waiver granted pursuant to Section 52178 shall be provided until July 1, 1980, for a teacher teaching in those languages where there is no preparation or examination available for obtaining a certificate of competence for bilingual-crosscultural instruction, as determined by the Commission for Teacher Preparation and Licensing.

No waivers shall be granted pursuant to this section for teachers teaching in classrooms utilizing the Spanish or the Cantonese dialect of the Chinese language.

This section shall remain operative only until July 1, 1980, and as of such date is repealed, unless a later enacted statute which is chaptered before July 1, 1980, deletes or extends such date.

CHAPTER 991

An act to amend Sections 1791, 1791.1, 1791.2, 1792, 1792.1, 1792.2, 1793, 1793.2, 1793.3, 1793.35, 1793.4, 1794, 1795.1, and 1795.5 of, to add Chapter 2 (commencing with Section 1796) to Title 1.7 of Part 4 of Division 3 of, the Civil Code, relating to consumer warranties.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 1791 of the Civil Code is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used or bought for use primarily for personal, family, or household purposes, except for clothing and consumables.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling such goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, association, or other legal entity which engages in any such business.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of

personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods.

(g) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(h) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for such goods.

(i) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling consumer goods to retail buyers.

(j) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (h).

(k) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(*l*) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product.

SEC. 2. Section 1791.1 of the Civil Code is amended to read:

1791.1. As used in this chapter.

(a) "Implied warranty of merchantability" or "implied warranty that goods are merchantable" means that the consumer goods meet each of the following:

(1) Pass without objection in the trade under the contract description.

(2) Are fit for the ordinary purposes for which such goods are used.

(3) Are adequately contained, packaged, and labeled

(4) Conform to the promises or affirmations of fact made on the container or label.

(b) "Implied warranty of fitness" means that when the retailer, distributor, or manufacturer has reason to know any particular purpose for which the consumer goods are required, and further, that the buyer is relying on the skill and judgment of the seller to select and furnish suitable goods, then there is an implied warranty that the goods shall be fit for such purpose

(c) The duration of the implied warranty of merchantability and where present the implied warranty of fitness shall be coextensive

in duration with an express warranty which accompanies the consumer goods, provided the duration of the express warranty is reasonable; but in no event shall such implied warranty have a duration of less than 60 days nor more than one year following the sale of new consumer goods to a retail buyer. Where no duration for an express warranty is stated with respect to consumer goods, or parts thereof, the duration of the implied warranty shall be the maximum period prescribed above.

(d) Any buyer of consumer goods injured by a breach of the implied warranty of merchantability and where applicable by a breach of the implied warranty of fitness has the remedies provided in Chapter 6 (commencing with Section 2601) and Chapter 7 (commencing with Section 2701) of Division 2 of the Commercial Code, and, in any action brought under such provisions, Section 1794 of this chapter shall apply.

SEC. 2.5. Section 1791.2 of the Civil Code is amended to read:

1791.2. (a) "Express warranty" means:

(1) A written statement arising out of a sale to the consumer of a consumer good pursuant to which the manufacturer, distributor, or retailer undertakes to preserve or maintain the utility or performance of the consumer good or provide compensation if there is a failure in utility or performance; or

(2) In the event of any sample or model, that the whole of the goods conforms to such sample or model.

(b) It is not necessary to the creation of an express warranty that formal words such as "warrant" or "guarantee" be used, but if such words are used then an express warranty is created. An affirmation merely of the value of the goods or a statement purporting to be merely an opinion or commendation of the goods does not create a warranty.

(c) Statements or representations such as expressions of general policy concerning customer satisfaction which are not subject to any limitation do not create an express warranty.

SEC. 3. Section 1792 of the Civil Code is amended to read:

1792 Unless disclaimed in the manner prescribed by this chapter, every sale of consumer goods that are sold at retail in this state shall be accompanied by the manufacturer's and the retail seller's implied warranty that the goods are merchantable. The retail seller shall have a right of indemnity against the manufacturer in the amount of any liability under this section.

SEC. 4. Section 1792.1 of the Civil Code is amended to read:

1792.1. Every sale of consumer goods that are sold at retail in this state by a manufacturer who has reason to know at the time of the retail sale that the goods are required for a particular purpose and that the buyer is relying on the manufacturer's skill or judgment to select or furnish suitable goods shall be accompanied by such manufacturer's implied warranty of fitness.

SEC. 5. Section 1792.2 of the Civil Code is amended to read:

1792.2. Every sale of consumer goods that are sold at retail in this

state by a retailer or distributor who has reason to know at the time of the retail sale that the goods are required for a particular purpose, and that the buyer is relying on the retailer's or distributor's skill or judgment to select or furnish suitable goods shall be accompanied by such retailer's or distributor's implied warranty that the goods are fit for that purpose.

SEC. 6. Section 1793 of the Civil Code is amended to read:

1793. Nothing in this chapter shall affect the right of the manufacturer, distributor, or retailer to make express warranties with respect to consumer goods. However, a manufacturer, distributor, or retailer, in transacting a sale in which express warranties are given, may not limit, modify, or disclaim the implied warranties guaranteed by this chapter to the sale of consumer goods.

SEC. 7. Section 1793.2 of the Civil Code is amended to read:

1793.2. (a) Every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty shall:

(1) Maintain in this state sufficient service and repair facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties.

As a means of complying with paragraph (1) of this subdivision, a manufacturer shall be permitted to enter into warranty service contracts with independent service and repair facilities. The warranty service contracts may provide for a fixed schedule of rates to be charged for warranty service or warranty repair work, however, the rates fixed by such contracts shall be in conformity with the requirements of subdivision (c) of Section 1793.3. The rates established pursuant to subdivision (c) of Section 1793.3, between the manufacturer and the independent service and repair facility, shall not preclude a good-faith discount which is reasonably related to reduced credit and general overhead cost factors arising from the manufacturer's payment of warranty charges direct to the independent service and repair facility. The warranty service contracts authorized by this paragraph shall not be executed to cover a period of time in excess of one year.

(2) In the event of a failure to comply with paragraph (1) of this subdivision, be subject to the provisions of Section 1793.5.

(b) Where such service and repair facilities are maintained in this state and service or repair of the goods is necessary because they do not conform with the applicable express warranties, service and repair shall be commenced within a reasonable time by the manufacturer or its representative in this state. Unless the buyer agrees in writing to the contrary, the goods must be serviced or repaired so as to conform to the applicable warranties within 30 days. Delay caused by conditions beyond the control of the manufacturer or his representatives shall serve to extend this 30-day requirement.

Where such delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

(c) It shall be the duty of the buyer to deliver nonconforming goods to the manufacturer's service and repair facility within this state, unless, due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, such delivery cannot reasonably be accomplished. Should the buyer be unable to effect return of nonconforming goods for any of the above reasons, he shall notify the manufacturer or its nearest service and repair facility within the state. Written notice of nonconformity to the manufacturer or its service and repair facility shall constitute return of the goods for purposes of this section. Upon receipt of such notice of nonconformity the manufacturer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service and repair, or arrange for transporting the goods to its service and repair facility. All reasonable costs of transporting the goods when, pursuant to the above, a buyer is unable to effect return shall be at the manufacturer's expense. The reasonable costs of transporting nonconforming goods after delivery to the service and repair facility until return of the goods to the buyer shall be at the manufacturer's expense.

(d) Should the manufacturer or its representative in this state be unable to service or repair the goods to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either replace the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

SEC. 8. Section 1793.3 of the Civil Code is amended to read:

1793.3. If the manufacturer of consumer goods sold in this state for which the manufacturer has made an express warranty does not provide service and repair facilities within this state pursuant to subdivision (a) of Section 1793.2, the buyer of such manufacturer's nonconforming goods may follow the course of action prescribed in either subdivision (a), (b), or (c), below, as follows:

(a) Return the nonconforming consumer goods to the retail seller thereof. The retail seller shall do one of the following:

(1) Service or repair the nonconforming goods to conform to the applicable warranty.

(2) Direct the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section.

(3) Replace the nonconforming goods with goods that are identical or reasonably equivalent to the warranted goods.

(4) Refund to the buyer the original purchase price less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(b) Return the nonconforming consumer goods to any retail seller of like goods of the same manufacturer within this state who may do

one of the following:

(1) Service or repair the nonconforming goods to conform to the applicable warranty.

(2) Direct the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section.

(3) Replace the nonconforming goods with goods that are identical or reasonably equivalent to the warranted goods.

(4) Refund to the buyer the original purchase price less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(c) Secure the services of an independent repair or service facility for the service or repair of the nonconforming consumer goods, when service or repair of the goods can be economically accomplished. In that event the manufacturer shall be liable to the buyer, or to the independent repair or service facility upon an assignment of the buyer's rights, for the actual and reasonable cost of service and repair, including any cost for parts and any reasonable cost of transporting the goods or parts, plus a reasonable profit. It shall be a rebuttable presumption affecting the burden of producing evidence that the reasonable cost of service or repair is an amount equal to that which is charged by the independent service dealer for like services or repairs rendered to service or repair customers who are not entitled to warranty protection. Any waiver of the liability of a manufacturer shall be void and unenforceable.

The course of action prescribed in this subdivision shall be available to the buyer only after the buyer has followed the course of action prescribed in either subdivision (a) or (b) and such course of action has not furnished the buyer with appropriate relief. In no event, shall the provisions of this subdivision be available to the buyer with regard to consumer goods with a wholesale price to the retailer of less than fifty dollars ($50). In no event shall the buyer be responsible or liable for service or repair costs charged by the independent repair or service facility which accepts service or repair of nonconforming consumer goods under this section. Such independent repair or service facility shall only be authorized to hold the manufacturer liable for such costs.

(d) A retail seller to which any nonconforming consumer good is returned pursuant to subdivision (a) or (b) shall have the option of providing service or repair itself or directing the buyer to a reasonably close independent repair or service facility willing to accept service or repair under this section. In the event the retail seller directs the buyer to an independent repair or service facility, the manufacturer shall be liable for the reasonable cost of repair services in the manner provided in subdivision (c).

(e) In the event a buyer is unable to return nonconforming goods to the retailer due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, the buyer shall give notice of the nonconformity to the retailer. Upon receipt of such notice of nonconformity the

retailer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service or repair, or arrange for transporting the goods to its place of business. The reasonable costs of transporting the goods shall be at the retailer's expense. The retailer shall be entitled to recover all such reasonable costs of transportation from the manufacturer pursuant to Section 1793.5. The reasonable costs of transporting nonconforming goods after delivery to the retailer until return of the goods to the buyer, when incurred by a retailer, shall be recoverable from the manufacturer pursuant to Section 1793.5. Written notice of nonconformity to the retailer shall constitute return of the goods for the purposes of subdivisions (a) and (b).

(f) The manufacturer of consumer goods with a wholesale price to the retailer of fifty dollars ($50) or more for which the manufacturer has made express warranties shall provide written notice to the buyer of the courses of action available to him under subdivision (a), (b), or (c).

SEC. 8.5. Section 1793.35 of the Civil Code is amended to read:

1793.35. (a) Where the retail sale of clothing or consumables is accompanied by an express warranty and such items do not conform with the terms of the express warranty, the buyer thereof may return the goods within 30 days of purchase or the period specified in the warranty, whichever is greater. The manufacturer may, in the express warranty, direct the purchaser to return nonconforming goods to a retail seller of like goods of the same manufacturer for replacement.

(b) When clothing or consumables are returned to a retail seller for the reason that they do not conform to an express warranty, the retailer shall replace the nonconforming goods where the manufacturer has directed replacement in the express warranty. In the event the manufacturer has not directed replacement in the express warranty, the retailer may replace the nonconforming goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer for the goods, at the option of the retailer. Costs of reimbursement or replacement are recoverable by a retailer from the manufacturer in the manner provided in Section 1793.5.

(c) Where the retail sale of draperies is not accompanied by an express warranty and the sale of such draperies is accompanied by a conspicuous writing disclaiming the retailer's implied warranty of merchantability on the fabric, the retailer's implied warranty of merchantability shall not apply to the fabric.

SEC. 9. Section 1793.4 of the Civil Code is amended to read:

1793.4. Where an option is exercised in favor of service and repair under Section 1793.3, such service and repair must be commenced within a reasonable time, and, unless the buyer agrees in writing to the contrary, goods conforming to the applicable express warranties shall be tendered within 30 days. Delay caused by conditions beyond the control of the retail seller or his representative shall serve to extend this 30-day requirement Where such a delay arises,

conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

SEC. 10. Section 1794 of the Civil Code is amended to read:

1794. Any buyer of consumer goods injured by a willful violation of the provisions of this chapter or a willful violation of the implied or express warranty or service contract may bring an action for the recovery of three times the amount of actual damages and other legal and equitable relief, and, if the buyer prevails in any action brought under this section, he or she may be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses (including attorney's fees based on actual time expended) determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action.

SEC. 11. Section 1795.1 of the Civil Code is amended to read:

1795.1. This chapter shall apply to any equipment or mechanical, electrical, or thermal component of a system designed to heat, cool, or otherwise condition air, but shall not apply to the system as a whole where such a system becomes a fixed part of a structure.

SEC. 12. Section 1795.5 of the Civil Code is amended to read:

1795.5. Notwithstanding the provisions of subdivision (a) of Section 1791 defining consumer goods to mean "new" goods, the obligation of a distributor or retail seller of used consumer goods shall be the same as that imposed on manufacturers under this chapter in a sale in which an express warranty is given, except:

(a) It shall be the obligation of the distributor or retail seller making express warranties with respect to used consumer goods (and not the original manufacturer, distributor, or retail seller making express warranties with respect to such goods when new) to maintain sufficient service and repair facilities within this state to carry out the terms of such express warranties.

(b) The provisions of Section 1793.5 shall not apply to the sale of used consumer goods sold in this state.

(c) The duration of the implied warranty of merchantability and where present the implied warranty of fitness with respect to used consumer goods sold in this state, where the sale is accompanied by an express warranty, shall be coextensive in duration with an express warranty which accompanies the consumer goods, provided the duration of the express warranty is reasonable, but in no event shall such implied warranties have a duration of less than 30 days nor more than three months following the sale of used consumer goods to a retail buyer Where no duration for an express warranty is stated with respect to such goods, or parts thereof, the duration of the implied warranties shall be the maximum period prescribed above.

(d) The obligation of the distributor or retail seller who makes express warranties with respect to used goods that are sold in this state, shall extend to the sale of all such used goods, regardless of when such goods may have been manufactured.

SEC. 13. Chapter 2 (commencing with Section 1796) is added to

Title 1.7 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 2. STANDARDS FOR WARRANTY WORK

1796. Any individual, partnership, corporation, association, or other legal relationship which engages in the business of installing new or used consumer goods, has a duty to the buyer to install them in a good and workmanlike manner.

1796.5. Any individual, partnership, corporation, association, or other legal relationship which engages in the business of providing service or repair to new or used consumer goods has a duty to the purchaser to perform those services in a good and workmanlike manner.

CHAPTER 992

An act to amend Section 45206.5 of the Education Code, relating to holidays.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 45206.5 of the Education Code is amended to read:

45206.5. Notwithstanding any other provision of law, if the governing board of a school district does not designate September 9 known as "Admission Day" as a paid holiday for classified employees pursuant to Section 37222, the school district shall provide a substitute holiday for such employee. Such substitute holiday shall be provided as specified in Section 45205.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

CHAPTER 993

An act to amend Section 1260 of the Civil Code, and to amend Section 690.3 of the Code of Civil Procedure, relating to exemptions from execution of judgments.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 1260 of the Civil Code is amended to read:

1260. Homesteads may be selected and claimed:

1. By any head of a family, of not exceeding forty thousand dollars ($40,000) in actual cash value, over and above all liens and encumbrances on the property at the time of any levy of execution thereon.

2. By any person 65 years of age or older, of not exceeding forty thousand dollars ($40,000) in actual cash value, over and above all liens and encumbrances on the property at the time of any levy of execution thereon.

3. By any other person, of not exceeding twenty-five thousand dollars ($25,000) in actual cash value, over and above all liens and encumbrances.

Any declaration of homestead which has been filed prior to January 1, 1977 shall be deemed to be amended on such date by increasing the value of any property selected and claimed to the value permitted by this section on such date to the extent that such increase does not impair or defeat the right of any creditor to execute upon the property which existed prior to such date.

SEC. 2. Section 690.3 of the Code of Civil Procedure is amended to read:

690.3. (a) One housetrailer, mobilehome, houseboat, boat, or other waterborne vessel in which the debtor, or the family of such debtor, actually resides, of a value not exceeding the following values:

(1) For any head of a family, of a value not exceeding forty thousand dollars ($40,000) in actual cash value, ever and above all liens and encumbrances on that housetrailer, mobilehome, houseboat, boat, or other waterborne vessel;

(2) For any person 65 years of age or older of a value not exceeding forty thousand dollars ($40,000) in actual cash value, over and above all liens and encumbrances on that housetrailer, mobilehome, houseboat, boat, or other waterborne vessel; and

(3) For any other person, of a value not exceeding twenty-five thousand dollars ($25,000) in actual cash value, over and above all liens and encumbrances on that housetrailer, mobilehome, houseboat, boat, or other waterborne vessel.

(b) The exemption provided by this section shall not apply if such debtor or the spouse of such debtor has an existing homestead as provided by Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code or has obtained a prior judicial determination that the dwelling house of the debtor or the family of the debtor is exempt from execution under Section 690.31.

CHAPTER 994

An act making an appropriation to the Department of Justice to pay the claim of Bonnie Jean Marsh, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 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 Motor Vehicle Account in the State Transportation Fund to the Department of Justice for the payment of the claim of Bonnie Jean Marsh against the State of California in the action entitled Bonnie Jean Marsh v. State of California, brought in the Superior Court in 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 settle an action against the state for wrongful death, thereby terminating a lengthy court procedure and ending a hardship to Bonnie Jean Marsh as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 995

An act to amend Sections 6011 and 6013 of, and to add Section 6013.4 to, the Business and Professions Code, relating to the State Bar.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 6011 of the Business and Professions Code is amended to read:

6011. The board consists of 22 members.

SEC. 2. Section 6013 of the Business and Professions Code is amended to read:

6013. The attorney membership of the board is composed of:

(a) One member from each of State Bar Districts 1, 2, 5, 6, 8 and 9.

(b) Two members from each of State Bar Districts 3 and 4.

(c) Five members from State Bar District 7.

(d) One member from the membership of the California Young

Lawyers Association appointed pursuant to Section 6013.4.

SEC. 3. Section 6013.4 is added to the Business and Professions Code, to read:

6013.4. Notwithstanding any other provision of law, one member of the board shall be elected by the board of directors of the California Young Lawyers Association, from the membership of that association.

Such member shall serve for a term of one year, commencing at the conclusion of the annual meeting next succeeding the election and is eligible for reelection. A vacancy shall be filled by election in the manner provided herein for the unexpired term.

CHAPTER 996

An act to amend Section 4548 of, and to add Section 4544.5 to, the Business and Professions Code, relating to psychiatric technicians, and making an appropriation therefor.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 4544.5 is added to the Business and Professions Code, to read:

4544.5. The board may establish a biennial renewal period.

SEC. 2. Section 4548 of the Business and Professions Code is amended to read:

4548. The amounts of the fees payable pursuant to this chapter shall be fixed by the board according to the following schedule:

(a) The application fee at no more than ten dollars ($10).

(b) The renewal fee at no more than twenty-five dollars ($25) nor less than two dollars ($2). In the event that the board establishes a biennial renewal fee pursuant to Section 4544.5, that fee shall not exceed fifty dollars ($50).

(c) The delinquency fee at no more than 50 percent of the renewal fee.

CHAPTER 997

An act to amend Sections 16000, 16021, 16070, 16075, 16251, 16377, 16430 and 16434 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 16000 of the Vehicle Code is amended to read:

16000. The driver of every motor vehicle which is in any manner involved in an accident originating from the operation of a motor vehicle on any street or highway which accident has resulted in damage to the property of any one person in excess of three hundred fifty dollars ($350) or in bodily injury or in the death of any person shall within 15 days after the accident, report the accident on a form approved by the department to the office of the department at Sacramento, subject to the provisions of this chapter. A report shall not be required in the event that the motor vehicle involved in the accident was owned or leased by or under the direction of the United States, this state, or any political subdivision of this state or municipality thereof.

SEC. 1.5. Section 16021 of the Vehicle Code is amended to read:

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

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

(b) An insured or obligee under a form of insurance or bond which complies with the requirements of this division and which covers the driver for the vehicle involved in the accident.

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

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

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

SEC. 2. Section 16070 of the Vehicle Code is amended to read:

16070. (a) Whenever a driver involved in an accident described in Section 16000 has failed to establish proof of financial responsibility pursuant to Section 16022, the department shall, if the accident has resulted in damage to the property of any one person in excess of three hundred fifty dollars ($350) or in bodily injury or in the death of any person, suspend the privilege of the driver or owner to drive a motor vehicle, including the driving privilege of a nonresident in this state. The suspension shall become effective not earlier than the 76th day after receipt of the first accident report described in Section 16000 by the department.

(b) The suspension provisions of this section shall not apply whenever evidence that the accident has resulted in damage to the property of any one person in excess of three hundred fifty dollars ($350) or in bodily injury or in the death of any person is not submitted to the department within sixty (60) days following the date of the accident.

SEC. 3. Section 16075 of the Vehicle Code is amended to read:

16075. (a) The suspension provisions of this article shall not apply to a driver or owner until 20 days after the department sends to the driver or owner notice of its intent to suspend his driving privilege and advises the driver or owner of his right to a hearing as hereinafter provided.

(b) The department shall conduct the hearing upon demand of the driver or owner, within 60 days of such demand, to determine the applicability of this chapter to such driver or owner, including a determination of whether:

(1) The accident has resulted in property damage in excess of three hundred fifty dollars ($350), or bodily injury, or death.

(2) The driver or owner has established that proof of financial responsibility, as required by Article 3 (commencing with Section 16050) of this chapter, was in effect at the time of the accident.

(c) The hearing provided for by this section shall be held in the county of residence of the person requesting the hearing. Such hearing shall be conducted pursuant to Article 3 (commencing with Section 14100) of Chapter 3 of Division 6.

SEC. 3.5. Section 16075 of the Vehicle Code is amended to read:

16075. (a) The suspension provisions of this article shall not apply to a driver or owner until 20 days after the department sends to the driver or owner notice of its intent to suspend his driving privilege and advises the driver or owner of his right to a hearing as hereinafter provided.

(b) The department shall conduct the hearing upon written demand of the driver or owner, within 60 days of such demand, to determine the applicability of this chapter to such driver or owner, including a determination of whether:

(1) The accident has resulted in property damage in excess of three hundred fifty dollars ($350), or bodily injury, or death.

(2) The driver or owner has established financial responsibility, as provided in Article 3 (commencing with Section 16050) of this chapter, was in effect at the time of the accident.

(c) The demand for the hearing shall be in writing. The application for hearing made by the affected person within 20 days of receiving notice of the department's action shall operate to stay the suspension by the department from the date of such demand until the hearing is completed and a decision has been made.

(d) The hearing provided for by this section shall be held in the county of residence of the person requesting the hearing. Such hearing shall be conducted pursuant to Article 3 (commencing with Section 14100) of Chapter 3 of Division 6.

SEC. 4. Section 16251 of the Vehicle Code is amended to read:

16251. As used in this chapter and Chapter 3 (commencing with Section 16430) of this division, "cause of action" means any cause of action for damage to property in excess of three hundred fifty dollars ($350) or for damage in any amount on account of bodily injury to or death of any person resulting from the operation by the defendant or any other person of any motor vehicle upon a highway, except a

cause of action based upon statutory liability by reason of signing the application of a minor for a driver's license.

SEC. 5. Section 16377 of the Vehicle Code is amended to read:

16377. Every judgment shall for the purposes of this chapter be deemed satisfied:

(a) When fifteen thousand dollars ($15,000) has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, which together total in excess of that amount, for personal injury to or death of one person as a result of any one accident.

(b) When, subject to the limit of fifteen thousand dollars ($15,000) as to one person, the sum of thirty thousand dollars ($30,000) has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, which together total in excess of that amount, for personal injury to or death of more than one person as a result of any one accident.

(c) When five thousand dollars ($5,000) has been credited, upon any judgment in excess of that amount, or upon all judgments, collectively, each of which is in excess of three hundred fifty dollars ($350), and which together total in excess of five thousand dollars ($5,000), for damage to property of others as a result of any one accident.

(d) When the judgment debtor or a person designated by him has deposited with the department a sum equal to the amount of the unsatisfied judgment for which the suspension action was taken and presents proof, satisfactory to the department, of inability to locate the judgment creditor.

SEC. 6. Section 16430 of the Vehicle Code is amended to read:

16430. Proof of ability to respond in damages when required by this code means proof of ability to respond in damages resulting from the ownership or operation of a motor vehicle and arising by reason of personal injury to, or death of, any one person, of at least fifteen thousand dollars ($15,000), and, subject to the limit of fifteen thousand dollars ($15,000) for each person injured or killed, of at least thirty thousand dollars ($30,000) for such injury to, or the death of, two or more persons in any one accident, and for damages to property (in excess of three hundred fifty dollars ($350)), of at least five thousand dollars ($5,000) resulting from any one accident. Proof of ability to respond in damages may be given in any manner authorized in this chapter.

SEC. 7. Section 16434 of the Vehicle Code is amended to read:

16434. Proof of ability to respond in damages may be given by the bond of a surety company duly authorized to do business within the state, or a bond of individual sureties each owning unencumbered real estate, approved by a judge of a court of record. The bond shall be conditioned for the payment of the amount specified in Section 16430, and shall provide for the entry of judgment on motion of the state in favor of any holder of any final judgment on account of damages to property over three hundred fifty dollars ($350) in

amount, or injury to any person caused by the operation of such person's motor vehicle, in the same manner as provided in Section 917.1 of the Code of Civil Procedure for the entry of judgment upon appeal bonds.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill No. 2799 are both chaptered and become effective January 1, 1979, both bills amend Section 16075 of the Vehicle Code, and this bill is chaptered after Assembly Bill No. 2799, that the amendments to Section 16075 proposed by both bills be given effect and incorporated in Section 16075 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and Assembly Bill No. 2799 are both chaptered and become effective January 1, 1979, both amend Section 16075, and this bill is chaptered after Assembly Bill No. 2799, in which case Section 3 of this act shall not become operative.

CHAPTER 998

An act to amend Sections 8081 and 8084 of the Education Code, relating to instruction in cosmetology.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 8081 of the Education Code is amended to read:

8081. After November 23, 1970, no programs, courses, classes, or instruction in cosmetology, as defined by Section 7321 of the Business and Professions Code, shall be initiated or expanded by any regional occupational center, high school, public community college, or campus of the California State University and Colleges unless and until a determination has been made, by the appropriate body pursuant to Section 8080, that a definite need exists for the initiation or expansion of such instruction and that existing private institutions offering the same or similar instruction are not adequately meeting that need.

SEC. 2. Section 8084 of the Education Code is amended to read:

8084. The appropriate body, as referred to in Section 8080, shall report its findings at a public meeting within 90 days from the date of being notified by a regional occupational center, high school, community college, or campus of the California State University and Colleges of its intent to initiate or expand its teaching of cosmetology

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CHAPTER 999

An act to amend Section 12702 of the Health and Safety Code, relating to fireworks.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 12702 of the Health and Safety Code is amended to read:

12702. Notwithstanding the provisions of Section 12700:

(a) Any person who violates the provisions of this part by selling, giving, or delivering any dangerous fireworks to any person under 18 years of age is guilty of a misdemeanor and upon a first conviction shall be punished as prescribed in Section 12700. Upon any second or subsequent conviction of such offense, such person shall be punished by the penalties of a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and by imprisonment in the county jail for one year. No such person shall be granted probation and the execution of the sentence imposed upon such person shall not be suspended by the court.

(b) Any person who violates the provisions of this part involving any dangerous fireworks item, as defined in Section 12505, or any combination of such dangerous fireworks items, having the total net weight of explosive material of 7,500 grains or more, is guilty of a public offense, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year, or by a fine of not more than five thousand dollars ($5,000), or by both such fine and imprisonment.

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 1000

An act to amend Section 345 of, and to repeal Article 2.3 (commencing with Section 281) of Chapter 2 of Part 1 of Division 1 of, the Health and Safety Code, and to amend Section 1 of Chapter 1507 of the Statutes of 1974, relating to health services.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Article 2.3 (commencing with Section 281) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code is repealed.

SEC. 2. Section 345 of the Health and Safety Code is amended to read:

345. Reimbursement under this article shall not be made for any services which are available to the recipient under any other private, state, or federal programs or under other contractual or legal entitlements, except for those instances where the State Department of Health Services determines that prolonged use of employer health insurance would jeopardize the recipient's employment. However, no provision in this article shall be construed as limiting in any way state participation in any federal governmental program for medical care of persons with genetically handicapping conditions.

SEC. 3. Section 1 of Chapter 1507 of the Statutes of 1974 is amended to read:

Section 1. The Legislature finds that there are at least 2,200 identified victims of the diseases of cystic fibrosis (100), hemophilia (1,600), and sickle cell disease (500) in this state, and that cystic fibrosis, hemophilia, and sickle cell disease are generally excluded from any private medical insurance coverage except in an employment situation under group coverage which is usually ended upon termination of employment, and that there is a need for a statewide program for the medical care of persons with cystic fibrosis, hemophilia, sickle cell disease, and other genetically handicapping conditions who are unable to pay for their necessary medical services, wholly or in part, or whose employment may be jeopardized by prolonged use of employer health insurance.

CHAPTER 1001

An act to amend Sections 25910 and 25913 of the Health and Safety Code, relating to asbestos.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 25910 of the Health and Safety Code, as amended by Chapter 303 of the Statutes of 1978, is amended to read:

25910. (a) Except as provided in subdivision (c), (d), or (e), 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) Except as provided in subdivision (c), (d), or (e), no person shall sell, transfer, purchase, or manufacture, including mix, compound, slurry, suspend, or in any other way prepare any substance containing any amount of asbestos which would, if sprayed in or upon a building or other structure during its construction, alteration, or repair, be regulated pursuant to subdivision (a).

(c) (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.

(d) (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.

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.

(e) (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.

(f) 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. Section 25913 of the Health and Safety Code is amended to read:

25913. (a) (1) The Division of Industrial Safety of the Department of Industrial Relations shall enforce this chapter with respect to the safety of employees as provided in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code.

(2) However, the Division of Industrial Safety shall be responsible for the enforcement of subdivision (b) of Section 25910 only with respect to the manufacture of the substances described there, only when workers are handling such substances, and only if the division or any employee or agent of the division becomes aware of such manufacture. Furthermore, in such cases, the division shall enforce subdivision (b) of Section 25910 by issuing an order prohibiting use or entry, pursuant to the procedure described in Sections 6325 to 6327, inclusive, of the Labor Code, regardless of whether there exists employee exposure, a dangerous condition, improper guarding, dangerous placement, or an imminent hazard, and at any hearing concerning the validity of such an order, no proof need be tendered

by the division concerning employee exposure, dangerous condition, improper guarding, dangerous placement, or imminent hazard.

(b) The State Department of Health Services shall have the responsibility for the administration and enforcement of this chapter with respect to its environmental and public health purposes and may commence and maintain all proper and necessary actions to enjoin activities constituting violations of this chapter or to compel the performance of any act specifically required of any person, officer, or board by this chapter with respect to the environmental and public health purposes of this chapter. The state department shall enforce the provisions of Section 25910 in any circumstances or facilities except as provided in subdivision (a) of this section, and, in such event, may notify the Division of Industrial Safety of any violations of such provisions within its jurisdiction.

SEC. 3. The provisions of Sections 1 and 2 of this act shall become operative on July 1, 1979.

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.

CHAPTER 1002

An act to amend Sections 9504 and 9511 of the Welfare and Institutions Code and to amend Section 12 of Chapter 1199 of the Statutes of 1977, relating to Nutrition and Volunteer Services Program for Senior Citizens, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 9504 of the Welfare and Institutions Code is amended to read:

9504. (a) Senior citizen volunteers may be utilized in any project facility to help provide meals or other activities to meet a variety of community service needs.

(b) Senior citizen volunteers utilized pursuant to this chapter shall not be employees of the grantee agency and shall serve without compensation, except as provided in subdivision (d), or other benefits, including workers' compensation benefits, which are afforded employees of the entity administering the project.

(c) Senior citizen volunteers utilized to help provide meals to senior citizens under this chapter shall not be subject to any requirements of law governing the licensing or certifying of kitchen help, except that minimum standards for such volunteers shall include health standards established by the county for food service workers.

(d) Senior citizen volunteers utilized to help provide meals for senior citizens may be provided expenses for transportation to and from their home to the place where they render their services or may have transportation in schoolbuses or other transportation made available to them by the entity for which they render services. In addition, such senior citizen volunteers shall receive a free meal for each meal which they help to provide.

(e) No entity administering a program which is a school or community college district may abolish any of its classified positions and utilize senior citizen volunteers, as authorized herein, in lieu of classified employees who are laid off as a result of the abolition of a position; nor may a district refuse to employ a person in a vacant classified position and use senior citizen volunteers in lieu thereof.

(f) It is the intent of the Legislature to encourage the use of senior citizen volunteers but not to permit displacement of classified or regular employees or to allow the use of senior citizen volunteers in lieu of normal employee requirements.

SEC. 2. Section 9511 of the Welfare and Institutions Code is amended to read:

9511. The department shall conduct an evaluation of each pilot project and submit a report to the Legislature and the Governor on or before July 1, 1980. The evaluation and report shall include, but not be limited to, the following areas of inquiry:

(a) A comparison of the meals component of the pilot project with the nutrition program currently administered by the department under the provisions of Title VII of the Older Americans Act of 1965, as amended, including the average cost per meal and the number of persons served.

(b) An examination of the impact of the volunteer service component both in terms of the individual and the agency receiving services.

SEC. 3. Section 12 of Chapter 1199 of the Statutes of 1977 is amended to read:

Sec. 12. (a) There is hereby appropriated from the General Fund to the Department of Aging, the sum of nine hundred thousand dollars ($900,000), without regard to fiscal year, for the purposes of carrying out the nutrition component established pursuant to Sections 9505, 9506, and subdivision (a) of 9507 of the Welfare and Institutions Code, as added by this act.

(b) There is hereby appropriated from the Transportation Planning and Research Account in the State Transportation Fund for allocation by the Secretary of Business and Transportation to the Department of Aging, the following sums for the following fiscal

years for the purposes of carrying out the transportation component established pursuant to subdivision (b) of Section 9507 of the Welfare and Institutions Code, as added by this act:

(1) For fiscal year 1977–78 ..... $25,000
(2) For fiscal year 1978–79 50,000
(3) For fiscal year 1979–80 50,000
(4) For fiscal year 1980–81 25,000

(c) Not more than 7 percent of the funds appropriated in any fiscal year may be used for administrative costs incurred 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:

In order to resolve technical problems which are impeding the implementation of the Nutrition and Volunteer Services Program for Senior Citizens, it is necessary for this act to take effect immediately.

CHAPTER 1003

An act to add Section 11743 to the Insurance Code, relating to insurance.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Section 11743 is added to the Insurance Code, to read:

11743. Any insurer adopting a change in the classifications of an employer which results in an increased premium shall notify in writing the employer, or where the insurance was transacted through an insurance agent or broker the insurer shall notify such agent or broker who shall notify in writing the employer, of the change and the reasons therefor. Any employer receiving such notice shall have the right to request reconsideration and appeal the reclassification pursuant to Section 11753.1. The notice required by this section shall inform the employer of his rights pursuant to Section 11753.1. No such notification shall be required when such change is as a result of a regulation adopted by the Department of Insurance or other action by or under the authority of the commissioner.

SEC. 2. Nothing in this act shall be construed to change the existing procedures whereby classifications are assigned to employers.

CHAPTER 1004

An act to amend Section 4144 of the Public Resources Code, relating to fire prevention and control.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Section 4144 of the Public Resources Code is amended to read:

4144. Notwithstanding the provisions of Section 4142, the director shall enter into a cooperative agreement with any county with a population of 130,000 or less, when any such county so requests, for the purpose of preventing and suppressing forest fires or other fires within the county, upon such terms and under such conditions as are mutually determined by the parties to be necessary or desirable to accomplish such purpose. Such cooperative agreement shall provide, in a reasonable manner, for the efficient utilization of necessary fire prevention and suppression related equipment, personnel, and buildings under the jurisdiction of the director located in the county during that period of the year commonly designated as the "nonfire season". Such equipment, personnel, and buildings shall be limited to those owned or leased by the state, or their replacements, and to such equipment, personnel, and buildings used during the fire season to protect state responsibility areas. Whenever the cooperative agreement provides for the employment of personnel during the "nonfire season" who would be in addition to the personnel required for the necessary operation and maintenance, during the "nonfire season," of equipment and buildings under the jurisdiction of the director, the full salaries and all benefits of such additional personnel shall be apportioned as costs to the county. The cooperative agreement shall also provide for a cost to the county and the state that reasonably reflects the cost apportionment between the county and the state pursuant to a cooperative agreement entered into by and between the director and the county on or before June 30, 1972, pursuant to Section 4142, except that the nonfire mission salary rates for state personnel shall not be included in determining such cost apportionment, or, if the county has not so entered into such prior cooperative agreement, the director shall use the cost apportionment figures available to him from any other county pursuant to this section. Any salary rates above the nonfire mission rate, including the difference between fire mission rate and nonfire mission rate total overtime pay at either regular or premium rate holiday pay, will be apportioned as costs to the county.

The director shall establish a three-year pilot program to implement the provisions of this section. Upon the completion of

such three-year pilot program, the department shall submit a report to the Legislature on the cost and effectiveness of the program.

These provisions are necessary because sparsely populated rural counties lack the sufficient tax base to provide the necessary firefighting resources for year-round fire protection, and it is the intent of the Legislature that, pursuant to this section, fire protection will be provided until such time as a county has an adequate tax base to support its own fire protection.

CHAPTER 1005

An act to amend Sections 3051, 3051a, 3052, 3068, 3071, 3071.3, 3071.5, 3072, 3073, and 3074 of, and to add Section 3072.2 to, the Civil Code, and to amend Section 22705 of, to add Sections 22705.1 and 22707 to, and to repeal Section 22707 of, the Vehicle Code, relating to vehicle liens, and making an appropriation therefor.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 3051 of the Civil Code is amended to read:

3051. Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor or skill, employed for the protection, improvement, safekeeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; a person who makes, alters, or repairs any article of personal property, at the request of the owner, or legal possessor of the property, has a lien on the same for his reasonable charges for the balance due for such work done and materials furnished, and may retain possession of the same until the charges are paid; and livery or boarding or feed stable or feed yard proprietors, and persons pasturing horses or stock, have a lien, dependent on possession, for their compensation in caring for, boarding, feeding, or pasturing such horses or stock; and foundry proprietors and persons conducting a foundry business, have a lien, dependent on possession, upon all patterns in their hands belonging to a customer, for the balance due them from such customers for foundry work; and plastic fabricators and persons conducting a plastic fabricating business, have a lien, dependent on possession, upon all patterns and molds in their hands belonging to a customer, for the balance due them from such customer for plastic fabrication work; and laundry proprietors and persons conducting a laundry business, and drycleaning establishment proprietors and persons conducting a drycleaning establishment, have a general lien, dependent on possession, upon all personal property in their hands

belonging to a customer, for the balance due them from such customer for laundry work, and for the balance due them from such customers for drycleaning work, but nothing in this section shall be construed to confer a lien in favor of a wholesale drycleaner on materials received from a drycleaning establishment proprietor or a person conducting a drycleaning establishment; and veterinary proprietors and veterinary surgeons shall have a lien dependent on possession, for their compensation in caring for, boarding, feeding, and medical treatment of animals.

This section shall have no application to any vessel as defined in Section 21 of the Harbors and Navigation Code or to any vehicle as defined in Section 670 of the Vehicle Code.

SEC. 2. Section 3051a of the Civil Code is amended to read:

3051a. That portion of any lien, as provided for in the next preceding section, in excess of three hundred dollars ($300) for any work, services, or care, or in excess of two hundred dollars ($200) for any safekeeping, rendered or performed at the request of any person other than the holder of the legal title, shall be invalid, unless prior to commencing any such work, service, care, or safekeeping, the person claiming such lien shall give actual notice in writing either by personal service or by registered letter addressed to the holder of the legal title to such property, if known.

SEC. 3. Section 3052 of the Civil Code is amended to read:

3052. If the person entitled to the lien provided in Section 3051 is not paid the amount due, and for which such lien is given, within 10 days after the same shall have become due, then such lienholder may proceed to sell such property, or so much thereof as may be necessary to satisfy such lien and costs of sale at public auction, and by giving at least 10 days' but not more than 20 days' previous notice of such sale by advertising in some newspaper published in the county in which such property is situated; or if there be no newspaper printed in such county, then by posting notice of sale in three of the most public places in the town and at the place where such property is to be sold, for 10 days previous to the date of the sale; provided, however, that within 20 days after such sale, the legal owner may redeem any such property so sold to satisfy such lien upon the payment of the amount thereof, all costs and expenses of such sale, together with interest on such sum at the rate of 12 percent per annum from the due date thereof or the date when the same were advanced until the repayment. The proceeds of the sale must be applied to the discharge of the lien and the cost of keeping and selling the property; the remainder, if any, must be paid over to the legal owner thereof.

SEC. 4. Section 3068 of the Civil Code is amended to read:

3068. (a) Every person has a lien dependent upon possession for the compensation to which he is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the storage, repair or safekeeping of, and for the rental of parking space for, any vehicle of a type subject to registration under

the Vehicle Code, subject to the limitations set forth in this chapter.

(b) That portion of the lien in excess of three hundred dollars ($300) for any work or services, or in excess of two hundred dollars ($200) for any storage safekeeping or rental of parking space or, if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3071 within 30 days after the commencement of the storage or safekeeping, three hundred dollars ($300) for any storage or safekeeping, rendered or performed at the request of any person other than the holder of the legal title, is invalid, unless prior to commencing any such work services, storage, safekeeping or rental of parking space the person claiming the lien gives actual notice in writing either by personal service or by registered letter addressed to the legal owner named in the registration certificate, and the consent of the holder of the legal title is obtained before any such work services, storage, safekeeping or rental of parking space are performed. If any portion of a lien includes charges for the care, storage or safekeeping of, or for the rental of parking space for, a vehicle for a period in excess of 60 days, the portion of the lien which accrued after the expiration of such period is invalid unless the provisions of Sections 10650 and 10652 of the Vehicle Code have been complied with by the holder of the lien.

SEC. 5. Section 3071 of the Civil Code is amended to read:

3071. (a) When a lienholder under Section 3068 is not paid the amount due, and for which the lien is given, within 10 days after the same becomes due, then the lienholder may proceed to conduct a sale under this chapter to satisfy the lien and costs of sale, if (1) an authorization to conduct a lien sale has been issued by the Department of Motor Vehicles pursuant to this section, (2) a judgment has been entered in favor of the lienholder on the claim which gives rise to the lien, or (3) the registered and legal owners of the vehicle have signed, after the lien has arisen, a release of any interest in the vehicle in the form prescribed by Section 3071.5.

(b) A lienholder may apply to the department for the issuance of an authorization to conduct a lien sale under Section 3072. The application shall be executed under penalty of perjury and shall include all of the following:

(1) A description of the vehicle including make, vehicle identification number, and license number and state issued For motorcycles, the engine number shall also be included.

(2) The names and addresses of the registered and legal owners of the vehicle, if ascertainable from registration certificates within the vehicle, and the names and addresses of any other persons who the lienholder knows or reasonably should know claim an interest in the vehicle.

(3) A statement of the amount of the lien and the facts concerning the claim which gives rise to the lien.

(4) A statement that the lienholder has no information or belief that there is a valid defense to the claim which gives rise to the lien.

(c) Upon receipt of an application which is made pursuant to

subdivision (a), the department shall send a notice and a copy of the application and a preaddressed return envelope by certified mail to the registered and legal owners at their addresses of record with the department and any other persons whose names and addresses are listed in the application. The notice shall include all of the following:

(1) A statement that an application has been made with the department for the issuance of an authorization to conduct a lien sale.

(2) A statement that (i) the person has a legal right to a hearing in court, (ii) if a hearing in court is desired, the enclosed declaration under penalty of perjury must be signed and returned, and (iii) if the declaration is signed and returned, the lienholder will be allowed to sell the vehicle only if he obtains a judgment in court or obtains a release from the registered and legal owners.

(3) A statement that (i) if the declaration is signed and returned, the lienholder must file an action in court, (ii) the registered and legal owners will be notified of the lawsuit, and (iii) the registered and legal owners may then appear to contest the claim of the lienholder.

(4) A statement that the department will issue the authorization to conduct a lien sale unless the person signs and returns, within 20 days after the date on which the notice was mailed, the enclosed declaration stating that the person desires to contest the claim which gives rise to the lien.

(5) A statement that the person shall be liable for costs if the lienholder brings an action and a judgment is entered in favor of the lienholder on the claim which gives rise to the lien.

(6) A declaration which may be executed by the person under penalty of perjury stating that he desires to contest the claim which gives rise to the lien and an address at which the person may be served in any action in court arising out of the lien.

(d) If the department receives a declaration described in paragraph (3) of subdivision (c) which is mailed within 20 days after the date upon which the notice described in subdivision (c) is mailed, it shall notify the lienholder that he may not conduct a lien sale unless (1) a judgment has been entered in his favor on the claim which gives rise to the lien or (2) the registered and legal owners of the vehicle have signed, after the lien has arisen, a release of any interest in the vehicle in the form prescribed by Section 3071.5. In any other case, the department shall issue an authorization to conduct a lien sale. Any lien under this chapter which arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished unless the lienholder files an action in court within 20 days after the lienholder receives a notice from the department under this subdivision.

(e) Upon the filing of an application, the department shall charge a fee which shall be established by the department in an amount equal to the actual costs of the department incurred in processing the application. The fee shall be recoverable as a cost by the lienholder

if a lien sale is conducted.

(f) Any lien under this chapter which arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished and no lien sale under Section 3072 shall be conducted unless (1) the lienholder applies for an authorization to conduct a lien sale under subdivision (b) within 10 days after the lien has arisen or (2) if no application is made under subdivision (b), an action in court is filed within 30 days after the lien has arisen. For the purposes of this subdivision, a lien shall be deemed to arise at the time a written statement of charges for completed work or services is presented to the registered owner.

(g) The form of the applications, notices, and declarations described in this section shall be prescribed by the department. The language used in the applications, notices, and declarations should be simple and nontechnical. The notice and declaration described in subdivision (c) shall be printed in both English and Spanish.

(h) The procedure described in this section shall not be applicable if the vehicle is a mobilehome as defined in Section 396 of the Vehicle Code. A lien sale of the mobilehome may be conducted only if a judgment has been entered in favor of the lienholder on the claim which gives rise to the lien or the registered and legal owners have signed, after the lien has arisen, a release of any interest in the mobilehome in the form prescribed by Section 3071.5.

SEC. 6. Section 3071.3 of the Civil Code is amended to read:

3071.3. (a) A person who holds a lien on a vehicle under Section 3068 and who declares under penalty of perjury that the value of the vehicle does not exceed two hundred dollars ($200), and who is not paid within 10 days after the amount becomes due, may proceed to sell the property, or so much thereof as may be necessary to satisfy the lien and costs of sale pursuant to Section 3073, if (1) the registered and legal owners, and any other person having an interest in the vehicle do not sign and return to the Department of Motor Vehicles a declaration of opposition stating a desire to contest the claim, or (2) a judgment has been entered in favor of the lienholder on the claim which gives rise to the lien, or (3) the registered and legal owners of the vehicle have signed, after the lien has arisen, a release of any interest in the vehicle on the form prescribed by Section 3071.5.

(b) A lienholder who intends to conduct a sale under Section 3073 shall send by certified mail, return receipt requested, a certificate of lien as specified in subdivision (c) and a notice that a lien sale may be conducted under Section 3073 to (1) the registered and legal owners at their addresses of record with the Department of Motor Vehicles and (2) any other person identified under paragraph (2) of subdivision (c) of this section Copies of the certificate and notice shall be sent concurrently by certified mail to the department.

(c) The certificate shall be executed under penalty of perjury and shall include all of the following

(1) A description of the vehicle including make, vehicle

identification number, and license number and state issued. For motorcycles, the engine number shall also be included.

(2) The names and addresses of the registered and legal owners of record, of any transferee under Section 5900 of the Vehicle Code, and of any other person who the lienholder knows or reasonably should know claims an interest in the vehicle.

(3) A statement of the amount of the lien and the facts concerning the claim which gives rise to the lien.

(4) A statement that the lienholder has no information or belief that there is a valid defense to the claim which gives rise to the lien.

(d) A lienholder shall send concurrently with the certificate and notice a form for declaring opposition and a return envelope preaddressed to the department, to the registered and legal owners and any other person identified under paragraph (2) of subdivision (c) who may have a claim of interest in the vehicle. This form shall include all of the following:

(1) A statement that (i) the person has a legal right to a hearing in court, and (ii) if a hearing in court is desired, the enclosed declaration under penalty of perjury must be signed and returned, and (iii) if the declaration is signed and returned, the lienholder will be allowed to sell the vehicle only if he obtains a judgment in court or obtains a release from the registered and legal owners.

(2) A statement that (i) if the declaration is signed and returned to the department, the lienholder must file an action in court, (ii) the person who contests the validity of the lien will be notified of the lawsuit, and (iii) such person may then appear to contest the claim of the lienholder.

(3) A statement that the lienholder will conduct a lien sale, as indicated in the notice of sale under Section 3073, unless the person signs and returns, within 20 days after the date on which the certificate and notice were mailed, the enclosed declaration stating that the person desires to contest the claim which gives rise to the lien.

(4) A statement that the person shall be liable for costs if the lienholder brings an action and a judgment is entered in favor of the lienholder on the claim which gives rise to the lien.

(5) A declaration of opposition which may be executed by the person under penalty of perjury stating that he desires to contest the claim which gives rise to the lien and an address at which the person may be served in any action in court arising out of the lien.

(e) If the department receives a declaration of opposition described in subdivision (d) which is mailed within 20 days after the date upon which the certificate and notice were mailed, the department shall notify the lienholder, within 10 days, that he may not conduct a lien sale unless (i) a judgment has been entered in his favor on the claim which gives rise to the lien or (ii) the registered and legal owners of the vehicle have signed, after the lien has arisen, a release of any interest in the vehicle in the form prescribed by Section 3071.5. If the lienholder is not notified by the department

within 36 days after mailing of the notice under subdivision (b) the lienholder may conduct a lien sale pursuant to Section 3073 and in compliance with the notice sent under subdivision (b). Any lien under this chapter which arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished unless the lienholder files an action in court within 20 days after the lienholder receives a notice from the department under this subdivision.

(f) The form of the notices, certificates, and declarations referred to in this section shall be prescribed by the department. The language used in the notices and declarations should be simple and nontechnical. The certificates, notices of lien sale under Section 3073 and declarations of opposition shall be printed in both English and Spanish.

(g) Any lien under this chapter which arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished and no lien sale under Section 3072 shall be conducted unless (1) the lienholder sends notice under this section within 10 days after the lien has arisen or (2) if this section is not used, an action in court is filed within 30 days after the lien has arisen. For the purposes of this subdivision, a lien shall be deemed to arise at the time a written statement of charges for completed work or services is presented to the registered owner.

(h) The procedure described in this section shall not be applicable if the vehicle is a mobilehome as defined in Section 396 of the Vehicle Code. A lien sale of the mobilehome may be conducted only if a judgment has been entered in favor of the lienholder on the claim which gives rise to the lien or the registered and legal owners have signed, after the lien has arisen, a release of any interest in the mobilehome on the form prescribed by Section 3071.5.

SEC. 7. Section 3071.5 of the Civil Code is amended to read:

3071.5. (a) A registered or legal owner of a vehicle in the possession of a person holding a lien under this chapter may release any interest in the vehicle after the lien has arisen. The release shall be dated when signed and a copy shall be given at the time the release is signed to the person releasing the interest.

(b) The release shall be in at least 12-point type and shall contain all of the following information in simple, nontechnical language:

(1) A description of the vehicle, including the year and make, the engine or vehicle identification number, and the license number, if available.

(2) The names and addresses of the registered and legal owners of record with the Department of Motor Vehicles, if available.

(3) A statement of the amount of the lien and the facts concerning the claim which gives rise to the lien.

(4) A statement that the person releasing the interest understands that (i) he has a legal right to a hearing in court prior to any sale of the vehicle to satisfy the lien and (ii) he is giving up the right to appear to contest the claim of the lienholder.

(5) A statement that (i) the person releasing the interest gives up any interest he may have in the vehicle and (ii) he is giving the lienholder permission to sell the vehicle.

(c) The release required by this section shall not be filed with the department in connection with any transfer of interest in a vehicle

SEC. 8. Section 3072 of the Civil Code is amended to read:

3072. Prior to any such sale the lienholder shall give at least 10 days' but not more than 20 days' notice of the sale by advertising for one issue in some newspaper of general circulation published in the county in which the property is situated. If there is no newspaper published in such county, notice shall be given by posting notice of sale in three of the most public places in the town and at the place where the property is to be sold, for 10 days previous to the date of the sale. Prior to the sale of any vehicle to satisfy any such lien, 20 days' notice by certified mail, return receipt requested, shall be given to the legal owner and to the registered owner of the vehicle, if registered in this state, as the same appear in the registration certificate, and also to the Department of Motor Vehicles by registered mail or certified mail whether or not the vehicle is registered in this state. All notices required by this chapter shall specify the make, the vehicle identification number, and license number, and state of issuance, and the date, time, and place of the sale. For motorcycles, the engine number shall be included.

SEC. 9. Section 3072.2 is added to the Civil Code, to read:

3072.2. The proceeds of all lien sales conducted pursuant to this chapter shall be disposed of as follows:

(a) To the discharge of the lien and actual costs of selling the property. The cost of selling shall be the actual cost, not to exceed fifty dollars ($50) for each vehicle.

(b) The balance, if any, shall be forwarded to the Department of Motor Vehicles within five days of a sale conducted pursuant to Section 3073, or within 25 days of a sale conducted pursuant to Section 3072, for payment to the legal owner of any unpaid obligation, whether or not a claim has been filed pursuant to subdivision (c) or for deposit in the Motor Vehicle Account.

(c) Any person claiming an interest in the vehicle may file a claim with the Department of Motor Vehicles for any portion of the funds from such lien sale which were forwarded to the department pursuant to subdivision (b).

Upon determination of the Department of Motor Vehicles that the claimant is entitled to an amount from the balance deposited with the department, the department shall pay the amount which in no case shall exceed the amount forwarded to the department pursuant to subdivision (b) in connection with the sale of the vehicle in which the claimant claims an interest. The department shall not honor any claim unless the claim has been filed within three years of the date such funds were forwarded to the department.

(d) Those funds in the Motor Vehicle Account which are received by the department pursuant to subdivision (b) are hereby

continuously appropriated for the purpose of paying claims pursuant to subdivision (c).

SEC. 10. Section 3073 of the Civil Code is amended to read:

3073. (a) With respect to abandoned vehicles only, within ten working days following the date of possession of a vehicle pursuant to Section 22705 of the Vehicle Code from the public agency, the lienholder shall make a request to the Department of Motor Vehicles for the names and addresses of all persons having an interest in the vehicle. The lienholder shall immediately, upon receipt of this information from the Department of Motor Vehicles, notify all persons pursuant to this section and Section 3071.3.

(b) For vehicle liens acquired other than pursuant to Section 22705 of the Vehicle Code, when the lienholder certifies under penalty of perjury that the value of the vehicle subject to the lien does not exceed two hundred dollars ($200), the lienholder may sell such vehicle at public sale, upon the giving of notice as provided in this section and Section 3071.3. The lienholder shall notify the legal owner and the registered owner by certified mail, return receipt requested, and the department by certified mail, or United States Post Office certificate of mailing, of the time and place of the sale. At least 10 days before the sale, the lienholder shall also post a notice of the sale in a conspicuous place on the premises where the vehicle is stored, and the business office of the lienholder giving the date and time of the sale and a description of the vehicle, including the make, vehicle identification number, and license number, and state of issuance For motorcycles the engine number shall also be included.

SEC. 11. Section 3074 of the Civil Code is amended to read:

3074. Within 20 days after the sale of any vehicle under the authority of Section 3071, the legal or registered owner may redeem such vehicle upon the payment of the amount thereof, all costs and expenses of such sale, together with interest on such sum at the rate of 12 percent per annum from the due date thereof or the date when the same were advanced until the repayment. This section shall not be applicable to vehicles sold under the authority of Section 3073.

SEC. 12. Section 22705 of the Vehicle Code is amended to read:

22705. If the vehicle is appraised at a value not exceeding two hundred dollars ($200), the public agency which removed the vehicle shall.

(a) Within 48 hours after appraisal notify the Department of Justice in Sacramento of the removal of such vehicle.

(b) Prepare a certificate containing a description of the vehicle (including the location of any license plates thereon), stating the appraisal value of the vehicle and that the vehicle will be sold to an automobile dismantler or a scrap metal processor, and indicating one of the following·

(1) A lienholder has submitted a statement under penalty of perjury to the public agency that the registered and legal owners and other persons having an interest in the vehicle did not sign and return within 20 days to the Department of Motor Vehicles a

declaration of opposition stating a desire to contest the claim which gives rise to the lien pursuant to Section 3071.3 of the Civil Code.

(2) The registered and legal owners have signed a release under penalty of perjury disclaiming any interest, which release shall be included with the certificate.

(3) The vehicle is in such condition that vehicle identification numbers are not available to determine owners of record with the department, in which event the vehicle may be disposed of.

(c) Upon completion of the certificate, execute and deliver a bill of sale free of any lien for fees and penalties due and payable to the department together with a copy of the certificate either to the lienholder, who shall endorse the bill of sale to a licensed automobile dismantler, or to the licensed automobile dismantler or the public agency for disposal, whichever has the vehicle in possession.

(d) Licensed dismantlers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees and penalties which would otherwise be due to the Department of Motor Vehicles, if a copy of the certificate forwarded to the Department of Motor Vehicles pursuant to this section is retained in the licensed dismantler's business record.

(e) A public agency may authorize by contract or franchise the removal, disposal, or removal and disposal, of such vehicles by other than a licensed automobile dismantler if it has first requested bids for removal, disposal, or removal and disposal, of such vehicles. Such franchise or contract shall be issued to or executed with the lowest responsible bidder. The bill of sale shall then be executed and delivered pursuant to subdivision (c) to the franchisee or contractor.

SEC. 13. Section 22705.1 is added to the Vehicle Code, to read:

22705.1. After acquiring possession of a vehicle under the provisions of Section 22705, the lienholder shall, within ten working days following the date of possession of a vehicle pursuant to Section 22705, make a request to the Department of Motor Vehicles for the names and addresses of all persons having an interest in the vehicle. The lienholder shall immediately, upon receipt of this information from the Department of Motor Vehicles, notify all persons pursuant to Sections 3071.3 and 3073 of the Civil Code.

SEC. 14. Section 22707 of the Vehicle Code is repealed.

SEC. 15. Section 22707 is added to the Vehicle Code, to read:

22707. The proceeds of a lien sale under this article shall be disposed of as follows:

(a) To discharge the lien and actual cost of selling the property. The cost of selling shall be the actual cost, not to exceed fifty dollars ($50) for each vehicle.

(b) The balance, if any, shall be forwarded to the Department of Motor Vehicles within five days of the sale for payment to the legal owner of any unpaid obligation, whether or not a claim has been filed pursuant to subdivision (c), or for deposit in the Motor Vehicle Account.

(c) Any person claiming an interest in the vehicle may file a claim

with the Department of Motor Vehicles for any portion of the funds from such lien sale which were forwarded to the department pursuant to subdivision (b).

Upon determination of the Department of Motor Vehicles that the claimant is entitled to an amount from the balance deposited with the department, the department shall pay the amount which in no case shall exceed the amount forwarded to the department pursuant to subdivision (b) in connection with the sale of the vehicle in which the claimant claims an interest. The department shall not honor any claim unless the claim has been filed within three years of the date such funds were forwarded to the department.

(d) Those funds in the Motor Vehicle Account which are received by the department pursuant to subdivision (b) are hereby continuously appropriated for the purpose of paying claims pursuant to subdivision (c).

CHAPTER 1006

An act to add Chapter 2.6 (commencing with Section 5410) to Division 5 of the Public Resources Code, relating to parks.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Chapter 2.6 (commencing with Section 5410) is added to Division 5 of the Public Resources Code, to read:

CHAPTER 2.6. PUBLIC PLAYGROUND EQUIPMENT

5410. The Legislature hereby finds and declares that playground equipment accessible to and usable by all persons regardless of physical condition is becoming increasingly available. The Legislature further finds and declares that it is a matter of statewide interest and concern that all public agencies providing playgrounds utilize such facilities to the maximum extent possible, and, where feasible, provide playground equipment usable by both able-bodied and physically disabled persons so as to integrate able-bodied and physically disabled persons within such playgrounds.

5411 All public agencies operating playgrounds, including state agencies, cities, counties, a city and county, school districts and other districts, shall, with respect to new playground equipment purchased on or after January 1, 1979, provide that a portion of the equipment within the playground is accessible and usable by all persons regardless of their physical condition whenever such equipment is available at a quality and cost which is comparable to the quality and cost of standard equipment.

SEC. 2. Nothing in this act is intended to reduce the obligation of any school district or other public agency to provide accessible and usable facilities for physically disabled persons as required by federal or state 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. The Legislature estimates that there will be no additional costs to local agencies because new playground equipment will be purchased pursuant to this act at no greater cost than would be the cost for the purchase of standard equipment.

CHAPTER 1007

An act to amend Section 68046 of, and to add Sections 66786.4 and 68046.5 to, the Government Code, and to amend Section 42652 of the Revenue and Taxation Code, relating to methane gas recovery

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978]

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

SECTION 1. The Legislature hereby finds and declares that:

(a) In view of the uncertain availability of domestic supplies of natural gas and California's increased reliance on imported sources of fossil fuels, it is the policy of the state to actively encourage the development of new domestic sources of natural gas or equivalent fuels, for use in California homes, commercial enterprises, and industries.

(b) During the natural decomposition of wastes, such as refuse and sewage sludge deposited at landfills, substantial quantities of gases, and especially methane gas, are produced having significant energy potential; however, much of this valuable methane gas is not now being productively used.

(c) Techniques are available to collect and treat such unused methane gas for use in heating, production of steam, and generation of electricity.

(d) Landfills will continue, at least in the short term, to be a major waste management technique and methane recovery at landfills should be encouraged where other resource and energy recovery opportunities are not available.

(e) The collection and treatment of landfills gas may also reduce the potential hazards of explosive gas migration and odor nuisance at landfills

SEC. 2. Section 66786.4 is added to the Government Code, to read:

66786.4. (a) It is the policy of the state and the intent of the

Legislature to encourage the recovery and utilization of methane gas produced during the natural decomposition of wastes at landfills in California, to the extent that such recovery and utilization is technologically and economically feasible and when other more productive resource and energy recovery options or opportunities are not available. It is further the policy of the state and the intent of the Legislature to encourage private sector participation in this effort.

(b) The State Solid Waste Management Board shall undertake a study regarding the feasibility of recovering methane gas from landfills. The feasibility study shall include, but not be limited to, an assessment of the available information on all of the following:

(1) The state of the art of methane recovery technology and the development of examples of demonstrated or experimental methane recovery systems.

(2) Landfill requirements necessary for effective methane recovery, including, but not limited to, landfill size, depth, venting, amount of water, and composition of waste.

(3) Methods for estimating the life of the gas resource at landfill sites and for determining gas production potential.

(4) Capital requirements for methane recovery technology and the impact of state assistance in funding.

(5) Institutional arrangements.

(6) Potential end uses for recovered methane, including the mixture of purified gas with natural gas, direct industrial applications of low BTU gas, electrical generation from raw gas, and conversion to methanol; a comparison of the energy value and costs of for each end use.

(7) Landfill sites in California which have significant potential for effective, economical methane recovery.

(8) The role of methane recovery in waste management and resource recovery programs; brief comparison of methane recovery with other energy and material recovery options as regards energy potential, environmental impacts, and capital costs.

(c) Based upon the findings of the feasibility study, the board shall develop a proposed program to implement maximum feasible recovery of methane gas at landfills in the state. The program shall include recommendations on each of the following subjects, indicating where action or financial support by the state is appropriate.

(1) The role of methane recovery in the resource recovery program adopted by the board pursuant to Section 66785, including priorities for funding.

(2) Appropriate roles for state and local government in implementing methane recovery at landfills and the role of the State Solid Waste Management Board in providing technical assistance to private and public entities undertaking methane recovery projects.

(3) Requirements for further data analysis.

(4) Demonstration projects.

(5) Sources of funding for methane recovery projects.

(6) Financial incentives necessary to facilitate private sector investment in methane recovery, including the possibility of investment tax credits, state assistance in funding, and Public Utilities Commission deregulation governing sales to multiple customers.

(7) Study of the feasibility of improving the design and engineering of future landfills to enhance methane recovery.

(8) Legislative and executive actions necessary to implement the program.

(d) The board shall submit the feasibility study and the recommendations for the program to implement maximum feasible recovery of methane at landfills to the Legislature and to the Governor on or before December 31, 1979.

SEC. 3. Section 68046 of the Government Code, as amended by Chapter 87 of the Statutes of 1978, 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 and for expenditure by the board pursuant to Section 68046.5 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. 4. Section 68046.5 is added to the Government Code, to read:

68046.5. Funds allocated pursuant to Section 68046 may also be used by the board to carry out the provisions of Section 66786.4, including, but not limited to, the encumbering of funds from the State Litter Control, Recycling, and Resource Recovery Fund, upon appropriation therefor by the Legislature, as specified in Section 42652 of the Revenue and Taxation Code. The board shall not, however, encumber more than seventy-five thousand dollars ($75,000) during the 1978–79 fiscal year. The Legislature finds and declares that such provisions promote and carry out the purposes set forth in Section 68002 and in this article.

SEC. 5. Section 42652 of the Revenue and Taxation Code, as added by Chapter 87 of the Statutes of 1978, is amended to read.

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; provided, such money shall not be expended for purposes of Section 66786.4 of the Government Code, and as provided in Section 68046.5 of the Government Code, without appropriation therefor by the Legislature.

SEC. 5.5. Section 42652 of the Revenue and Taxation Code, as added by Chapter 87 of the Statutes of 1978, is amended to read:

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; provided, such money shall not be expended for purposes of Article 8 (commencing with Section 32370) of Chapter 3 of Part 19 of the Education Code, and as provided in Section 68042 of the Government Code, without appropriation therefor by the Legislature, and provided further, such money shall not be expended for purposes of Section 66786.4 of the Government Code, and as provided in Section 68046.5 of the Government Code, without appropriation therefor by the Legislature.

SEC. 6. On or before March 1, 1979, the State Solid Waste Management Board shall consider and adopt official board policy concerning the board's recommendation to the Secretary of the Resources Agency regarding the eligibility of methane recovery projects for California Pollution Control Financing Authority funding, specifically considering the statutory and constitutional requirement that projects certified for such funding result in significant reduction in pollution.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill No. 2636 are both chaptered and become effective January 1, 1979, both bills amend Section 42652 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2636, that the amendments to Section 42652 proposed by both bills be given effect and incorporated in Section 42652 in the form set forth in Section 5.5 of this act. Therefore, Section 5.5 of this act shall become operative only if this bill and Assembly Bill No. 2636 are both chaptered and become effective January 1, 1979, both amend Section 42652, and this bill is chaptered after Assembly Bill No. 2636, in which case Section 5 of this act shall not become operative.

CHAPTER 1008

An act to add Chapter 7.5 (commencing with Section 25650) to Division 15 of the Public Resources Code, relating to energy, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Chapter 7.5 (commencing with Section 25650) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 7.5. COAL GASIFICATION

25650. This chapter shall be known and may be cited as the Coal Gasification Generation Act.

25651. (a) The Legislature hereby finds and declares that a reliable supply of energy is essential for rational and efficient business planning and activity, and for the maintenance of high levels of employment, production, and income for the people of the state, and that it is the responsibility of state government to ensure that energy is produced and distributed in a manner consistent with the protection of environmental quality and the general welfare.

(b) The Legislature further finds and declares that uncertainties in the supply and price of traditional fuels, and the increasing knowledge of the environmental hazards of existing conventional

technologies, have created an urgent need to develop, demonstrate, and commercialize new and advanced energy technologies, and that coal gasification shows near-term promise as a reliable source of energy.

(c) The Legislature further finds and declares that financial commitment by public agencies, public and private utilities, and private industry for the expeditious development of advanced coal gasification generation technologies depends upon credible and timely demonstrations of the feasibility, efficiency, environmental acceptability, and reliability of those technologies in units of commercial scale.

(d) The Legislature further finds and declares that timely demonstration, development, and commercialization of advanced energy technologies requires expanded authority for direct participation in energy development projects by state government, that there is a statewide need to expedite decisions on developing and financing such projects, that there is a need to establish and consolidate the state's responsibility for participation in such projects, and that all governmental action necessary for implementing this policy and intent be coordinated and expedited by state agencies to the maximum extent possible.

(e) The Legislature further finds that the methods for participation in energy projects provided by this division are in the public interest and serve a public purpose and will promote the health, welfare, and economic security of the citizens of the state.

25652. It is the purpose of this division to carry out and make effective the findings of the Legislature and to that end to aid industry, utilities, and public agencies within the state in providing and establishing coal gasification generation facilities which are needed to accomplish the purposes of this division.

25653. The commission shall evaluate coal gasification generation projects and the Business and Transportation Agency shall evaluate the economic benefits of such projects to the people of the State of California. The commission and the Business and Transportation Agency may call upon any agency, board, or department of the state government or the University of California for aid and assistance in the preparation of plans and specifications and in the development of this technology necessary to develop energy projects in the State of California.

25654. The commission is hereby authorized to negotiate, enter into contracts and participate in agreements with any public or private utility, public agency, private research institution or any other party, consistent with the purposes of this division, to support the construction of a coal gasification electric generation commercial determination project in California.

25655. Notwithstanding any other provisions of law, if a person proposes a coal gasification combined cycle demonstration plant for construction in California, no notice of intention shall be required, and the commission shall issue its final decision on the application,

as specified in Section 25523 within 12 months after the filing of the application for certification of such facility, or at such later time as is mutually agreed by the commission and the applicant.

Such facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. The provisions of Section 25524 shall not apply to any such powerplant and related facility or 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:

In order to allow for the expeditious development of advanced coal gasification generation technologies, it is necessary that this act take effect immediately.

CHAPTER 1009

An act to add Sections 25004.2 and 25134 to the Public Resources Code, and to amend Sections 216 and 218 of, and to add Section 218.5 to, the Public Utilities Code, relating to energy.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 25004.2 is added to the Public Resources Code, to read:

25004.2. The Legislature further finds that cogeneration technology is a potential energy resource and should be an important element of the state's energy supply mix. The Legislature further finds that cogeneration technology can assist meeting the state's energy needs while reducing the long-term use of conventional fuels, is readily available for immediate application, and reduces negative environmental impacts. The Legislature further finds that cogeneration technology is important with respect to the providing of a reliable and clean source of energy within the state and that cogeneration technology should receive immediate support and commitment from state government.

SEC. 2. Section 25134 is added to the Public Resources Code, to read:

25134. "Cogeneration technology" means the use for the generation of electricity of exhaust steam, waste steam, heat, or resultant energy from an industrial, commercial, or manufacturing plant or process, or the use of exhaust steam, waste steam, or heat from a thermal powerplant for an industrial, commercial, or manufacturing plant or process. For purposes of this division, the industrial, commercial, or manufacturing plant or process shall not

be considered a thermal powerplant or portion thereof. Cogeneration technology shall not include steam or heat developed solely for electrical power generation.

SEC. 3. Section 216 of the Public Utilities Code is amended to read:

216. (a) "Public utility" includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, warehouseman, and heat corporation, where the service is performed for or the commodity delivered to the public or any portion thereof.

(b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, warehouseman, or heat corporation performs a service or delivers a commodity to the public or any portion thereof for which any compensation or payment whatsoever is received, such common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, wharfinger, warehouseman, or heat corporation, is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(c) When any person or corporation performs any service or delivers any commodity to any person, private corporation, municipality or other political subdivision of the state, which in turn either directly or indirectly, mediately or immediately, performs such service or delivers such commodity to or for the public or some portion thereof, such person or corporation is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

(d) In no event shall ownership or operation of a facility which employs cogeneration technology be deemed to make a corporation or person a public utility, within the meaning of this section, solely because of the ownership or operation of such a cogeneration facility.

SEC. 4. Section 218 of the Public Utilities Code is amended to read:

218. "Electrical corporation" includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

"Electrical corporation" shall not include a corporation or person employing cogeneration technology solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical corporation or state or local public agency, but not for sale to others, unless such corporation or person is otherwise an electrical

corporation.

SEC. 5. Section 218.5 is added to the Public Utilities Code, to read:

218.5. "Cogeneration technology" means the use for the generation of electricity of exhaust steam, waste steam, heat, or resultant energy from an industrial, commercial, or manufacturing plant or process, or the use of exhaust steam, waste steam, or heat from a thermal powerplant for an industrial, commercial, or manufacturing plant or process. For purposes of this division, the industrial, commercial, or manufacturing plant or process shall not be considered a thermal powerplant or portion thereof. Cogeneration technology shall not include steam or heat developed solely for electrical power generation.

CHAPTER 1010

An act to amend Sections 25503 and 25524 of, to add Section 25134 to, and to add Section 25540.6 to, the Public Resources Code, to amend Section 218 of the Public Utilities Code, and to amend Section 6353 of the Revenue and Taxation Code, relating to energy.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Section 25134 is added to the Public Resources Code, to read:

25134. "Cogeneration technology" means the use for the generation of electricity of exhaust steam, waste steam, heat, or resultant energy from an industrial, commercial, or manufacturing plant or process, or the use of exhaust steam, waste steam, or heat from a thermal powerplant for an industrial, commercial, or manufacturing plant or process. For purposes of this division, the industrial, commercial, or manufacturing plant or process shall not be considered a thermal powerplant or portion thereof. Cogeneration technology shall not include steam or heat developed solely for electrical power generation.

SEC. 2. Section 25503 of the Public Resources Code is amended to read:

25503. Each notice of intention to file an application shall contain at least three alternative sites and related facilities, at least one of which shall not be located in whole or in part in the coastal zone. In addition, the alternative sites and related electrical facilities may be proposed from an inventory of sites which have previously been approved by the commission in a notice of intent or may be proposed from sites previously examined.

SEC. 3. Section 25524 of the Public Resources Code is amended

to read:

25524 The commission shall not certify any facility contained in the application, unless its findings with respect to subdivision (f) of Section 25523 are in the affirmative.

SEC. 4. Section 25540.6 is added to the Public Resources Code, to read:

25540.6. Notwithstanding any other provisions of law, if a person proposes any of the following, no notice of intention shall be required, and the commission shall issue its final decision on the application, as specified in Section 25523, within 12 months after the filing of the application for certification of such powerplant and related facility or facilities, or at such later time as is mutually agreed by the commission and the applicant:

(a) A thermal powerplant which will employ cogeneration technology. Such facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity.

(b) A modification of an existing facility.

(c) A thermal powerplant which it is only technologically or economically feasible to site at or near the energy source.

(d) A thermal powerplant with a generating capacity of up to 100 megawatts.

(e) A thermal powerplant designed to develop or demonstrate technologies which have not previously been built or operated on a commercial scale. Such research, development, or commercial demonstration project may include, but not be limited to, use of renewable or alternative fuels, improvements in energy conversion efficiency, or use of advanced pollution control systems. Such facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. The provisions of Section 25524 shall not apply to any such powerplant and related facility or facilities.

SEC. 5. Section 218 of the Public Utilities Code is amended to read:

218. "Electrical corporation" includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

Electrical corporation shall not include a corporation or person employing cogeneration technology solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical corporation or state or local public agency, but not for sale to others, unless such corporation or person is otherwise an electrical corporation.

SEC. 6. Section 6353 of the Revenue and Taxation Code is amended to read:

6353. There are exempted from the taxes imposed by this part the gross receipts from the sales, furnishing, or service of and the storage, use, or other consumption in this state of gas, electricity, and water when delivered to consumers through mains, lines, or pipes,

and water when sold to an individual in bulk quantities of 50 gallons or more for general household use in his residence if the residence is located in an area not serviced by mains, lines or pipes, and of exhaust steam, waste steam, heat, or resultant energy, produced in connection with cogeneration technology, as defined in Section 25134 of the Public Resources Code.

CHAPTER 1011

An act to amend Sections 54309.1, 54310, 66786, 68040, 68041, and 68042 of, and to add Sections 6579.5, 54307.3, 66780.8, 66786.1, 66786.2, and 66786.3 to, the Government Code, and to amend Section 44532.5 of the Health and Safety Code, relating to solid waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Section 6579.5 is added to the Government Code, to read:

6579.5. In addition to other powers, any agency, commission, or board provided for by a joint powers agreement entered into pursuant to Article 1 (commencing with Section 6500) of this chapter, if such entity has the power to acquire, construct, maintain, or operate systems, plants, buildings, works, or other facilities or property for the purposes of disposal, treatment, or conversion to energy and reusable materials of solid waste, may issue revenue bonds pursuant to the Revenue Bond Law of 1941, Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5, to pay the cost and expenses of acquiring, constructing, improving, and financing a project for any and all such purposes.

Upon adopting the resolution referred to in Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5, the entity shall implement the resolution by conducting an election in its own territory as provided in Section 54307.3. The proposition authorizing the bonds shall be deemed adopted if it receives the affirmative vote of a majority of all the voters voting on the proposition within the entity.

SEC. 2. Section 54307.3 is added to the Government Code, to read:

54307.3. "Local agency" also means any entity or agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of acquiring, constructing, maintaining, or operating systems, plants, buildings, works or other facilities or property for the purposes of disposal, treatment, or

conversion to energy and reusable materials of solid waste. Any proposition submitted to an election held within such local agency 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 an election shall be held within the combined territory of all local agencies which, pursuant to such Article 1, have jointly created such entity or agency.

SEC. 3. Section 54309.1 of the Government Code is amended to read:

54309.1. "Enterprise" includes, but is not limited to, all parts of the enterprise, all appurtenances to it, and:

(a) Lands, easements, rights in land, water rights, contract rights, and franchises;

(b) Approaches, dams, reservoirs, trunk, connecting, and other water mains, filtration works, pumping stations, water supply, storage, and distribution facilities and equipment;

(c) Garbage trucks, equipment, dumps, garbage disposal plants, and incinerators or other disposal facilities, including facilities to sort and prepare components of solid waste for sale and facilities to convert solid waste to energy and reusable materials;

(d) Sewage treatment plants, sewage disposal plants, intercepting and collecting sewers, outfall sewers, trunk, connecting, and other sewer mains;

(e) The franchises or licenses to operate a ferry or ferry system, all boats and vessels, all land and interest in land, all slips, wharves, piers, landing places, approaches, and all facilities and equipment used in the maintenance and operation of a ferry or ferry system, or harbor, including small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities;

(f) Ambulances, both inpatient and outpatient facilities, laboratories, pharmacies, surgical instruments, and equipment of such nature as may be reasonably necessary for the treatment of patients; and

(g) All buildings, structures, improvements, equipment, ditches, canals, and facilities whatsoever appurtenant or relating to the enterprise.

SEC. 4. Section 54310 of the Government Code is amended to read:

54310. "Enterprise" does not include, and this chapter does not authorize a local agency to borrow money and issue bonds for, systems, plants, works, or undertakings for:

(a) The distribution of electric energy for lighting, heating, and power for public or private uses.

(b) The generation, production, transmission, and distribution of gas for public or private uses.

These exclusions shall not apply to systems, plants, works, or undertakings which result in conversion to energy and reusable materials of solid waste as defined in Section 66719.

SEC. 5. Section 66780.8 is added to the Government Code, to

read:

66780.8. (a) Before implementation of a project selected by the board pursuant to Section 66786, each county which is the location for such a project shall have amended the county solid waste management plan to include the project, to define the project's waste sources, and to be in accordance with the state policy regarding solid waste management plans. If the waste sources of any project are located in one or more counties, the counties concerned shall define them cooperatively by amendment to the respective county solid waste management plans using, if necessary, a joint powers agreement or other formal and enforceable method.

(b) In defining the waste sources for a project, the county or counties involved shall ensure that, given current and reasonably anticipated source separation, recycling, and waste reduction efforts, the waste sources will furnish more than sufficient quantities of waste to maintain the project's economic feasibility for the life of the bonded indebtedness of the project. In any event, the determination of the waste sources shall be subject to the board's approval and the board shall have the right at any time to require an adequate identification of the project's waste sources in the county solid waste management plan.

(c) All waste generated by the waste sources, identified and defined pursuant to subdivisions (a) and (b), shall be specifically committed as necessary to the project, for the life of the bonded indebtedness of the project or until such time as the project permanently ceases to operate, whichever occurs first.

SEC. 6. Section 66786 of the Government Code is amended to read:

66786. The Legislature finds and declares that effective solid waste management can aid in the development of alternative sources of energy through the conversion of solid waste material into energy, synthetic fuels, and reusable materials. It is the policy of the state and the intent of the Legislature that a well-coordinated governmental effort be directed toward achieving an efficient process for the conversion of solid wastes into energy, synthetic fuels, and reusable materials. Such policy is specifically designed to encourage the dual objectives of materials recovery and the development of supplemental energy resources. Not later than July 1, 1977, and after consultation with interested cities and counties, the State Energy Resources Conservation and Development Commission, the State Air Resources Board, and the State Water Resources Control Board, the board shall select one or more sites that are suitable for the establishment of facilities for the conversion of solid waste into energy, synthetic fuels, or reusable materials. This selection shall be predicated upon information that shows the feasibility of the particular process based upon availability of markets, project economics, impact of any such facility on local employment, local needs for new energy sources, conformance with local land use planning, and a guaranteed volume of waste or

feedstock.

The State Energy Resources Conservation and Development Commission and the California Pollution Control Financing Authority shall assist the board in identifying appropriate sources of funding and developing a plan for financing the facilities. The board shall submit the plan and its recommendations to the Legislature not later than December 31, 1977.

The board shall consult with the State Air Resources Board, State Water Resources Control Board, and State Energy Resources Conservation and Development Commission, and shall cause specifications for the construction and operation of the solid waste conversion facilities to be prepared. The board may call upon any other commission, board, department, or agency of the state or upon any agency of local government for assistance in selection of the site or sites, preparation of plans, and development of specifications.

The board shall enter into one or more agreements to facilitate the construction and operation of solid waste conversion facilities with selected cities, counties, or private entities, or with any other agencies having jurisdiction over the site or sites selected for such facilities. However, the board shall not enter into any agreement for the construction or operation of any facility the financing of which requires further action of the Legislature until the Legislature has so acted.

Any such agreement shall provide that the construction and operation of any such facilities shall be done in accordance with specifications approved by the board and that the facilities shall be operational within a period of time as determined by the board.

SEC. 7. Section 66786.1 is added to the Government Code, to read:

66786.1. (a) Funds appropriated to the board for the purpose of financing projects selected pursuant to Section 66786 for the conversion of solid waste to energy shall be disbursed as grants to the project proponents for some or all of the following preconstruction activities:

(1) Technical and economic feasibility studies and environmental impact reports.

(2) Pilot tests of air and water pollution control methods and equipment to meet California standards conducted in cooperation with the State Air Resources Board and the State Water Resources Control Board.

(3) Construction designs and specifications.

(4) Construction cost estimates and implementation schedules.

(5) Facility operation specifications and annual operation and maintenance cost estimates.

(6) Plans for private or public financing or joint private and public financing of the selected projects.

(b) The project proponents shall submit detailed work programs, schedules, estimates, and such other pertinent information as may be required by the board before a grant may be made.

(c) Project proponents may be awarded grants as reimbursement for moneys previously expended for project-related activities if such moneys were not originally grants of state or federal funds.

(d) As a condition to making any grant, the board shall require project proponents to provide matching funds in a reasonable amount determined by the board.

SEC. 8. Section 66786.2 is added to the Government Code, to read:

66786.2. The board shall establish criteria for the selection of projects to be financed pursuant to Section 66786.1. The criteria shall provide for an assessment of the feasibility of each project and its relationship to the other projects selected pursuant to Section 66786 and for a determination of the availability of waste sources that are to be committed to each project, as provided in subdivisions (b) and (c) of Section 66780.7. In addition, the criteria shall recognize that it is the intent of the Legislature that the board select and provide substantial support for at least one project that will demonstrate the feasibility of such projects statewide and their suitability as an alternative to landfill.

SEC. 9. Section 66786.3 is added to the Government Code, to read:

66786.3. The board shall submit an annual report, together with recommendations for legislation, on the status of the projects and their financing to the Legislature commencing on April 1, 1979, and annually thereafter.

SEC. 10. Section 68040 of the Government Code is amended to read:

68040. Except as otherwise provided by law, all money deposited in the State Litter Control, Recycling, and Resource Recovery Fund shall be available for the purposes set forth in this article.

SEC. 11. Section 68041 of the Government Code is amended to read:

68041. A public agency or private entity eligible to receive a grant or loan pursuant to this article may make an application for such grant to the board in such form as the board shall require.

SEC. 12. Section 68042 of the Government Code is amended to read:

68042. (a) The board shall disburse funds from the State Litter Control, Recycling, and Resource Recovery Fund to eligible public agencies or private entities that have submitted applications for such funds when the board determines that the plan submitted by any such agency or entity is qualified and suitable for the purposes of the program.

(b) The board shall adopt guidelines for the determination of eligibility of public agencies and private entities and the determination of qualification and suitability of plans submitted by such agencies or entities. Such guidelines shall be consistent with the policy and provisions of this chapter.

(c) It is the intent of the Legislature that the money in the fund

be substantially expended each year, with the total commitments to each of the various classes of expenditure in this article adhering closely to the specified percentages. Any money in the fund not encumbered in the year received shall be retained in the class of expenditure to which it was allocated and shall be available for encumbrance in the next year for that same purpose.

(d) It is the intent of the Legislature that funds made available by this chapter shall be used to supplement and not replace existing funding for the same purposes.

SEC. 12.5. Section 68042 of the Government Code, as amended by Section 12 of this act, is amended to read:

68042. (a) The board shall disburse funds from the State Litter Control, Recycling, and Resource Recovery Fund to eligible public agencies or private entities that have submitted applications for such funds when the board determines that the plan submitted by any such agency or entity is qualified and suitable for the purposes of the program.

(b) The board shall adopt guidelines for the determination of eligibility of public agencies and private entities and the determination of qualification and suitability of plans submitted by such agencies or entities. Such guidelines shall be consistent with the policy and provisions of this chapter.

(c) It is the intent of the Legislature that the money in the fund be substantially expended each year, with the total commitments to each of the various classes of expenditure in this article adhering closely to the specified percentages. Any money in the fund not encumbered in the year received shall be retained in the class of expenditure to which it was allocated and shall be available for encumbrance in the next year for that same purpose.

(d) It is the intent of the Legislature that funds made available by this chapter shall be used to supplement and not replace existing funding for the same purposes.

(e) Notwithstanding any other provisions of this section, the board may also carry out the provisions of Article 8 (commencing with Section 32370) of Chapter 3 of Part 19 of the Education Code, including, but not limited to, the encumbering of funds from the State Litter Control, Recycling, and Resource Recovery Fund upon appropriation therefor by the Legislature as specified in Section 42652 of the Revenue and Taxation Code. The board shall not, however, encumber more than two hundred thousand dollars ($200,000) during the 1978–79 fiscal year. The Legislature finds and declares that such provisions promote and carry out the purposes set forth in Section 68002 and in this article.

SEC. 13. Section 44532.5 of the Health and Safety Code is amended to read:

44532.5. To the extent that funding has been separately authorized for financing solid waste disposal projects pursuant to Section 44541.5, the authority shall, throughout each calendar quarter, accept separate applications for such projects. Eligible

applicants shall be limited to participating parties who propose projects which have been certified as provided in Section 44531.5.

After the close of each calendar quarter, the authority shall determine, by resolution, those projects which it proposes to finance pursuant to this section. The following projects shall be considered for financing:

(a) Projects utilizing recognized resource recovery or energy conversion processes.

(b) Projects utilizing new technologies or processes for resource recovery or energy conversion.

Such projects may include elements which provide for new refuse removal vehicles, transfer stations, resource recovery or energy conversion plants, source separation, or any solid waste disposal facilities involved in resource recovery systems. "Solid waste disposal facilities" means any property, or portion thereof, used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste in resource recovery systems. The authority shall ensure, by seeking comment from the State Solid Waste Management Board prior to approving a project, that the project's financing conforms to any requirements relating to funds granted by the board for the project.

Projects approved for financing pursuant to this section shall not exceed fifty million dollars ($50,000,000) in the aggregate for each calendar quarter. However, the authority may, at the beginning of any calendar quarter, determine by resolution to finance a lesser aggregate amount of projects pursuant to this section during such calendar quarter.

The fifty million dollar ($50,000,000) limitation prescribed by this section shall not apply to projects selected pursuant to Section 66786 of the Government Code.

SEC. 14. The Office of Planning and Research shall render maximum support to the proponents of the projects selected under Section 66786 of the Government Code in determining what permits will be necessary for facility construction and operation, and in obtaining these permits.

SEC. 15. (a) The first and second provisos to Item 175 of the Budget Act of 1978 (Ch. 359, Stats. 1978) are void and without force or effect. In lieu of such provisos, of the eighteen million dollars ($18,000,000) appropriated in Item 175 from the State Litter Control, Recycling, and Resource Recovery Fund, the sum of two million dollars ($2,000,000) is hereby reappropriated to the State Solid Waste Management Board for encumbrance during the 1978–79, 1979–80, and 1980–81 fiscal years for the purposes of Section 66786.1 of the Government Code. The two million dollars ($2,000,000) thus appropriated shall be allocated by the board as money to be expended pursuant to Section 68046 of the Government Code and shall reduce by two million dollars ($2,000,000) the amount otherwise available for expenditure pursuant to that section. In addition, of the revenues deposited in the State Litter Control,

Recycling, and Resource Recovery Fund during the 1978–79 fiscal year that are in excess of eighteen million dollars ($18,000,000), the first three million dollars ($3,000,000) available, after repayment of the loans from the General Fund made in Section 19 of Chapter 87 of the Statutes of 1978 and Item 175.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) and after discharge of the obligations specified in subdivisions (a) and (b) of Section 42652 of the Revenue and Taxation Code, is hereby appropriated to the State Solid Waste Management Board for encumbrance during the 1978–79, 1979–80, and 1980–81 fiscal years for the purposes of Section 66786.1 of the Government Code.

(b) The first and second provisos to Item 175.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) are void and without force or effect.

SEC. 16. During the 1978–79 fiscal year only, the requirement of subdivision (d) of Section 68042 of the Government Code does not apply to any grant or loan made to a public agency.

SEC. 16.5. It is the intent of the Legislature, if this bill and Assembly Bill No. 2636 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 68042 of the Government Code, and this bill is chaptered after Assembly Bill No. 2636, that Section 68042 of the Government Code, as amended by Section 12 of this act shall remain operative until the operative date of Assembly Bill No. 2636, and that on the operative date of Assembly Bill No. 2636, Section 68042 of the Government Code as amended by Section 12 of this act be further amended in the form set forth in Section 12.5 of this act to incorporate the changes in Section 68042 proposed by Assembly Bill No. 2636. Therefore, Section 12.5 of this act shall become operative only if this bill and Assembly Bill No. 2636 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 68042, and this bill is chaptered after Assembly Bill No. 2636, in which case Section 12.5 of this act shall become operative on the operative date of Assembly Bill No. 2636.

SEC. 17. 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. 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:

This act relates to an appropriation made for the support of, and programs to be conducted by, the State Solid Waste Management Board during the 1978–79 fiscal year, and it is, therefore, necessary that this act take effect immediately.

CHAPTER 1012

An act to amend Section 25705 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 21, 1978]

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

SECTION 1. Section 25705 of the Public Resources Code is amended to read:

25705. If the commission determines that all reasonable conservation, allocation, and service restriction measures may not alleviate an energy supply emergency, and upon a declaration by the Governor or by an act of the Legislature that a threat to public health, safety, and welfare exists and requires immediate action, the commission shall authorize the construction and use of generating facilities under such terms and conditions as specified by the commission to protect the public interest.

Within 60 days after the authorization of construction and use of such generating facilities, the commission shall issue a report detailing the full nature, extent, and estimated duration of the emergency situation and making recommendations to the Governor and the Legislature for further energy conservation and energy supply measures to alleviate the emergency situation as alternatives to use of such generating facilities.

CHAPTER 1013

An act to amend Section 66645 of the Government Code, to amend Sections 25300, 25304, 25305, 25308, 25309, 25507, 25509, 25510, 25511, 25512, 25513, 25514, 25514.5, 25515, 25516, 25516.5, 25523, 25524, 25531, and 30413 of, and to add Sections 25323, 25509.5, 25512.5, and 25516.6 to, the Public Resources Code, relating to energy resources.

[Approved by Governor September 20, 1978. Filed with Secretary of State September 21, 1978.]

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

SECTION 1. Section 66645 of the Government Code is amended to read:

66645. (a) In addition to the provisions of Sections 25302, 25500, 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526 of the Public Resources Code, the provisions of this section shall apply to the commission and the State Energy Resources Conservation and Development Commission with respect to matters within the

statutory responsibility of the latter.

(b) After one or more public hearings, and prior to January 1, 1979, the commission shall designate those specific locations within the Suisun Marsh, as defined in Section 29101 of the Public Resources Code, or the area of jurisdiction of the commission, where the location of a facility, as defined in Section 25110 of the Public Resources Code, would be inconsistent with this title or Division 19 (commencing with Section 29000) of the Public Resources Code. The following locations, however, shall not be so designated: (1) any property of a utility that is used for such a facility or will be used for the reasonable expansion thereof; (2) any site for which a notice of intention to file an application for certification has been filed pursuant to Section 25502 of the Public Resources Code prior to January 1, 1978, and is subsequently approved pursuant to Section 22516 of the Public Resources Code; and (3) the area east of Collinsville Road that is designated for water-related industrial use on the Suisun Marsh Protection Plan Map. Each designation made pursuant to this section shall include a description of the boundaries of such locations, the provisions of this title or Division 19 (commencing with Section 29000) of the Public Resources Code with which they would be inconsistent, and detailed findings concerning the significant adverse impacts that would result from development of a facility in the designated area. The commission shall consider the conclusions, if any, reached by the State Energy Resources Conservation and Development Commission in its most recently promulgated comprehensive report issued pursuant to Section 25309 of the Public Resources Code. The commission also shall request the assistance of the State Energy Resources Conservation and Development Commission in carrying out the requirements of this section. The commission shall transmit a copy of its report prepared pursuant to this subdivision to the State Energy Resources Conservation and Development Commission.

(c) Every two years the commission shall revise and update the designations specified in subdivision (b) of this section. The provisions of subdivision (b) of this section shall not apply to any sites and related facilities specified in any notice of intention to file an application for certification filed pursuant to Section 25502 of the Public Resources Code prior to designation of additional locations made by the commission pursuant to this subdivision.

(d) Whenever the State Energy Resources Conservation and Development Commission exercises its siting authority and undertakes proceedings pursuant to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code with respect to any thermal powerplant or transmission line to be located, in whole or in part, within the Suisun Marsh or the area of jurisdiction of the commission, the commission shall participate in such proceedings and shall receive from the State Energy Resources Conservation and Development Commission any notice of intention to file an application for certification of a site and

related facilities within the Suisun Marsh or the area of jurisdiction of the commission. The commission shall analyze each notice of intention and, prior to commencement of the hearings conducted pursuant to Section 25513 of the Public Resources Code, shall forward to the State Energy Resources Conservation and Development Commission a written report on the suitability of the proposed site and related facilities specified in such notice. The commission's report shall contain a consideration of, and findings regarding, the following:

(1) If it is to be located within the Suisun Marsh, the consistency of the proposed site and related facilities, with the provisions of this title and Division 19 (commencing with Section 29000) of the Public Resources Code, the policies of the Suisun Marsh Protection Plan (as defined in Section 29113 of the Public Resources Code) and the certified local protection program (as defined in Section 29111 of the Public Resources Code) if any.

(2) If it is to be located within the area of jurisdiction of the commission, the consistency of the proposed site and related facilities with the provisions of this title and the San Francisco Bay Plan.

(3) The degree to which the proposed site and related facilities could reasonably be modified so as to be consistent with the provisions of this title, Division 19 (commencing with Section 29000) of the Public Resources Code, the Suisun Marsh Protection Plan, or the San Francisco Bay Plan.

(4) Such other matters as the commission deems appropriate and necessary to carry out the provisions of Division 19 (commencing with Section 29000) of the Public Resources Code.

SEC. 1.5. Section 25300 of the Public Resources Code is amended to read:

25300. Every electric utility in the state shall prepare and transmit to the commission on or before March 1, 1976, and every two years thereafter, a report specifying 5-, 12-, and 20-year forecasts or assessments of loads and resources for its service area. The report shall set forth the facilities which, as determined by the electric utility, will be required to supply electric power during the forecast or assessment periods. The report shall be in a form specified by the commission and shall include all of the following:

(a) A tabulation of estimated peak loads, resources, and reserve margins for each year during the 5- and 12-year forecast or assessment periods, and an estimate of peak load, resources, and reserve margins for the last year in the 20-year forecast or assessment period.

(b) A list of existing electric generating plants in service, with a description of planned and potential generating capacity at existing sites.

(c) A list of facilities which will be needed to serve additional electrical requirements identified in the forecasts or assessments, the general location of such facilities, and the anticipated types of fuel to be utilized in the proposed facilities.

(d) A description of additional system capacity which might be achieved through, among other things, improvements in (1) generating or transmission efficiency, (2) importation of power, (3) interstate or interregional pooling, and (4) other improvements in efficiencies of operation.

(e) An estimation of the availability and cost of fuel resources for the 5-, 12-, and 20-year forecast or assessment periods with a statement by the electric utility describing firm commitments for supplies of fuel required during the forecast or assessment periods.

(f) An annual load duration curve and a forecast of anticipated peak loads for each forecast or assessment period for the residential, commercial, industrial, and such other major demand sectors in the service area of the electric utility as the commission shall determine.

(g) A description of projected population growth, urban development, industrial expansion, and other growth factors influencing increased demand for electric energy and the bases for such projections.

SEC. 2. Section 25304 of the Public Resources Code is amended to read:

25304. The commission shall review and evaluate the electric utilities' forecasts of loads and resources, and the comments of the Public Utilities Commission on such forecasts, in relation to the population growth estimates prepared by the Department of Finance, Population Research Unit, and in relation to statewide and regional land use, transportation, and economic development programs and forecasts. The commission shall also examine the implications of the forecast level of loads and resources on, among other things, all of the following:

(a) Critical environmental and other resources of the state, including air and water quality, coastal, natural, and other unique areas, and energy resources.

(b) Public health and safety, general welfare, and the state's economy.

(c) Capital requirements for new facilities and costs to consumers of electricity and other forms of energy.

(d) Other significant factors which relate to the provision of electrical energy in the amounts and in the manner proposed by the electric utilities.

The commission shall also identify reasonable alternative technologies to those proposed by the electric utilities for consideration pursuant to subdivisions (j) and (k) of Section 25309.

SEC. 3. Section 25305 of the Public Resources Code is amended to read:

25305. Within six months after receipt of the reports specified in Section 25300, the commission shall prepare and distribute a preliminary report, setting forth its findings and conclusions regarding the electric utilities' forecasts. The report shall be based upon information and views presented in the comments received under Section 25303 and the commission's independent analysis, and

shall contain all of the following:

(a) The commission's evaluation of the probable service area and statewide, environmental, and economic impact and the health and safety aspect of constructing and operating the facilities proposed by the electric utilities and a description of the measures considered necessary by the commission to avoid or ameliorate any adverse impacts.

(b) Identification of reasonable alternative technologies to those proposed by the electrical utilities for consideration pursuant to subdivisions (j) and (k) of Section 25309.

(c) After consideration of the factors listed in subdivision (b) of Section 25309, including reasonable conservation, load management, or other demand reducing measures, the anticipated 5- and 12-year level of demand for energy to be utilized as a basis for certification of facilities, and an anticipated 20-year level of demand for energy to be utilized as a basis for recommending energy conservation policies and actions.

(d) Statement, on a statewide and service area basis, of the probable capacity additions consistent with the anticipated level of demand.

(e) An analysis and evaluation of the means by which the projected annual rate of demand growth of electrical energy may be reduced, together with an estimate of the amount of such reduction to be obtained by each of the means analyzed and evaluated, including a statement of the impact of such reduction on the factors reviewed by the commission set forth in Section 25304 and subdivision (a) of this section.

SEC. 4. Section 25308 of the Public Resources Code is amended to read:

25308. Within 12 months after receipt of the reports required in Section 25300, the commission shall include within its biennial report to the Governor and the Legislature, as specified in Section 24309, its final report on the electric utilities' forecasts and on the commission's independent analyses and evaluations, as specified in Section 25305.

SEC. 5. Section 25309 of the Public Resources Code is amended to read:

25309. Beginning January 1, 1977, and every two years thereafter, the commission shall transmit to the Governor and the Legislature a comprehensive report designed to identify emerging trends related to energy supply, demand, and conservation and public health and safety factors, to specify the level of statewide and service area electrical energy demand for each year in the forthcoming 5-, 12-, and 20-year periods, and to provide the basis for state policy and actions in relation thereto, including, but not limited to, approval of new sites for additional facilities. The report shall include, but not be limited to, all of the following:

(a) An overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for energy, including patterns of urban metropolitan expansion, statewide and

service area economic growth, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the commission, will significantly affect energy consumption and need to be considered in formulating state energy policy and programs.

(b) The level of statewide and service area electrical energy demand for the forthcoming 5- and 12-year forecast or asssessment period which, in the judgment of the commission, will reasonably balance requirements of state and service area growth and development, protection of public health and safety, preservation of environmental quality, maintenance of a sound economy, and conservation of energy and resources reasonably expected to occur. Such 5- and 12-year forecasts or assessments established by the commission shall serve as the basis for planning and certification of facilities proposed by electric utilities. Conservation, load management, or other demand reducing measures reasonably expected to occur shall be explicitly taken into account only in the determination pursuant to the provisions of this subdivision, of the level of demand, and shall not be considered as alternatives to a proposed facility during the siting process specified in Chapter 6 (commencing with Section 25500) of this division.

(c) Statement, on a statewide and service area basis, of the probable capacity additions consistent with the level of demand determined by the commission pursuant to subdivision (b) of this section.

(d) The anticipated level of statewide and service area electrical energy demand for 20 years, which shall serve as the basis for recommendations by the commission to the Governor, the Legislature, and other appropriate public and private agencies in the following:

(1) Demand-reducing policies.

(2) Conservation of energy.

(3) Development of potential sources of energy.

(4) Other policies and actions designed to affect the rate of growth in demand for electrical energy.

(e) A list, including maps, of existing electrical power generating sites, indicating those where the commission has determined that expansion is feasible within the forthcoming 12-year period.

(f) A list, including maps, of possible areas appropriate for additional electrical generating sites, including the generating capacity to be installed at the sites and the type of fuel and other general characteristics of the facilities which, as determined by the commission, will be required to meet the 12-year level of electrical energy demand established by the commission as specified in subdivision (b) of this section.

(g) Based upon the commission's 20-year forecasts or assessment of growth trends in energy consumption and production, identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of

the present trends, including, but not limited to, the costs of electricity and other forms of energy to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas.

(h) Assessment of the energy resources available to the state, including among others, fossil fuels and nuclear, solar, geothermal, cogeneration, and purchased power resources and power pooling; assessment of the potential of, and examination of the availability of, commercially developable fuels, including imported fuels, during the forthcoming 12- and 20-year periods; and recommendations regarding measures to be applied to conserve energy and fuels.

(i) An analysis and evaluation of the means by which the projected annual rate of demand growth of energy may be reduced, together with an estimate of the amount of such reduction to be obtained by each of the means analyzed and evaluated, including, but not limited to, a statement of the impact of such reduction on the factors reviewed by the commission set forth in Section 25304 and subdivision (a) of this section.

(j) The commission's determination, after generic proceedings, of the commercial availability of technologies for the generation of electrical energy or capacity, and a list of the issues which may affect the ability to employ such technologies at a proposed site.

(k) The commission's determination, after generic proceedings, of nongeneration technologies which are available or are reasonably expected to become available for use to reduce demand determined pursuant to subdivision (b) of this section, and the issues which may affect the ability to employ such technologies to reduce demands.

(*l*) An indication of those technologies which merit continued consideration or support in the commission's long range assessment efforts and its research and development program. The report shall indicate the status of the commission's ongoing research and development program directed to energy supply, demand, and conservation and describe the new projects which have been proposed for funding as specified in Chapter 7 (commencing with Section 25600) of this division.

(m) Description of the commission's adopted plan for emergency measures to be applied in the event of impending serious shortage of electrical and other forms of energy as provided in Chapter 8 (commencing with Section 25700) of this division.

(n) Recommendations to the Governor and the Legislature for administrative and legislative actions based on the results of commission studies and evaluations as specified in this section and in Chapter 5 (commencing with Section 25400).

(o) A list, including maps, of sites and potential multiple-facility sites which have been found to be acceptable by the commission pursuant to Sections 25516 and 25516.5, including the generating capacity to be installed at the site and the type of fuel and other general characteristics of the facilities at such sites.

SEC. 6 Section 25323 is added to the Public Resources Code, to

read:

25323. Nothing in this division shall authorize the commission in the performance of its analytical, planning, siting, or certification responsibilities to mandate a specified supply plan for any utility.

SEC. 7. Section 25507 of the Public Resources Code is amended to read:

25507. (a) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the coastal zone, the commission shall transmit a copy of the notice to the California Coastal Commission. The California Coastal Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 30413 prior to commencement of hearings pursuant to Section 25513.

(b) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the Suisun Marsh, or within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the notice to the San Francisco Bay Conservation and Development Commission. The San Francisco Bay Conservation and Development Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 66645 of the Government Code prior to commencement of hearings pursuant to Section 25513.

SEC. 8. Section 25509 of the Public Resources Code is amended to read:

25509. Within 45 days of the filing of the notice, the commission shall conduct public informational presentations in the county or counties in which the proposed sites and related facilities are located. The place of such public informational presentations shall be as close as practicable to the proposed sites. Such presentations shall be for the purpose of setting forth the electrical demand basis for the proposed site and related facility and providing knowledge and understanding of the proposed facilities and sites.

SEC. 9. Section 25509.5 is added to the Public Resources Code, to read:

25509.5. No sooner than 15 days after the conclusion of the presentations pursuant to Section 25509, the commission shall commence nonadjudicatory hearings. Such hearings shall identify issues for adjudication in hearings pursuant to Section 25513, issues which may be eliminated from further consideration in the notice proceedings, and issues which should be deferred to the certification proceeding. Any person may participate to the extent deemed reasonable and relevant by the presiding member of the commission in any such hearing. In scheduling such hearings the presiding member shall confer with the public adviser to provide that the hearing dates and locations are as convenient as possible for interested parties and the public. Such hearings shall be conducted in order to accomplish all of the following purposes:

(a) To set forth the electrical demand basis for the proposed site

and related facility.

(b) To provide knowledge and understanding of proposed facilities and sites.

(c) To obtain the views and comments of the public, parties, and concerned governmental agencies on the environmental, public health and safety, economic, social, and land use impacts of the facility at the proposed sites.

(d) To solicit information regarding reasonable alternative sources of the electric generating capacity or energy to be provided by alternative sites and related facilities, or combinations thereof, which will better carry out the policies and objectives of this division.

SEC. 10. Section 25510 of the Public Resources Code is amended to read:

25510. After the conclusion of such hearings, and no later than 150 days after filing of the notice, the commission shall prepare and make public a summary and hearing order on the notice of intention to file an application. The commission may include within the summary and hearing order any other alternatives proposed by the commission or presented to the commission at a public hearing prior to preparation of the summary and hearing order. The summary and hearing order shall be published and made available to the public and to interested local, regional, state, and federal agencies.

SEC. 10.5. Section 25511 of the Public Resources Code is amended to read:

25511. The commission shall review the factors related to safety and reliability of the facilities at each of the alternative sites designated in the notice. In addition to other information requested of the applicant, the commission shall, in determining the appropriateness of sites and related facilities, require detailed information on proposed emergency systems and safety precautions, plans for transport, handling and storage of wastes and fuels, proposed methods to prevent illegal diversion of nuclear fuels, special design features to account for seismic and other potential hazards, proposed methods to control density of population in areas surrounding nuclear powerplants, and such other information as the commission may determine to be relevant to the reliability and safety of the facility at the proposed sites. The commission shall analyze the information provided by the applicant, supplementing it, where necessary, by onsite investigations and other studies. The commission shall determine the adequacy of measures proposed by the applicant to protect public health and safety, and shall include its findings in the final report required by Section 25514.

SEC. 11. Section 25512 of the Public Resources Code is amended to read:

25512. The summary and hearing order shall be based upon the record of the proceeding including statements or documents presented during any hearing or informational presentation on the notice, the comments transmitted by the Public Utilities Commission and local, regional, state, and federal agencies and the public to the

commission, and independent studies conducted by the commission's staff.

The summary and hearing order shall:

(a) Identify those issues for consideration in hearings pursuant to Section 25513.

(b) Identify those issues which may be eliminated from further consideration in the notice of intention proceedings.

(c) Identify those issues which should be deferred to the certification proceeding.

(d) Contain proposed findings on matters relevant to the provisions of Section 25514.

(e) Specify dates for the adjudicatory hearings.

SEC. 12. Section 25512.5 is added to the Public Resources Code, to read:

25512.5. Within 15 days of the publication of the summary and hearing order, a copy will be distributed to any person who requests such copy.

SEC. 13. Section 25513 of the Public Resources Code is amended to read:

25513. No earlier than 30 days after distribution of the summary and hearing order, the commission shall commence adjudicatory hearings pursuant to the hearing order.

SEC. 14. Section 25514 of the Public Resources Code is amended to read:

25514. After conclusion of the hearings held pursuant to Section 25513 and no later than 300 days after filing of the notice, a final report shall be prepared and distributed. The final report shall include, but not be limited to, all of the following:

(a) The findings and conclusions of the commission regarding the conformity of alternative sites and related facilities designated in the notice or considered in the notice of intention proceeding with both of the following:

(1) The 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section 25309, except as provided in Section 25514.5.

(2) Applicable local, regional, state, and federal standards, ordinances, and laws, including any long-range land use plans or guidelines adopted by the state or by any local or regional planning agency, which would be applicable but for the exclusive authority of the commission to certify sites and related facilities; and the standards adopted by the commission pursuant to Section 25216.3.

(b) Any findings and comments submitted by the California Coastal Commission pursuant to Section 25507 and subdivision (d) of Section 30413.

(c) Any findings and comments submitted by the San Francisco Bay Conservation and Development Commission pursuant to Section 25507 of this code and subdivision (d) of Section 66645 of the Government Code.

(d) The commission's findings on the acceptability and relative

merit of each alternative siting proposal designated in the notice or presented at the hearings and reviewed by the commission. The specific findings of relative merit shall be made pursuant to the provisions of Sections 25502 to 25516, inclusive. In its findings on any alternative siting proposal, the commission may specify modification in the design, construction, location, or other conditions which will meet the standards, policies, and guidelines established by the commission.

(e) Findings and conclusions with respect to the safety and reliability of the facility or facilities at each of the sites designated in the notice, as determined by the commission pursuant to Section 25511, and any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from such findings and conclusions.

SEC. 15. Section 25514.5 of the Public Resources Code is amended to read:

25514.5. In considering the acceptability of a site proposed to accommodate ultimately additional power-generating capacity, the commission, in determining, pursuant to Sections 25514 and 25512, the conformity of the facilities proposed in the notice with the 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section 25309, shall base its determination only on such initial facilities as are proposed for operation within the forthcoming 12-year period. Additional facilities projected to be operating at the site at a time beyond the forthcoming 12-year period shall not be considered in the determination of conformity with the electric power demand forecast.

SEC. 16. Section 25515 of the Public Resources Code is amended to read:

25515. No later than 30 days after the final report is distributed, a hearing or hearings on the final report shall be commenced. Such hearings shall be concluded within 15 days of their commencement.

SEC. 17. Section 25516 of the Public Resources Code is amended to read:

25516. The approval of the notice by the commission shall be based upon findings pursuant to Section 25514. The notice shall not be approved unless the commission finds at least two alternative site and related facility proposals considered in the commission's final report as acceptable. If the commission does not find at least two sites and related facilities acceptable, additional sites and related facilities may be proposed by the applicant which shall be considered in the same manner as those proposed in the original notice.

If the commission finds that a good faith effort has been made by the person submitting the notice to find an acceptable alternative site and related facility and that there is only one acceptable site and related facility among those submitted, the commission may approve the notice based on the one site and related facility. If a notice is approved based on one site and related facility, the commission may

require a new notice to be filed to identify acceptable alternative sites and related facilities for the one site and related facility approved unless suitable alternative sites and related facilities have been approved by the commission in previous notice of intention proceedings.

If the commission finds that additional electric generating capacity is needed to accommodate the electric power demand forecast pursuant to subdivision (b) of Section 25309 and, after the commission finds that a good faith effort was made by the person submitting the notice to propose an acceptable site and related facility, it fails to find any proposed site and related facility to be acceptable, the commission shall designate, at the request of and at the expense of the person submitting the notice, a feasible site and related facility for providing the needed electric generating capacity.

SEC. 18. Section 25516.5 of the Public Resources Code is amended to read:

25516.5. On a notice which proposes an expanded ultimate electric generating capacity for a site, the commission may, based upon findings pursuant to Section 25514, either approve the notice only for the initial facility or facilities proposed for operation within the forthcoming 12-year period or may approve the notice for the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the commission.

If a notice is approved which includes a finding that a particular site is suitable to accommodate a particular additional generating capacity, the site shall be designated a potential multiple-facility site. The commission may, in determining the acceptability of a potential multiple-facility site, specify conditions or criteria necessary to insure that future additional facilities will not exceed the limitations of the site.

SEC. 19. Section 25516.6 is added to the Public Resources Code, to read:

25516.6. Except as otherwise expressly provided in this division, the commission shall issue its written decision on the notice not later than 12 months after such notice is filed, or at such later time as is mutually agreed upon by the commission and the applicant.

SEC. 20. Section 25523 of the Public Resources Code is amended to read:

25523. The commission shall prepare a written decision after the public hearing on an application, which shall include all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with

Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) Findings regarding the conformity of the proposed facility with the 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section 25309.

SEC. 21. Section 25524 of the Public Resources Code is amended to read:

25524. The commission shall not certify any facility contained in the application, unless its findings with respect to subdivision (f) of Section 25523 are in the affirmative.

SEC. 22. Section 25531 of the Public Resources Code is amended to read:

25531. (a) The decisions of the commission on any application of any electric utility for certification of a site and related facility shall be subject to judicial review in the same manner as the decisions of the Public Utilities Commission on the application for a Certificate of Public Convenience and Necessity for the same site and related facility.

(b) No new or additional evidence may be introduced upon

review and the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the United States Constitution or the California Constitution. The findings and conclusions of the commission on questions of fact shall be final and shall not be subject to review, except as provided in this article. Such questions of fact shall include ultimate facts and the findings and conclusions of the commission. A report prepared by, or an approval of, the commission pursuant to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the commission subject to judicial review.

(c) Subject to the right of judicial review of decisions of the commission, no court in this state shall have jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding before the commission, or to stop or delay the construction or operation of any thermal powerplant except to enforce compliance with the provisions of a decision of the commission.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the commission requires pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, such requirement conclusively establishes the matters referrred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire such development rights.

(2) If the commission certifies any site and related facility, such certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought to acquire such site and related facility.

(e) No decision of the commission pursuant to Section 25516, 25522, or 25523 shall be found to mandate a specific supply plan for any utility as prohibited by Section 25323.

SEC. 23. Section 30413 of the Public Resources Code is amended to read:

30413. (a) In addition to the provisions set forth in subdivision (f) of Section 30241, and in Sections 25302, 25500, 25507, 25508, 25514, 25516.1, 25519, 25523, and 25526, the provisions of this section shall apply to the commission and the State Energy Resources Conservation and Development Commission with respect to matters within the statutory responsibility of the latter.

(b) The commission shall, prior to January 1, 1978, and after one or more public hearings, designate those specific locations within the coastal zone where the location of a facility as defined in Section 25110 would prevent the achievement of the objectives of this

division; provided, however, that specific locations that are presently used for such facilities and reasonable expansion thereof shall not be so designated. Each such designation shall include a description of the boundaries of such locations, the objectives of this division which would be so affected, and detailed findings concerning the significant adverse impacts that would result from development of a facility in the designated area. The commission shall consider the conclusions, if any, reached by the State Energy Resources Conservation and Development Commission in its most recently promulgated comprehensive report issued pursuant to Section 25309. The commission shall transmit a copy of its report prepared pursuant to this subdivision to the State Energy Resources Conservation and Development Commission.

(c) The commission shall every two years revise and update the designations specified in subdivision (b) of this section. The provisions of subdivision (b) of this section shall not apply to any sites and related facilities specified in any notice of intention to file an application for certification filed with the State Energy Resources Conservation and Development Commission pursuant to Section 25502 prior to designation of additional locations made by the commission pursuant to this subdivision.

(d) Whenever the State Energy Resources Conservation and Development Commission exercises its siting authority and undertakes proceedings pursuant to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 with respect to any thermal powerplant or transmission line to be located, in whole or in part, within the coastal zone, the commission shall participate in such proceedings and shall receive from the State Energy Resources Conservation and Development Commission any notice of intention to file an application for certification of a site and related facilities within the coastal zone. The commission shall analyze each notice of intent and shall, prior to commencement of the hearings conducted pursuant to Section 25513, forward to the State Energy Resources Conservation and Development Commission a written report on the suitability of the proposed site and related facilities specified in such notice of intent. The commission's report shall contain a consideration of, and findings regarding, all of the following:

(1) The compatibility of the proposed site and related facilities with the goal of protecting coastal resources.

(2) The degree to which the proposed site and related facilities would conflict with other existing or planned coastal-dependent land uses at or near the site.

(3) The potential adverse effects that the proposed site and related facilities would have on aesthetic values.

(4) The potential adverse environmental effects on fish and wildlife and their habitats.

(5) The conformance of the proposed site and related facilities with certified local coastal programs in those jurisdictions which would be affected by any such development.

(6) The degree to which the proposed site and related facilities could reasonably be modified so as to mitigate potential adverse effects on coastal resources, minimize conflict with existing or planned coastal-dependent uses at or near the site, and promote the policies of this division.

(7) Such other matters as the commission deems appropriate and necessary to carry out the provisions of this division.

(e) The commission may, at its discretion, participate fully in other proceedings conducted by the State Energy Resources Conservation and Development Commission pursuant to its powerplant siting authority. In the event the commission participates in any public hearings held by the State Energy Resources Conservation and Development Commission, it shall be afforded full opportunity to present evidence and examine and cross-examine witnesses.

(f) The State Energy Resources Conservation and Development Commission shall forward a copy of all reports it distributes pursuant to Sections 25302 and 25306 to the commission and the commission shall, with respect to any report that relates to the coastal zone or coastal zone resources, comment on such reports, and shall in its comments include a discussion of the desirability of particular areas within the coastal zone as designated in such reports for potential powerplant development. The commission may propose alternate areas for powerplant development within the coastal zone and shall provide detailed findings to support the suggested alternatives.

CHAPTER 1014

An act to amend Section 74131 of the Government Code, relating to courts.

[Approved by Governor September 20, 1978 Filed with Secretary of State September 22, 1978]

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

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

74131. There shall be five judges in the Riverside Judicial District, which shall include the City of Riverside. There shall be five judges in the Desert Judicial District, which shall include the Cities of Palm Springs, Indio, and Blythe. There shall be two judges in the Corona Judicial District, which shall include the City of Corona. There shall be two judges in the Mt. San Jacinto Judicial District, which shall include the Cities of Hemet, San Jacinto, Beaumont and Banning. There shall be one judge in the Three Lakes Judicial 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 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 1015

An act to amend Section 74131 of the Government Code, relating to courts.

[Approved by Governor September 21, 1978. Filed with Secretary of State September 22, 1978.]

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

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

74131. There shall be five judges in the Riverside Judicial District, which shall include the City of Riverside. There shall be five judges in the Desert Judicial District, which shall include the Cities of Palm Springs, Indio, and Blythe. There shall be two judges in the Corona Judicial District, which shall include the City of Corona. There shall be two judges in the Mt. San Jacinto Judicial District, which shall include the Cities of Hemet, San Jacinto, Beaumont and Banning. There shall be one judge in the Three Lakes Judicial 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 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 1016

An act to amend Sections 16430, 16521, 16522, and 16612 of the Government Code, relating to investment of state funds.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1. Section 16430 of the Government Code, as amended by Chapter 643 of the Statutes of 1977, is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be·

(a) Bonds or interest-bearing notes or obligations of the United

States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes or obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) 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.

(h) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

SEC. 1.1. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) 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.

(h) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

SEC. 1.2. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of suplus moneys shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligation that are guaranteed as the principal and interest by a federal agency of the United States.

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan, Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined, by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations (1) organized

and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) 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.

(h) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Student loan notes under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. 1087-2).

SEC. 1.3. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

(a) Bonds or interest-bearing notes or obligation of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds on interest-bearing notes or obligation that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated

debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act amended, and in the bonds of any federal home loan bank established under said act, obligation of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligation issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations, (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53851 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) 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.

(h) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U S.C. 1087-2).

(k) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

SEC. 2. Section 16521 of the Government Code is amended to read:

16521. To be eligible to receive and retain demand or time deposits, a bank shall deposit with the Treasurer as security for such

deposits, securities specified in Section 16522, and approved by the Treasurer, in an amount in value at least 10 percent in excess of the amount deposited with the bank. Uncollected funds shall be excluded from the amount deposited in a demand account with a bank when determining the security requirements for such deposits.

SEC. 3. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency

issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The State Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

SEC. 3.5. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The State Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

(i) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

SEC. 4. It is the intent of the Legislature that if this bill and Senate Bill No. 1330 or Senate Bill No. 1776, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 16430 of the Government Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Senate Bill No. 1330 are both chaptered and become effective January 1, 1979, both bills amend Section 16430 of the Government Code, but Senate Bill No. 1776 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1330, the amendments proposed by both bills shall be given effect and incorporated in Section 16430 in the form set forth in Section 1.1 of this act. Therefore, if this bill and Senate Bill No. 1330 are both chaptered and become effective January 1, 1979, both bills amend Section 16430, this bill is chaptered after Senate Bill No. 1330, and Senate Bill No. 1776 is not chaptered or as chaptered does not amend that section, Section 1.1 of this act shall be operative and Sections 1, 1.2, and 1.3 of this act shall not become operative.

(2) If this bill and Senate Bill No. 1776 are both chaptered and become effective January 1, 1979, both bills amend Section 16430 of the Government Code, but Senate Bill No. 1330 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1776, the amendments proposed by both bills shall be given effect and incorporated in Section 16430 in the form set forth in Section 1.2 of this act. Therefore, if this bill and Senate Bill No. 1776 are both chaptered and become effective January 1, 1979, both bills amend Section 16430, this bill is chaptered after Senate Bill No. 1776, and Senate Bill No. 1330 is not chaptered or as chaptered does not amend that section, Section 1.2 shall be operative and Sections 1, 1.1, and 1.3 of this act shall not become operative.

(3) If this bill and Senate Bill No. 1330 and Senate Bill No. 1776 are all chaptered and become effective January 1, 1979, all three bills amend Section 16430 of the Government Code, and this bill is chaptered after Senate Bill No. 1330 and Senate Bill No. 1776, the amendments proposed by all three bills shall be given effect and incorporated in Section 16430 in the form set forth in Section 1.3 of this act. Therefore, if this bill and Senate Bill No. 1330 and Senate Bill No. 1776 are all chaptered and become effective January 1, 1979, all three bills amend Section 16430 of the Government Code, and this bill is chaptered after Senate Bill No. 1330 and Senate Bill No. 1776, Section 1.3 of this act shall be operative and Sections 1, 1.1, and 1.2 of this act shall not become operative.

SEC. 4. Section 16612 of the Government Code is amended to read:

16612. The following securities may be received as security for deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for

the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949 (42 U.S.C. Sec. 1452 et seq.)) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue on tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16611, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the savings and loan association;

(2) The State Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops

standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill No. 1330 are both chaptered and become effective January 1, 1979, both bills amend Section 16522 of the Government Code, and this bill is chaptered after Senate Bill No. 1330, that the amendments to Section 16522 proposed by both bills be given effect and incorporated in Section 16522 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and Senate Bill No. 1330 are both chaptered and become effective January 1, 1979, both amend Section 16522, and this bill is chaptered after Senate Bill No. 1330, in which case Section 3 of this act shall not become operative.

CHAPTER 1017

An act relating to the sale and purchase of property of the 48th District Agricultural Association, and making an appropriation therefor.

[Approved by Governor September 21, 1978. Filed with Secretary of State September 22, 1978.]

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

SECTION 1. The Department of General Services with the approval of the State Public Works Board shall convey to the City of Commerce, for current market value, approximately 25 acres of land fronting on Eastern Avenue occupied by the Great Western Exhibit Center which is the property of the 48th Agricultural Association in Commerce, California.

The property shall be conveyed for the purpose of construction of residential development to provide an expanded supply of low and moderately priced housing. Such housing shall include but not be limited to low-income senior citizen housing and family housing

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units.

SEC. 2. Any cost or expense incurred by the Department of General Services in the sale of the parcel may be reimbursed from the proceeds of such disposition.

SEC. 3. The Director of General Services shall except and reserve in the state all geothermal resources and all deposits of minerals, including oil and gas, together with the right to prospect for, mine and remove such resources and deposits. Such rights to prospect for, mine and remove shall be limited to those areas of the property conveyed which the director determines to be reasonably necessary for the removal of such resources and deposits.

SEC. 4. The property described in Section 1 of this act shall be exempt from the provisions of Sections 21000 to 21174, inclusive, of the Public Resources Code.

SEC. 4.5. The 48th District Agricultural Association shall not expend for obtaining another fair and exposition site an amount in excess of the proceeds that it receives from the sale under Section 1.

SEC. 5. The Department of General Services shall not enter into such transaction unless all moneys, excepting those described in Section 2, derived from the sale of such property are forwarded to the 48th District Agricultural Association to be expended for the sole purpose of obtaining another fair and exposition site for the 48th District Agricultural Association.

SEC. 6. All proceeds received from the sale under Section 1, less costs and expenses of sale, are hereby appropriated to the 48th District Agricultural Association for expenditure by the district in accordance with the provisions of Section 5.

CHAPTER 1018

An act to add Section 13146.1 to the Health and Safety Code, and to amend Sections 6030 and 6031.1 of the Penal Code, relating to fire safety, and making an appropriation therefor.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1. Section 13146.1 is added to the Health and Safety Code, to read:

13146.1. (a) Notwithstanding the provisions of Section 13146, the State Fire Marshal, or the State Fire Marshal's authorized representative, shall inspect every jail or place of detention for persons charged with or convicted of a crime, unless the chief of any city or county fire department or fire protection district, or such chief's authorized representative, annually indicates in writing to the State Fire Marshal that inspections of such jails or places of detention,

therein, shall be conducted by the chief, or such person's authorized representative.

(b) Such inspections shall be made at least annually for the purpose of enforcing the regulations adopted by the State Fire Marshal, pursuant to Section 13143, and the minimum standards pertaining to fire and life safety adopted by the Board of Corrections, pursuant to Section 6030 of the Penal Code.

(c) Reports of such inspections shall be submitted to the official in charge of the facility, the local governing body, the State Fire Marshal, and the Board of Corrections.

SEC. 2. Section 6030 of the Penal Code is amended to read:

6030. (a) The Board of Corrections shall establish minimum standards for local detention facilities by July 1, 1972. The Board of Corrections shall review such standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training.

(c) Such standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) In establishing minimum standards, the Board of Corrections shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Health Services, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in local detention facilities:

The Department of Corrections, the Department of the Youth Authority, local juvenile justice commissions, local correction officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections, the Department of the Youth Authority, local correctional officials, and other interested persons.

SEC. 3. Section 6031.1 of the Penal Code is amended to read:

6031.1. Inspections of local detention facilities shall be made biennially. Inspections shall include, but not be limited to, the following.

(a) Health and safety inspections conducted pursuant to Section 459 of the Health and Safety Code.

(b) Fire suppression preplanning inspections by the local fire department.

(c) Security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training by the staff of the Board of Corrections.

Reports of each facility's biennial inspection shall be furnished to the official in charge of the local detention facility, the local governing body, the grand jury, and the presiding or sole judge of the superior court in the county where the detention facility is located. Such reports shall set forth the areas wherein the local detention facility has complied and has failed to comply with the minimum standards established pursuant to Section 6030.

SEC. 4. The sum of forty-one thousand dollars ($41,000) is hereby appropriated from the General Fund to the State Fire Marshal for purposes of making the inspections required by Section 13146.1 of the Health and Safety Code.

CHAPTER 1019

An act to add Sections 6365 and 6366.3 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 21, 1978. Filed with Secretary of State September 22, 1978.]

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

SECTION 1. Section 6365 is added to the Revenue and Taxation Code, to read:

6365. (a) 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, original works of art, which are:

(1) Purchased by this state or any city, county, city and county, or other local governmental entity;

(2) Purchased by any nonprofit organization operating any public museum for, and pursuant to contract with, any such governmental entity;

(3) Purchased by any nonprofit organization which has qualified for exemption pursuant to Section 23701d for a museum regularly open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year and operated by the purchaser of such art or operated by another nonprofit organization which has qualified for exemption pursuant to Section 23701d; or

(4) Purchased for donation and actually donated by delivery by the retailer pursuant to the instructions of the buyer to any such governmental entity, or nonprofit organization, and evidenced by a written transfer of title from the buyer to such governmental entity or nonprofit organization.

(b) The exemption provided by this section shall apply only to works of art purchased to become part of the permanent collection

of a museum, as defined in Section 6366.4.

(c) For purposes of this section, "work of art" means a work of visual art, including, but not limited to, a drawing, painting, mural, fresco, sculpture, mosaic, film, or photograph, a work of calligraphy, a work of graphic art (including, but not limited to, an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature), crafts (including, but not limited to, crafts in clay, textile, fiber, wood, metal, plastic, glass, and like materials), or mixed media (including, but not limited to, a collage, assemblage, or any combination of the foregoing art media).

(d) For purposes of this section, a "museum" shall only include:

(1) A museum which has a significant portion of its space open to the public without charge; or

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or

(3) A museum which is open to a segment of the student or adult population without charge.

SEC. 2. Section 6366.3 is added to the Revenue and Taxation Code, to read:

6366.3. (a) 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 tangible personal property purchased by a nonprofit museum regularly open to the public which is operated by or for a local or state government entity, or operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, provided:

(1) The property is purchased to replace property which has been physically destroyed by fire, flood, earthquake, or other calamity;

(2) The property is purchased and used exclusively for display purposes within such museum; and

(3) The property is purchased within three years from the date the calamity occurred.

(b) The aggregate amount of the exemption provided by this section shall not exceed the value of the property destroyed on the date the calamity occurred.

(c) The exemption provided by this section extends only to items which have value as museum pieces and does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operation of a museum.

(d) For purposes of this section, a "museum" shall only include:

(1) A museum which has a significant portion of its space open to the public without charge; or

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or

(3) A museum which is open to a segment of the student or adult population without charge.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax

revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 1020

An act to amend Section 72190 of the Government Code, relating to court commissioners.

[Approved by Governor September 21, 1978. Filed with Secretary of State September 22, 1978.]

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

SECTION 1. Section 72190 of the Government Code is amended to read:

72190. Within the jurisdiction of the court and under the direction of the judges, commissioners of municipal courts shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and such additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners of municipal courts shall possess the same qualifications the law requires of a judge and shall hold office during the pleasure of the court appointing them and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

Notwithstanding any other provision of law, a commissioner of a municipal court of any judicial district in Los Angeles County or San Diego County who has been duly appointed and has thereafter been retired for service, and a commissioner of a superior court in this state who has been duly appointed and has thereafter been retired for service, may be assigned by the presiding judge of a municipal court to serve as a court commissioner of such court for such periods of time as he is needed for the prompt and efficient discharge of the business of that court. While so serving, he shall be paid the full compensation of a court commissioner, payable as follows: He shall continue to receive his retirement allowance, and in addition the county shall pay him the amount equal to the difference between such retirement allowance and such full compensation. Such employment shall not operate to reinstate him as a member of the county retirement system or to terminate or suspend his retirement rights or allowance, and no deductions shall be made from his compensation as contributions to the retirement system.

CHAPTER 1021

An act to amend Section 1542 of the Financial Code, and to amend Sections 16430, 16522, and 53651 of the Government Code, relating to security for the investment of state funds and for deposit.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1. Section 1542 of the Financial Code is amended to read:

1542. Security deposited with the State Treasurer by trust companies pursuant to Section 1540 or 1541 shall consist of the following:

(a) Bonds or other interest-bearing notes or obligations of the United States or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds of the State of California or those for which the faith and credit of the State of California are pledged for the payment of principal and interest or in registered warrants of the State of California.

(c) Bonds and revenue securities of any city, county, city and county, political subdivision, public corporation, or district of the State of California (herein referred to generally as "public corporations"), and of any department, board, agency, or authority of any such public corporation, which qualify as an investment for the funds of commercial banks under the provisions of Article 4 (commencing with Section 1335) of Chapter 10 of this division.

(d) Bonds of any state of the United States which qualify as an investment for the funds of commercial banks under the provisions of Article 4 (commencing with Section 1335) of Chapter 10 of this division.

(e) Loans secured by a first lien on real property and otherwise complying with the provisions of subdivision (a) of Section 1227.

(f) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, or the Asian Development Bank.

SEC. 2. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(c) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California, municipal utility district, or school district of this state.

(d) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(e) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(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.

(g) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(h) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(i) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

SEC. 2.1. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes or obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) 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.

(h) Negotiable certificates of deposits purchased from a nationally

or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

SEC. 2.2. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(c) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(d) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(e) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an

investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(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.

(g) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(h) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(i) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

(j) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. 1087-2).

SEC. 2.3. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes or obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as

amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) 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.

(h) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

(k) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. 1087–2).

SEC. 3. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for

the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The State Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so

collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

SEC. 3.5. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended,

consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The State Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(i) Any promissory note on which any payment is more than 90 days past due,

(ii) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(iii) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

(i) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

SEC. 4. Section 53651 of the Government Code is amended to read:

53651. Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and

credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of such bonds upon all property within its boundaries subject to taxation by such local agency or district, and in addition, sales tax revenue bonds, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by such state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under said act, bonds, debentures and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7 6

(commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued pursuant to a law which may contemplate a subsequent legislative appropriation as an assurance of the continued operation and solvency of such department, board, agency or authority but which does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided such obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.

(j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, or the Asian Development Bank.

(k) Participation certificates of the Export-Import Bank of the United States.

(*l*) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

SEC. 5. It is the intent of the Legislature that if this bill and Assembly Bill No. 2099 or Senate Bill No. 1776, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 16430 of the Government 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. 2099 are both chaptered and become effective January 1, 1979, both bills amend Section 16430 of the Government Code, but Senate Bill No. 1776 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2099, the amendments proposed by both bills shall be given effect and incorporated in Section 16430 in the form set forth in Section 2.1 of this act Therefore, if this bill and Assembly Bill No. 2099 are both chaptered and become effective January 1, 1979, both bills amend Section 16430, this bill is chaptered after Assembly Bill No. 2099, and Senate Bill No. 1776 is not chaptered or as chaptered does not amend that section, Section 2.1 of this act shall

be operative and Sections 2, 2.2, and 2.3 of this act shall not become operative.

(2) If this bill and Senate Bill No. 1776 are both chaptered and become effective January 1, 1979, both bills amend Section 16430 of the Government Code, but Assembly Bill No. 2099 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1776, the amendments proposed by both bills shall be given effect and incorporated in Section 16430 in the form set forth in Section 2.2 of this act. Therefore, if this bill and Senate Bill No. 1776 are both chaptered and become effective January 1, 1979, both bills amend Section 16430, this bill is chaptered after Senate Bill No. 1776, and Assembly Bill No. 2099 is not chaptered or as chaptered does not amend that section, Section 2.2 shall be operative and Sections 2, 2.1, and 2.3 of this act shall not become operative.

(3) If this bill and Assembly Bill No. 2099 and Senate Bill No. 1776 are all chaptered and become effective January 1, 1979, all three bills amend Section 16430 of the Government Code, and this bill is chaptered after Assembly Bill No. 2099 and Senate Bill No. 1776, the amendments proposed by all three bills shall be given effect and incorporated in Section 16430 in the form set forth in Section 2.3 of this act. Therefore, if this bill and Assembly Bill No. 2099 and Senate Bill No. 1776 are all chaptered and become effective January 1, 1979, all three bills amend Section 16430 of the Government Code, and this bill is chaptered after Assembly Bill No. 2099 and Senate Bill No. 1776, Section 2.3 of this act shall be operative and Sections 2, 2.1, and 2.2 of this act shall not become operative.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 2099 are both chaptered and become effective January 1, 1979, both bills amend Section 16522 of the Government Code, and this bill is chaptered after Assembly Bill No. 2099, that the amendments to Section 16522 proposed by both bills be given effect and incorporated in Section 16522 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and Assembly Bill No. 2099 are both chaptered and become effective January 1, 1979, both amend Section 16522, and this bill is chaptered after Assembly Bill No. 2099, in which case Section 3 of this act shall not become operative.

CHAPTER 1022

An act to amend Section 653m of the Penal Code, relating to telephone calls.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1. Section 653m of the Penal Code is amended to read:

653m. (a) Every person who with intent to annoy telephones another and addresses to or about such other person any obscene language or addresses to such other person any threat to inflict injury to the person or property of the person addressed or any member of his family, is guilty of a misdemeanor.

(b) Every person who makes a telephone call with intent to annoy another and without disclosing his true identity to the person answering the telephone is, whether or not conversation ensues from making the telephone call, guilty of a misdemeanor.

(c) Any offense committed by use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received.

(d) Subdivision (a) or (b) is violated when the person acting with intent to annoy makes a telephone call requesting a return call and performs the acts prohibited under such subdivision upon receiving the return call.

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 1023

An act to amend Sections 7514, 7514.1, and 7580 of the Business and Professions Code, and to amend Sections 12031 and 12033 of, and to repeal Section 12031.5 of, the Penal Code, relating to private investigators and adjusters, and making an appropriation therefor.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1. Section 7514 of the Business and Professions Code is amended to read:

7514. The director may adopt and enforce reasonable rules:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators, persons employed by any lawful business as security guards or patrolpersons, insurance adjusters,

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 or employed by an alarm company operator as an alarm agent must meet as a condition of becoming eligible to carry firearms pursuant to subdivision (d) of Section 12031 of the Penal Code and Section 7514.1 of the Business and Professions Code.

(f) Requiring each uniformed employee of a private patrol operator, as defined in this chapter, and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(g) Requiring each alarm agent of an alarm company operator, as defined in this chapter, to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(h) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with the director alleging that any registered security guard or patrolperson, or anyone who is an applicant for registration, with the bureau fails to meet standards for registration, and providing further for the

investigation of such charges.

(i) Requiring private patrol operators and any lawful business to maintain detailed records identifying all firearms in their possession or under their control, and the employees or persons authorized to carry or have access to such firearms.

(j) Establishing the qualifications which a uniformed employee of a licensee who operates a private patrol must meet as a condition of handling guard dogs.

SEC. 2. Section 7514.1 of the Business and Professions Code is amended to read:

7514.1. (a) Every private investigator, private patrol operator, alarm company operator, alarm agent employed by an alarm company operator, and any person employed and compensated by a private patrol operator, other lawful business or public agency as a security guard or patrolperson, and who in the course of such employment or business carries a deadly weapon, shall complete a course of training in the exercise of the powers to arrest and a course of training in the carrying and use of firearms. The course of training in the carrying and use of firearms shall not be required of any employee who is not required or permitted by a licensee to carry or use firearms. The course in the carrying and use of firearms and the course of training in the exercise of the powers to arrest shall meet the standards which shall be prescribed by the Department of Consumer Affairs. The department shall encourage restraint and caution in the use of firearms.

(b) The department shall prescribe the minimum standards for a course of training in the exercise of powers of arrest.

(c) No uniformed employee of a licensee, who was licensed by the department on or before January 1, 1976, shall carry or use any firearm unless he has successfully completed the course of training prescribed in subdivision (a) on or before January 1, 1976. No uniformed employee of a licensee, who was licensed by the department after January 1, 1976, shall carry or use any firearm until he has successfully completed the course of training prescribed in subdivision (a).

(d) The department shall report to the Legislature on or before March 1, 1977 concerning the nature and scope of the training offered pursuant to subdivision (a), the number of employees so trained and the conformity of the industry to the standards established by the department.

SEC. 3. Section 7580 of the Business and Professions Code is amended to read:

7580. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for an original license in any classification is twenty-five dollars ($25)

(b) The application fee for an original branch office certificate is fifteen dollars ($15)

(c) The fee for an original license is an amount equal to the

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

(d) The renewal fee shall be fixed by the director as follows:

(1) For a license as an insurance adjuster, repossessor, private investigator, private investigator and private patrol operator, or alarm company operator, not more than one hundred dollars ($100).

(2) For a license as a private patrol operator, not more than fifty dollars ($50).

(3) For a branch office certificate, not more than twenty dollars ($20).

(e) The application and license fee for classifications prescribed by the director, in addition to those provided for in this chapter, and the application and license fees for a change in the type of business organization of a licensee, shall be in the amount prescribed by rule and regulation of the director.

(f) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-five dollars ($25).

(g) The fee for reexamination of an applicant or his manager is ten dollars ($10).

(h) Fees to carry out the provisions of subdivisions (f) and (g) of Section 7514 shall be fixed by the director as follows:

(1) A registration fee of not more than ten dollars ($10).

(2) A registration renewal fee of not more than five dollars ($5).

(i) The firearms qualification fee is not more than five dollars ($5).

(j) A firearms requalification fee of not more than five dollars ($5).

SEC. 4. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.3, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may,

upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this paragraph.

(2) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) Persons who are using target ranges for the purpose of practice shooting with a firearm, or who are members of shooting clubs while hunting on the premises of such clubs.

(4) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to such section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. Such certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion,

bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms as prescribed by the Department of Consumer Affairs.

(3) Private investigators, private patrol operators, and alarm company operators 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 and uniformed alarm agents employed by an alarm company operator while on duty. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and uniformed employees of private investigators 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 as private patrolmen or private investigators.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful

purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or another is in immediate danger and that the carrying of such weapon is necessary for the preservation of such person or property.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his place of residence, including any temporary residence or campsite.

SEC. 5. Section 12031.5 of the Penal Code is repealed.

SEC. 6. Section 12033 of the Penal Code is amended to read:

12033. The Department of Consumer Affairs may issue a certificate to any person referred to in subdivision (d) of Section 12031, upon notification by the school where the course was completed, that the person has successfully completed a course in the carrying and use of firearms and a course of training in the exercise of the powers of arrest which meet the standards prescribed by the department pursuant to Section 7514.1 of the Business and Professions Code.

CHAPTER 1024

An act to amend Section 24000 of, and to add Section 24210 to, the Education Code, relating to State Teachers' Retirement System.

[Approved by Governor September 21, 1978. Filed with Secretary of State September 22, 1978]

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

SECTION 1. 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 and between the ages of 55 and 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.

A school district or other employing agency may elect to permit all members with 30 years of credited service to retire at age 50 or older and receive an annual allowance equal to 2 percent of final compensation for each year of credited service. If the member is over age 50, but under age 55, the allowance shall be reduced by one-quarter of 1 percent for each full month or fraction of a month which will elaspe until the member would have reached age 55 and one-half of 1 percent for each full month, or fraction between 55 and 60.

In computing the above amounts, the age of the member at the last day of the month in which the retirement allowance begins to accrue or such later date as provided in Section 23900 shall be used.

SEC. 2. Section 24210 is added to the Education Code, to read:

24210. The board shall, in consultation with members, develop, adopt, and implement an additional optional retirement plan which will allow an employee to receive a minimum retirement allowance prior to age 60 if the employee has at least attained age 55. Under the plan, the member shall continue to receive the minimum retirement allowance past age 60 until the amounts paid prior to age 60 equal the difference between the minimum retirement allowance and the benefits which would have been provided to the member under regular service retirement at age 60, and thereafter shall be paid the regular service retirement allowance for age 60. The board shall determine the age past 60 at which the increase will be made by determining how long the minimum retirement allowance would have to be paid beyond age 60 in order for the amount paid prior to age 60 to equal the difference between the minimum retirement allowance and the amount that would have been provided to the member under regular service retirement at age 60. The board shall integrate the optional plan adopted under this section with the other retirement options that a member may elect under this part

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, if any, under this section shall be computed as a level percentage of member compensation. The additional contribution rate required, if any, 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.

CHAPTER 1025

An act to amend Sections 39015, 40200, 40260, 40261, and 40520 of, and to amend the chapter heading of Chapter 4 (commencing with Section 40200) of Part 3 of Division 26 of, the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1978. Filed with Secretary of State September 22, 1978.]

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

SECTION 1. Section 39015 of the Health and Safety Code is amended to read:

39015. "Bay district" means the Bay Area Air Quality Management District continued in existence pursuant to Chapter 4 (commencing with Section 40200) of Part 3.

SEC. 2. The chapter heading of Chapter 4 (commencing with Section 40200) of Part 3 of Division 26 of the Health and Safety Code is amended to read:

CHAPTER 4. BAY AREA AIR QUALITY MANAGEMENT DISTRICT

SEC. 3. Section 40200 of the Health and Safety Code is amended to read:

40200. A district, which is called the Bay Area Air Quality Management District, which was formerly known as the Bay Area Air Pollution Control District, is hereby continued in existence within the boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara and those portions of the Counties of Solano and Sonoma within the boundaries of the Bay Area Air Pollution Control District as it existed on January 1, 1976. Any reference to the Bay Area Air Pollution Control District shall be deemed to be a reference to the Bay Area Air Quality Management District.

SEC. 4. Section 40260 of the Health and Safety Code is amended to read:

40260. As used in this article, "council" means the Bay Area Air Quality Management Advisory Council.

SEC. 5. Section 40261 of the Health and Safety Code is amended to read:

40261. There is continued in existence the Bay Area Air Quality Management Council, which was formerly known as the Bay Area

Air Pollution Control Advisory Council, which council is appointed by the bay district board, to advise and consult with the bay district board and the bay district air pollution control officer in effectuating the purposes of this division. Any reference to the Bay Area Air Pollution Control Advisory Council shall be deemed to be a reference to the Bay Area Air Quality Management Council.

SEC. 6. Section 40520 of the Health and Safety Code is amended to read:

40520. Upon adoption of its budget for the next fiscal year, the south coast district board shall apportion the amount that each county included within the south coast district shall pay to finance the operation of the south coast district in that fiscal year.

The apportionment to a county shall, as determined by the south coast district board, be that proportion of the amount that the population of the portion of the county included within the south coast district bears to the total population of the south coast district, either as determined from the latest federal decennial census or as determined from the latest annual population estimate by the Department of Finance made pursuant to subdivision (g) of Section 13073.5 of the Government Code.

SEC. 7. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act because costs incurred pursuant to this act will be offset by savings.

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:

The population ratio of the counties, in whole or in part within the South Coast Air Quality Management District, has shifted significantly since the last federal decennial census, and the activities of that district is most nearly proportional to population. Therefore, in order that the apportionment of costs of the district are most equitably distributed in proportion to the population served in the next budget year, it is necessary that this act take immediate effect.

CHAPTER 1026

An act to amend Sections 17687 and 24833 of, and to add Sections 17687.5 and 24833.5 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1. Section 17687 of the Revenue and Taxation Code is amended to read:

17687. The allowance for depletion under Section 17681 shall be:

(a) In the case of sand, gravel, slate, stone (including pumice and scoria), brick and tile clay, shale, oystershell, clamshell, granite, marble, sodium chloride, and, if from brine wells, calcium chloride, magnesium chloride, and bromide, 5 percent;

(b) In the case of coal, asbestos, brucite, dolomite, magnesite, perlite, wollastonite, calcium carbonates, and magnesium carbonates, 10 percent;

(c) In the case of metal mines, aplite, bauxite, fluorspar, flake graphite, vermiculite, beryl, garnet, feldspar, mica, talc (including pyrophyllite), lepidolite, spodumene, barite, ball clay, sagger clay, china clay, phosphate rock, rock asphalt, trona, bentonite, gilsonite, thenardite, borax, fuller's earth, tripoli, refractory and fire clay, quartzite, diatomaceous earth, metallurgical grade limestone, chemical grade limestone, and potash, 15 percent;

(d) In the case of sulfur, 22 percent; of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. The allowance shall not exceed 50 percent of the taxable income of the taxpayer (computed without allowance for depletion) from the property except in no case shall the depletion allowance under Section 17681 be less than it would be if computed without reference to this section. For purposes of the preceding sentence, the allowable deductions taken into account with respect to expenses of mining in computing the taxable income from the property shall be decreased by an amount equal to so much of any gain which (1) is treated under Section 18211 (relating to gain from disposition of certain depreciable property) as gain from the sale or exchange of property which is neither a capital asset nor property described in Sections 18181 and 18182, and (2) is properly allocable to the property.

SEC. 2. Section 17687.5 is added to the Revenue and Taxation Code, to read:

17687.5. (a) Notwithstanding the provisions of any section in this chapter, the total accumulated amount of deduction allowed or allowable for depletion with respect to sulfur shall be limited to an amount equal to the adjusted cost of the taxpayer's interest in such property which is subject to recovery through depletion under this part, except as provided in this section.

(b) Where the total accumulated amount of deduction allowed or allowable for depletion exceeds an amount equal to the adjusted cost of the taxpayer's interest in any property which is subject to recovery through depletion under this part, percentage depletion shall be allowed in respect to such interest in such property, subject to the limitations and adjustments of subdivisions (c) and (d).

(c) Where the total depletion allowance for all properties in subdivision (b) exceeds one million five hundred thousand dollars ($1,500,000), the allowance in subdivision (b) shall be reduced by 125 percent of the excess.

(d) In any case where husband and wife file separate returns, the amount specified in subdivision (c) shall be seven hundred fifty thousand dollars ($750,000) in lieu of one million five hundred thousand dollars ($1,500,000).

SEC. 3. Section 24833 of the Revenue and Taxation Code is amended to read:

24833. The allowance for depletion under Section 24835 shall be:

(a) In the case of sand, gravel, slate, stone (including pumice and scoria), brick and tile clay, shale, oystershell, clamshell, granite, marble, sodium chloride, and, if from brine wells, calcium chloride, magnesium chloride, and bromide, 5 percent;

(b) In the case of coal, asbestos, brucite, dolomite, magnesite, perlite, wollastonite, calcium carbonates, and magnesium carbonates, 10 percent;

(c) In the case of metal mines aplite, bauxite, fluorspar, flake graphite, vermiculite, beryl, garnet, feldspar, mica, talc (including pyrophyllite), lepidolite, spodumene, barite, ball clay, sagger clay, china clay, phosphate rock, rock asphalt, trona, bentonite, gilsonite, thenardite, borax, fuller's earth, tripoli, refractory and fire clay, quartzite, diatomaceous earth, metallurgical grade limestone, chemical grade limestone, and potash, 15 percent;

(d) In the case of sulfur, 22 percent;

of the gross income from the property during the income year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property.

Such allowance shall not exceed 50 percent of the net income of the taxpayer (computed without allowance for depletion) from the property except that in no case shall the depletion allowance under Section 24835 be less than it would be if computed without reference to this section.

SEC. 4. Section 24833.5 is added to the Revenue and Taxation Code, to read:

24833.5. (a) Notwithstanding the provisions of any section in this chapter, the total accumulated amount of deduction allowed or allowable for depletion with respect to sulfur shall be limited to an amount equal to the adjusted cost of the taxpayer's interest in such property which is subject to recovery through depletion under this part, except as provided in this section.

(b) Where the total accumulated amount of deduction allowed or allowable for depletion exceeds an amount equal to the adjusted cost of the taxpayer's interest in any property which is subject to recovery allowable for depletion exceeds an amount equal to the adjusted cost of the taxpayer's interest in any property which is subject to recovery through depletion under this part, percentage depletion shall be allowed in respect to such interests in such property, subject to the

limitations and adjustments of subdivisions (c) and (d).

(c) Where the total depletion allowance for all properties in subdivision (b) exceeds one million five hundred thousand dollars ($1,500,000), the allowance in subdivision (b) shall be reduced by 125 percent of the excess.

(d) 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 wth 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 percentage depletion prescribed in subdivision (b) as if such corporations were one corporation. As to "wholly intrastate corporations", if subdivision (c) applies, then the amount of percentage depletion (as adjusted and limited by subdivision (c)) shall be prorated among them in the ratio to which the percentage depletion of each prescribed in subdivision (b) (before the application of subdivision (c)) bears to the total percentage depletion prescribed in subdivision (b) for all corporations (before the application of subdivision (c)).

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, Sections 1 and 2 of this act shall be applied in the computation of taxes for taxable years beginning after December 31, 1977, and Sections 3 and 4 of this act shall be applied in the computation of taxes for income years beginning after December 31, 1977.

CHAPTER 1027

An act to amend Section 60315 of, to add Section 46352 to, and to add and repeal Section 39250.5 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1. Section 39250.5 is added to the Education Code, to read:

39250.5. Any building which was being leased pursuant to this article by the governing board of any school district prior to January 1, 1979, and which is used exclusively for adult education purposes shall not be subject to the provisions of Article 3 (commencing with Section 39140) and Article 6 (commencing with Section 39210) of this chapter.

If any building so excluded was not constructed in accordance with Article 3 (commencing with Section 39140) of this chapter and was not repaired, reconstructed, or replaced in accordance with Article 6 (commencing with Section 39210) of this chapter, there shall be posted in a conspicuous place on such building a public notice stating that such building does not meet the structural standards imposed by law for earthquake safety.

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

SEC. 2. Section 46352 is added to the Education Code, to read:

46352. The governing board of any school district may determine not to include the attendance of any person or persons enrolled in classes for adults in the district's computation of its revenue limit and state apportionments. The district shall submit annually to the Superintendent of Public Instruction a report indicating the number of pupils in such category for the preceding fiscal year.

SEC. 3. Section 60315 of the Education Code is amended to read:

60315. The Superintendent of Public Instruction shall lend to pupils entitled to attend the public elementary schools of the district, but in attendance at a school other than a public school under the provisions of Section 48222, the following items adopted by the state board for use in the public elementary schools:

(a) Textbooks and textbook substitutes for pupil use.

(b) Educational materials for pupil use.

(c) Tests for pupil use.

(d) Instructional materials systems for pupil use.

(e) Instructional materials sets for pupil use.

No charge shall be made to any pupil for the use of such adopted materials.

Items shall be loaned pursuant to this section only after, and to the same extent that, items are made available to students in attendance in public elementary schools. However, no cash allotment may be made to any nonpublic school.

Items shall be loaned for the use of nonpublic elementary school students after the nonpublic school student certifies to the State Superintendent of Public Instruction that such items are desired and will be used in a nonpublic elementary school by the nonpublic elementary school student.

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 provide for the efficient administration of educational systems in this state and to enable school districts to fulfill existing leases of facilities for adult education programs which will be maintained during the fall of 1978, it is necessary that this act take effect immediately.

CHAPTER 1028

An act to amend Section 84502 of, and to repeal and add Section 84521 to, the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1. Section 84502 of the Education Code is amended to read:

84502. In any computation of average daily attendance made under, or necessitated by, any provision of law, the average daily attendance shall be computed to four decimal places and rounded to two decimal places for the purpose of reporting to the chancellor's office.

Whenever any reference is made to a specific whole number of units of average daily attendance said number shall include any fraction above said number which is less than one-half of a unit, and any fraction of one-half or more of a unit above the next lowest whole number.

SEC. 2. Section 84521 of the Education Code is repealed.

SEC. 3. Section 84521 is added to the Education Code, to read:

84521. (a) For the purposes of this chapter, average daily attendance of students enrolled in any credit course, as defined by Section 78201.5, which is scheduled for the full term of a quarter or a semester, or for other sessions as approved by the Chancellor of the California Community Colleges to meet the requirements of Section 84370, shall be computed pursuant to Section 84520.

(b) Notwithstanding the provisions of Section 84520, average daily attendance of students enrolled in any credit course, other than courses offered pursuant to subdivision (a) of Section 84500 or Section 84530, which is scheduled for a period of time other than the full term of a quarter or semester, or for other sessions approved for the purposes of Section 84370, shall be computed by dividing actual class hours of attendance by 525.

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:

Provisions of law authorizing community college districts to receive apportionments for attendance in short-term classes will expire on July 1, 1978, and thus in order to assure community college districts of continuing credit for attendance in such classes, commencing on July 1, 1978, it is necessary that this act take effect immediately.

CHAPTER 1029

An act to amend Section 64 of Chapter 208 of the Statutes of 1973, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1. Section 64 of Chapter 208 of the Statutes of 1973 is amended to read:

Sec. 64. This section shall apply only to the school districts of Santa Cruz County. Because of an unusual situation with respect to the junior high schools of that county, a general law cannot be made applicable.

All references to code sections in this section are to sections of the Education Code.

(a) The governing board of any elementary school district situated within a high school district maintaining a junior high school shall permit pupils who have completed the sixth year of the elementary school to attend the junior high school and shall pay to the high school district for the education of the pupils a tuition charge determined pursuant to this section.

(b) The base tuition revenue amount per unit of average daily attendance for each fiscal year, the tuition revenue amount per unit of average daily attendance of a junior high student for each fiscal year, and the total tuition to be paid each fiscal year to a high school district to which an elementary district sends junior high school students shall be computed jointly by the high school district superintendent and the county superintendent annually as follows:

(1) For the 1973–74 fiscal year only, they shall add the total of all payment received by the high school district in the 1972–73 fiscal year pursuant to Sections 37062, 42212, and former Section 5605.5, exclusive of funds received pursuant to Public Law 81-874, and any funds budgeted and expended in the 1972–73 fiscal year from restricted reserves derived under Section 42212. The total so determined shall be divided by the average daily attendance for the

second period of attendance for the 1972–73 fiscal year for the junior high schools maintained by the high school district and shall be the base tuition revenue amount per average daily attendance for junior high school operation for the high school district.

(2) For the 1973–74 fiscal year, they shall divide the base tuition revenue amount per average daily attendance determined in paragraph (1) into one thousand thirty dollars ($1,030). If the result is greater than one, it shall be deemed to be one. The quotient so determined shall be multiplied by seventy dollars ($70) per unit of average daily attendance. The product so determined shall be added to the base tuition revenue amount per average daily attendance determined according to paragraph (1) and the sum shall be the tuition revenue limit per average daily attendance for the 1973–74 fiscal year for that high school district.

For the 1974–75 fiscal year and each fiscal year thereafter they shall divide the tuition revenue limit per average daily attendance for the prior fiscal year computed according to this subdivision into the appropriate foundation amount set according to subdivision (c) of Section 42238. If the result is more than one it shall be deemed to be one. The quotient so determined shall be multiplied by the inflation adjustment amount per average daily attendance for foundation programs determined pursuant to subdivisions (d) and (e) of Section 42238 and the result added to the tuition revenue limit per average daily attendance for the prior fiscal year. The sum shall be the tuition revenue limit per average daily attendance for the then current fiscal year.

(3) The sum computed pursuant to paragraph (2) for any fiscal year shall be multiplied by the estimated foundation program unit of average daily attendance in the second principal apportionment of the junior high schools of the high school district for that current fiscal year. The product shall be the total tuition revenue limit that the high school district may receive in that current fiscal year from the elementary districts sending students to a junior high school maintained by such high school district.

(4) From the total tuition revenue limit computed pursuant to paragraph (3) there shall be subtracted the total of the amounts that would be received by the high school district if each elementary district paid to the high school district the product of the estimated average daily attendance of seventh- and eighth-grade students attending a junior high school maintained by the high school district and the elementary district revenue limit per average daily attendance computed pursuant to Section 42233 or 42238, whichever is applicable, as computed prior to any adjustments in revenue limit for changes in junior high school tuition for that year pursuant to subdivision (g) or subdivision (h). The difference so computed according to this paragraph shall be the residual tuition amount for that current year.

(5) A computational tax rate expressed to four decimal places shall be set jointly by the high school district superintendent and the

county superintendent of schools prior to July 15, 1973, in the 1973–74 fiscal year and prior to May 1 each fiscal year thereafter, which, when multiplied by the product of the attendance ratio and each one hundred dollars ($100) of the assessed valuation of each of the elementary districts will give a sum nearest the total residual tuition amount authorized to be received by the high school district as determined pursuant to paragraph (4).

The "attendance ratio" is the ratio which the average daily attendance of pupils of the elementary school district attending grades 7 and 8 of a junior high school maintained by the high school district bears to the total average daily attendance of the elementary school district, including such pupils in grades 7 and 8, during the current fiscal year.

The total amount so computed for each elementary district pursuant to paragraph (4) shall be divided by the estimated average daily attendance of seventh- and eighth-grade students from the elementary school district which are estimated to attend a junior high school maintained by the high school district in that year and the result shall be the residual tuition amount per average daily attendance for that fiscal year for that elementary school district.

(6) For each elementary school district, the tuition payments paid to the high school district in 1972–73 under Sections 37062 and former Section 5605.5 shall be added to the tax revenue derived by the high school district under Section 42212 from the assessed valuation of that elementary school district. The sum shall be divided by the average daily attendance of seventh- and eighth-grade students from the elementary school district attending a junior high school maintained by the high school district in the 1972–73 fiscal year. The result shall be increased by the sum of the amount spent per unit of average daily attendance for junior high school programs in the 1972–73 fiscal year from restricted reserves derived under Section 42212 and the inflation adjustment computed pursuant to paragraph (2), and shall be the comparison junior high school payment for the 1973–74 fiscal year.

(c) An elementary school district whose seventh- and eighth-grade pupils are entering junior high school and for which no tuition limit can be determined pursuant to subdivision (b) shall pay a tuition agreed upon between the high school district and the elementary school district, which shall be no less than the revenue limit per unit of average daily attendance of the elementary school district for that year.

(d) Each elementary school district sending students to a junior high school maintained by a high school district shall be billed by the county superintendent of schools, and shall pay to the high school district as tuition, an amount computed as follows:

(1) For the 1973–74 fiscal year, the sum of the revenue limit per unit of average daily attendance determined from the amount computed pursuant to subdivision (i) of Section 42233, but without any adjustments for changes in junior high school tuition payment for

that year pursuant to subdivision (h), and the residual tuition amount per average daily attendance for the 1973–74 fiscal year, shall be adjusted by one-half the difference between that sum and the comparison tuition amount per average daily attendance for the 1973–74 fiscal year computed pursuant to paragraph (6) of subdivision (b). The result shall be multiplied by the estimated average daily attendance for the 1973–74 fiscal year of seventh- and eighth-grade students attending a junior high school maintained by the high school district.

The product shall be the total tuition paid by the elementary district to the high school district as tuition for junior high attendance for the 1973–74 fiscal year.

In no case shall the tuition per unit of average daily attendance paid to the high school district be less than the local revenue limit per unit of average daily attendance of the elementary school district determined from the amount computed according to subdivision (i) of Section 42233 prior to adjustments for changes in junior high school tuition payments for that current year.

(2) For the 1974–75 fiscal year, and for each fiscal year thereafter, the sum of the revenue limit per unit of average daily attendance as computed pursuant to Section 42238 prior to any adjustments for changes in junior high tuition for that year pursuant to subdivision (h), and the residual tuition amount per average daily attendance for that current year, shall be multiplied by the estimated average daily attendance for the current fiscal year of seventh- and eighth-grade students attending a junior high school maintained by the high school district.

The product shall be the total tuition paid by the elementary school district to the high school district as tuition for junior high school attendance for that current fiscal year.

In no case shall the tuition per unit of average daily attendance paid to the high school district be less than the revenue limit per unit of average daily attendance of the elementary district computed according to Section 42238 prior to adjustments for changes in junior high school tuition payment for that current year.

(e) For the 1978–79 fiscal year and each fiscal year thereafter, any elementary district in Santa Cruz County which sends seventh- and eighth-grade students to a junior high school operated by a high school district shall compute its elementary district revenue limit pursuant to Section 42238 by deleting from such computation the units of average daily attendance attributed to the elementary district by virtue of seventh- and eighth-grade students who attend the junior high schools of a high school district. The revenue limit for each elementary district thus computed shall be increased by the amount that the elementary district is charged as tuition for seventh- and eighth-graders which attend a junior high school of the high school district, as computed according to subdivision (d) of this section.

(f) If the amount of local tax revenue which is determined by the

county superintendent of schools to have been derived by the elementary district in the 1977–78 fiscal year for the support of seventh- and eighth-grade students attending a junior high school of the high school district, which amount shall be on file with the State Department of Education and the county office of education, is greater than the amount of junior high tuition charged to the elementary district for the 1977–78 fiscal year, 80 percent of the difference shall be added to the revenue limit of the elementary district as computed pursuant to subdivision (e) of this section for the 1978–79 fiscal year. For the 1979–80 fiscal year, 60 percent of the difference shall be added to the revenue limit of the elementary district as computed pursuant to subdivision (e) of this section. For the 1980–81 fiscal year, 40 percent of the difference shall be added to the revenue limit of the elementary district as computed pursuant to subdivision (e) of this section. For the 1981–82 fiscal year 20 percent of the difference shall be added to the revenue limit of the elementary district as computed pursuant to subdivision (e) of this section. There shall be no adjustment pursuant to this subdivision after the 1981–82 fiscal year.

(g) For high school districts maintaining a junior high school system which is attended by seventh- or eighth-grade students from an elementary district pursuant to this section, the foundation program amount used as the dividend for computing the annual allowed adjustment in the tuition revenue limit per unit of average daily attendance pursuant to paragraph (2) of subdivision (b) of this section shall be the average of the foundation amount set annually for elementary districts having an average daily attendance of 901 or more and high school districts having an average daily attendance of 301 or more.

SEC. 2. Notwithstanding the provisions of Sections 56041 and 56367 of the Education Code, for fiscal year 1978–79 the Superintendent of Public Instruction may provide for the certification of private schools and agencies offering special education services pursuant to Article 3 (commencing with Section 56030) of Chapter 1 and Article 5 (commencing with Section 56360) of Chapter 2 of Part 30 of the Education Code for up to one year.

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

In order that the revised fiscal computations prescribed by this act with respect to the schools of Santa Cruz County may be utilized for the 1978–79 fiscal year, it is necessary that this act go into effect immediately.

CHAPTER 1030

An act to amend Section 9641 of, and to add Sections 9641.5 and 9641.7 to, the Food and Agricultural Code, relating to horses and other Equidae, and making an appropriation therefor.

[Approved by Governor September 21, 1978 Filed with Secretary of State September 22, 1978]

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

SECTION 1 Section 9641 of the Food and Agricultural Code is amended to read:

9641. Except as otherwise provided in this article, it is unlawful for any person to bring into this state any horse or other Equidae, dairy cattle, breeding bull, goat, or sheep.

SEC. 2. Section 9641.5 is added to the Food and Agricultural Code, to read:

9641.5 Any horse or other Equidae brought into this state shall be accompanied by the following:

(a) A certificate of health from the state of origin issued by an accredited veterinarian. The certificate shall state that the horse or other Equidae is free from evidence of any communicable disease.

(b) Verification that any horse or Equidae has been tested within the preceding six months and found negative to a test for equine infectious anemia. The test shall be approved by the director and conducted by a laboratory approved by the United States Department of Agriculture, and the necessary sample shall be taken, and the verification signed by, an accredited veterinarian.

A copy of the certificate and verification, accompanied by a filing fee set by the director at not to exceed two dollars ($2) per animal, shall be mailed to the department not later than the day of the shipment. Such moneys shall be deposited in the Department of Agriculture Fund and shall be used for the purpose of administering the provisions of this section and Section 9641.7.

A nursing foal of less than six months of age when accompanied by a negative dam and any horse or other Equidae consigned for immediate slaughter shall be exempt from the testing requirements of this section.

Any horse or other Equidae moved from California to another state for a period of not more than 14 days, are exempt from this section upon returning to California, provided, that the exemption does not apply to any horse or other Equidae that leaves the continental United States.

SEC. 3. Section 9641.7 is added to the Food and Agricultural Code, to read.

9641.7. Any positive test for equine infectious anemia performed in a California laboratory shall be reported by telephone within 24 hours to the department by the laboratory making the test.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1031

An act to add Chapter 2.5 (commencing with Section 798) to Title 2 of Part 2 of Division 2 of, and to repeal Sections 789.4, 789.5, 789.5c, 789.6, 789.7, 789.7a, 789.7b, 789.7c, 789.8, 789.9, 789.10, 789.11, 789.12, 789.13, 789.14, and 789.15 of, the Civil Code, relating to mobilehome residences.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Chapter 2.5 (commencing with Section 798) is added to Title 2 of Part 2 of Division 2 of the Civil Code, to read:

CHAPTER 2.5. MOBILEHOME RESIDENCY LAW

Article 1. General

798. This chapter shall be known and may be cited as the "Mobilehome Residency Law."

798.1. Unless the provisions or context otherwise requires, the following definitions shall govern the construction of this chapter.

798.2. "Management" means the owner of a mobilehome park or an agent or representative authorized to act on his behalf in connection with matters relating to a tenancy in the park.

798.4. "Mobilehome park" is an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation.

798.5. "Park" is a mobilehome park.

798.6. "Rental agreement" is an agreement between the management and the tenant establishing the terms and conditions of a tenancy. A lease is a rental agreement.

798.7. "Resident" is a tenant or other person who lawfully occupies a mobilehome.

798.8. "Tenancy" is the right of a tenant to the use of a site within a mobilehome park on which to locate, maintain, and occupy a mobilehome and accessory structures for human habitation.

798.9. "Tenant" is a person who has a tenancy in a mobilehome park under a rental agreement.

Article 2. Rental Agreement

798.15. Prior to the creation or renewal of a tenancy, the management shall furnish the prospective tenant with a written rental agreement. The agreement shall contain, in addition to the provisions otherwise required by law to be included, all of the following:

(a) A provision specifying that it is the responsibility of the management to provide and maintain physical improvements in the common facilities in good working order and condition.

(b) A description of the physical improvements to be provided the tenant during his tenancy.

(c) A provision listing those services which will be provided at the time the rental agreement is executed and will continue to be offered for the period of tenancy and the fees, if any, to be charged for those services.

(d) A provision specifying that the management shall meet and consult with the tenants, either individually or collectively, on the following matters:

(1) Amendments to park rules and regulations.

(2) Standards for maintenance of physical improvements in the park.

(3) Addition, alteration, or deletion of services, equipment, or physical improvements.

The provision shall provide that the meeting shall be conducted only after notice thereof has been given to all tenants 10 days or more before the meeting.

798.16. The rental agreement may include the rules and regulations of the park and such other provisions permitted by law.

798.17. The rental agreement may provide that the tenancy may be terminated by the management giving written notice to the tenant in the manner and form prescribed in Article 6 (commencing with Section 798.55) of this chapter, to remove the mobilehome from the park within a period of more than 60 days, which period shall be specified in the notice.

798.18. A tenant whose tenancy is subject to termination under Article 6 (commencing with Section 798.55) of this chapter, may request that his tenancy be governed by a written rental agreement. If such a request is made, the management shall furnish the tenant with a written rental agreement for a term of not less than 12 months.

798.19. No rental agreement for a mobilehome that requires a permit to be moved upon a street or highway shall contain a provision by which the tenant waives his rights under the provisions of this chapter, except Sections 798.19, 798.75, 798.85, and 798.86. Any such waiver shall be deemed contrary to public policy and void.

798.20. Membership in any private club or organization which is a condition for tenancy in a park shall not be denied on the basis of race, color, religion, sex, national origin, ancestry, or marital status

Article 3. Rules and Regulations

798.25. The management shall provide each tenant with the park rules and regulations and the provisions of law set forth in Article 1 (commencing with Section 798) to Article 8 (commencing with Section 798.84), inclusive, except Section 798.75, in writing The provisions of law may be included either within the rules and regulations or the rental agreement.

Article 4. Fees and Charges

798.30. The management shall give a tenant written notice of any increase in his rent at least 60 days before the date of the increase.

798.31. A tenant shall not be charged a fee for other than rent, utilities, and incidental reasonable charges for services actually rendered.

798.32. A tenant shall not be charged a fee for services actually rendered which are not listed in the rental agreement unless he has been given written notice thereof by the management, at least 60 days before imposition of the charge.

798 33. A tenant shall not be charged a fee for keeping a pet in the park unless the management actually provides special facilities or services for pets If special pet facilities are maintained by the management, the fee charged shall reasonably relate to the cost and maintenance of the facilities or services and the number of tenants owning pets.

798.34. A tenant shall not be charged a fee for a guest who does not stay with him for more than a total of 14 days in any calendar month. Such a guest will not be required to register with the management

798.35. A tenant shall not be charged a fee based on the number of members in his immediate family. As used in this section, the "immediate family" includes the tenant, his spouse, and their children.

798.36. A tenant shall not be charged a fee for the enforcement of any of the rules and regulations of the park.

798.37 A tenant shall not be charged a fee for entry, installation, hookup, or landscaping as a condition of tenancy, but reasonable landscaping and maintenance requirements may be included in the park rules and regulations.

798 38. Where the management provides both master meter and submeter service of utilities to a tenant, for each billing period the cost of the charges for the period shall be separately stated along with the opening and closing readings for his meter The management shall post in a conspicious place, the prevailing residential utilities rate schedule as published by the serving utility

Article 5. Tenant Meetings

798.50. The management shall permit meetings by tenants or occupants of a mobilehome in the park, or any or all of them, relating to mobilehome living and affairs to be held in any of the park community or recreation halls if the meeting is held at a reasonable hour and when the facility is not otherwise in use.

798.51. The provisions of this article shall apply only to a mobilehome or trailer coach that requires a permit to be moved on a street or highway.

Article 6. Termination of Tenancy

798.55. No tenancy created on or after March 4, 1972, may be terminated by the management except for a reason specified in this article and upon the giving of written notice to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice.

798.56. A tenancy shall be terminated by the management pursuant to this article only for one or more of the following reasons:

(a) Failure of the tenant to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the tenant receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the tenant, upon the park premises, which constitutes a substantial annoyance to other tenants.

(c) Failure of the tenant to comply with a reasonable rule or regulation of the park as set forth in the rental agreement at the inception of his tenancy or as amended thereafter with the consent of the tenant, or without the consent of the tenant upon written notice to him of not less than six months, except for regulations applicable to recreational facilities which may be amended without consent of the tenant upon written notice to him of not less than 60 days.

No act or omission of the tenant shall constitute such a failure to comply unless and until the management has given the tenant written notice of the alleged rule or regulation violation and the tenant has failed to adhere to the rule or regulation within seven days.

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

(e) Condemnation of the park

(f) Change of use of the park, provided the management gives the tenants or prospective tenants written notice of the proposed change, 12 months or more before the date of the proposed change.

The notice requirements for termination of tenancy set forth in Sections 798.55 and 798.57 shall be followed if the proposed change actually occurs

798.57. The management shall set forth in a notice of termination, the reason relied upon for the termination with specific facts to permit determination of the date, place, witnesses, and circumstances concerning that reason. Neither reference to the section number or a subdivision thereof, nor a recital of the language of this article will constitute compliance with this section.

798.58. No tenancy shall be terminated for the purpose of making a tenant's site available for a person who purchased a mobilehome from the owner of the park or his agent.

798.59. A tenant shall give written notice to the management of not less than 60 days before vacating his tenancy.

798.60. Sections 798.55, 798.56, and 798.57 shall not affect any rights or proceedings set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure except as otherwise provided in those sections.

798.61. Sections 798.55, 798.56, and 798.57 apply only to a mobilehome or trailer coach that requires a permit to be moved upon a street or highway.

Article 7. Transfer of Mobilehome

798.70. A tenant may advertise the sale or exchange of his mobilehome or, if not prohibited by the terms of an agreement with the management, may advertise the rental of his mobilehome. The advertising may include the display of a sign in the window of the mobilehome stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his agent. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his agent and may be at least 12 inches in width and 12 inches in length.

798.71. The management shall not show or list for sale a mobilehome without first obtaining the owner's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

Nothing in this section shall be construed as affecting the provisions of the Vehicle Code governing the licensing of mobilehome salesmen.

798.72. The management shall not charge a tenant or his agent a transfer or selling fee as a condition of a sale of his mobilehome within a park unless the management performs a service in the sale. The management shall not perform any such service in connection with the sale unless so requested, in writing, by the tenant or his agent.

798.73. The management shall not require the removal of a mobilehome from the park in the event of its sale to a third party during the term of the tenant's rental agreement. However, in order to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

(a) It is less than 10 feet in width.

(b) It is 15 years or older and manufactured on or before September 15, 1971.

(c) It is 25 years or older and manufactured after September 15, 1971, or

(d) It is in rundown condition or in disrepair. The management shall use reasonable discretion in determining the condition of the mobilehome and its accessory structures.

798.74. The management may require the right of prior approval of a purchaser of a mobilehome that will remain in the park and that 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.

798.75. An escrow, sale, or transfer agreement involving a mobilehome located in a park at the time of the sale, where the mobilehome is to remain in the park, shall contain a provision signed by the purchaser stating that he has agreed to the terms of a rental agreement. A copy of a fully executed rental agreement signed by the purchaser will satisfy the requirements of this section.

798.76. The management may require that a purchaser of a mobilehome which will remain in the park, comply with any rule or regulation limiting residence to adults only.

798.77. No rental or sale agreement shall contain a provision by which the purchaser or tenant waives his rights under Section 798.70, 798.73, 798.74, or 798.76. Any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

Article 8. Actions, Proceedings, and Penalties

798.84. A tenant may commence an action to enforce the provisions of this chapter or to recover damages for the breach of any provision of the rental agreement by the management.

798.85. In any action arising out of the provisions of this chapter, except Sections 798.18 and 798.75, the prevailing party shall be entitled to reasonable attorney's fees and costs. A party shall be deemed a prevailing party for the purposes of this section where the litigation is dismissed in his favor prior to or during the trial unless the parties otherwise agree in the settlement or compromise.

798.86. In the event a tenant, former tenant, or former resident of a park is the prevailing party in a civil action against the owner, to enforce his rights under the provisions of this chapter, except Sections 798.18 and 798.75, the tenant or resident, in addition to damages afforded by law, may, in the discretion of the court, be awarded an amount not to exceed five hundred dollars ($500) for each willful violation of those provisions by the owner.

Article 9. Subdivisions, Cooperatives, and Condominiums

799. As used in this article:

(a) "Ownership or management" means the ownership or management of a subdivision, cooperative, or condominium for mobilehomes.

(b) "Tenant" means a person who has a tenancy in a subdivision, cooperative, or condominium for mobilehomes.

799.1. A tenant may advertise the sale or exchange of his mobilehome or, if not prohibited by the terms of an agreement with the management or ownership, may advertise the rental of his mobilehome. A tenant may display a sign in the window of his mobilehome to advertise that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his agent. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his agent, and may be at least 12 inches in width and 12 inches in length.

799.2. The ownership or management shall not show or list for sale a mobilehome owned by a tenant without first obtaining the owner's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

Nothing contained in this section shall be construed to affect the provisions of the Vehicle Code governing the licensing of mobilehome salesmen.

799.3. The ownership or management shall not require the removal of a mobilehome from a subdivision, cooperative, or condominium in the event of its sale to a third party. However, in order to upgrade the quality of the subdivision, cooperative, or condominium, the ownership or management may require that a mobilehome be removed where:

(a) It is less than 10 feet in width.

(b) It is 15 years or older and manufactured on or before September 15, 1971.

(c) It is 25 years or older and manufactured after September 15, 1971, or

(d) It is in rundown condition or in disrepair. The ownership or management shall use reasonable discretion in determining the condition of the mobilehome and its accessory structures.

799.4. The ownership or management may require the right to prior approval of the purchaser of a mobilehome that will remain in the subdivision, cooperative, or condominium for mobilehomes and that the selling tenant or his agent give notice of the sale to the ownership or management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the fees and charges of the subdivision, cooperative or condominium unless the ownership or management reasonably determines that, based on the purchaser's prior tenancies, he will not comply with the rules and regulations of the subdivision, cooperative, or condominium.

799.5 The ownership or management may require that a purchaser of a mobilehome which will remain in the subdivision, cooperative, or condominium for mobilehomes, comply with any rule or regulation limiting residence therein to adults only.

799.6. The ownership or management shall give written notice to a tenant of any rent increase, not less than 60 days before imposition of the increase.

799.7. Before vacating his tenancy, a tenant shall give a written notice thereof to the ownership or management of not less than 60 days

799.8. No agreement shall contain any provision by which the purchaser waives his rights under the provisions of Section 799.1, 799.3, 799.4, or 799.5. Any such waiver shall be deemed contrary to public policy and void and unenforceable

SEC. 2. Section 789.4 of the Civil Code is repealed

SEC. 3. Section 789.5 of the Civil Code is repealed

SEC. 4 Section 789.5c of the Civil Code is repealed.

SEC. 5. Section 789.6 of the Civil Code is repealed.

SEC. 6 Section 789.7 of the Civil Code is repealed.

SEC. 7 Section 789.7a of the Civil Code is repealed.

SEC. 8 Section 789.7b of the Civil Code is repealed.

SEC. 9 Section 789.7c of the Civil Code is repealed.

SEC. 10 Section 789.8 of the Civil Code is repealed.

SEC. 11. Section 789.9 of the Civil Code is repealed.

SEC. 12 Section 789.10 of the Civil Code is repealed.

SEC. 13. Section 789.11 of the Civil Code is repealed.

SEC. 14. Section 789.12 of the Civil Code is repealed.

SEC. 15. Section 789.13 of the Civil Code is repealed.

SEC 16. Section 789.14 of the Civil Code is repealed.

SEC. 17. Section 789.15 of the Civil Code is repealed.

SEC. 18. 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 that 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. 19. The provisions of Section 1 of this act do not constitute a change in the law, but are declaratory of existing law.

SEC. 20. Section 798.74, as added to the Civil Code by Section 18 of this act, shall become operative only if Senate Bill No. 1374 is enacted and amends Section 789.10 of the Civil Code, in which case Section 798.74, as added to the Civil Code by Section 1 of this act, shall not become operative.

CHAPTER 1032

An act to amend Sections 789.14 and 798.18 of the Civil Code, relating to mobilehome park tenancies.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 789.14 of the Civil Code is amended to read:

789.14. Any prospective tenant or tenant of a mobilehome park subject to the provisions of Section 789.5 may request that his tenancy in the mobilehome park be governed by a written rental agreement. If such a request is made, the ownership or management shall furnish the tenant with a written rental agreement for a term of not less than 12 months. No such agreement shall contain any terms or conditions with respect to charges for rent, utilities, or incidental reasonable service charges, which would be different during the first 12 months of the agreement from corresponding terms or conditions which would be offered to the prospective tenant or tenant on a month-to-month tenancy.

SEC. 2. Section 798.18 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.18. A tenant whose tenancy is subject to termination under Article 6 (commencing with Section 798.55) of this chapter, may request that his tenancy be governed by a written rental agreement. If such a request is made, the management shall furnish the tenant with a written rental agreement for a term of not less than 12 months.

No such agreement shall contain any terms or conditions with respect to charges for rent, utilities, or incidental reasonable service charges which would be different during the first 12 months of the agreement from the corresponding terms or conditions which would be offered to the prospective tenant or tenant on a month-to-month basis.

SEC. 3. Section 2 of this act shall become operative only if Senate Bill No. 2119 of the 1977–78 Regular Session is enacted and adds Section 798.18 to the Civil Code, in which case Section 1 of this act shall not become operative.

CHAPTER 1033

An act to amend Sections 798, 798.8, 798.15, 798.16, 798.18, 798.19, 798.33, 798.55, 798.56, 798.60, 798.70, 798.73, 798.77, 798.85, 798.86, 799.1, and 799.3 of, to amend and renumber Sections 789.16 and 799.8 of, to add Sections 798.3, and 798.25 to, and to repeal Sections 798, 798.17, 798.25, 798.51, 798.61, 798.84, 799.6, and 799.7 of, the Civil Code, relating to mobilehome residencies.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Section 798 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798. This chapter shall be known and may be cited as the "Mobilehome Residency Law." It shall apply only to a mobilehome that requires a permit to be moved on a street or highway.

SEC. 1.5. Section 798 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is repealed.

SEC. 2. Section 798.3 is added to Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session.

798.3. "Mobilehome" is a structure designed for human habitation and for being moved on a street or highway under a permit.

SEC. 3. Section 798.8 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.8. "Tenancy" is the right of a tenant to the use of a site within a mobilehome park on which to locate, maintain, and occupy a mobilehome, site improvements, and accessory structures for human habitation, including the use of the services and facilities of the park.

SEC. 4. Section 798.15 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.15. The rental agreement shall be in writing and shall contain, in addition to the provisions otherwise required by law to be included, all of the following:

(a) The term of the tenancy and the rent therefor.

(b) The rules and regulations of the park.

(c) The language of the provisions of this chapter.

(d) A provision specifying that it is the responsibility of the management to provide and maintain physical improvements in the common facilities in good working order and condition.

(e) A description of the physical improvements to be provided the tenant during his tenancy.

(f) A provision listing those services which will be provided at the time the rental agreement is executed and will continue to be offered for the term of tenancy and the fees, if any, to be charged for those services.

(g) A provision specifying that the management shall meet and consult with the tenants, either individually or collectively, on the following matters:

(1) Amendments to park rules and regulations.

(2) Standards for maintenance of physical improvements in the park.

(3) Addition, alteration, or deletion of service, equipment, or physical improvements.

The provision shall provide that any meeting shall be conducted only after notice thereof has been given to all tenants 10 days or more before the meeting.

(h) All other provisions governing the tenancy.

SEC. 5. Section 798.16 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.16 The rental agreement may include such other provisions permitted by law.

SEC. 6. Section 798.17 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is repealed.

SEC. 7. Section 798.18 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.18. A tenant shall be given a rental agreement for such term as he may request, not to exceed 12 months, or such longer period as the management may approve.

SEC. 7.5. Section 798.18 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.18. A tenant shall be given a rental agreement for such term as he may request not to exceed 12 months, or such longer period as the management may approve. No such agreement shall contain any terms or conditions with respect to charges for rent, utilities, or incidental reasonable service charges which would be different during the first 12 months of the agreement from the corresponding terms or conditions which would be offered to the prospective tenant or tenants on a month-to-month basis

SEC. 8. Section 798.19 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.19. No rental agreement for a mobilehome shall contain a provision by which the tenant waives his rights under the provisions of Articles 1 to 8, inclusive, of this chapter. Any such waiver shall be deemed contrary to public policy and void.

SEC. 9. Section 798.25 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is repealed.

SEC. 10. Section 798.25 is added to Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code, as added by Senate Bill No. 2119 to the 1977–78 Regular Session, to read:

798.25. A rule or regulation of the park may be amended at any time with the consent of a tenant, or without his consent upon written notice to him of not less than six months, except for regulations applicable to recreational facilities which may be amended without his consent upon written notice to him of not less than 60 days. Written notice to a new tenant, whose tenancy commences within the required period of notice, of a proposed amendment shall constitute compliance with this section where the written notice is given to him before the inception of his tenancy.

SEC. 10.5. Section 789.16 of the Civil Code, as added by Assembly Bill No. 2785, of the 1977–78 Regular Session, is amended and renumbered to read:

798.26. (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.

SEC. 11. Section 798.33 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.33. A tenant shall not be charged a fee for keeping a pet in the park unless the management actually provides special facilities or services for pets. If special pet facilities are maintained by the management, the fee charged shall reasonably relate to the cost of maintenance of the facilities or services and the number of pets kept in the park.

SEC. 12. Section 798.51 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is repealed.

SEC. 13. Section 798.55 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.55. The management shall not terminate or refuse to renew a tenancy, except for a reason specified in this article and upon the giving of written notice to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice.

SEC. 14. Section 798.56 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the tenant to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the tenant receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the tenant, upon the park premises, which constitutes a substantial annoyance to other tenants.

(c) Failure of the tenant to comply with a reasonable rule or regulation of the park as set forth in the rental agreement or any amendment thereto

No act or omission of the tenant shall constitute such a failure to comply unless and until the management has given the tenant

written notice of the alleged rule or regulation violation and the tenant has failed to adhere to the rule or regulation within seven days.

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

(e) Condemnation of the park.

(f) Change of use of the park, provided:

(1) The management gives the tenants written notice of the proposed change 12 months or more before the date of the proposed change.

(2) The management gives each proposed tenant whose tenancy will commence within 12 months of the proposed change, written notice thereof prior to the inception of his tenancy.

The notice requirements for termination of tenancy set forth in Sections 798.55, 798.56, and 798.57 shall be followed if the proposed change actually occurs.

SEC. 15. Section 798.60 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.60. The provisions of this article shall not affect any rights or proceedings set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure except as otherwise provided herein.

SEC. 16. Section 798.61 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is repealed.

SEC. 17. Section 798.70 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.70. A tenant may advertise the sale or exchange of his mobilehome or, if not prohibited by the terms of an agreement with the management, may advertise the rental of his mobilehome by displaying a sign in the window of the mobilehome stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his agent. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his agent and may be at least 12 inches in width and 12 inches in length.

SEC. 18. Section 798.73 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.73. The management shall not require the removal of a mobilehome from the park in the event of its sale to a third party during the term of the tenant's rental agreement, except to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

a. The mobilehome is less than 10 feet in width.

b. The mobilehome is 15 years or older and manufactured on or before September 15, 1971.

c. The mobilehome is 25 years or older and manufactured after September 15, 1971, or

d. The mobilehome is in rundown condition or in disrepair. The management shall use reasonable discretion in determining the

condition of the mobilehome and its accessory structures.

SEC. 19. Section 798.77 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.77. No rental or sale agreement shall contain a provision by which the purchaser or tenant waives his rights under this article. Any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

SEC. 20. Section 798.84 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is repealed.

SEC. 21. Section 798.85 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

798.85. In any action arising out of the provisions of this chapter the prevailing party shall be entitled to reasonable attorney's fees and costs. A party shall be deemed a prevailing party for the purposes of this section if the judgment is rendered in his favor or where the litigation is dismissed in his favor prior to or during the trial, unless the parties otherwise agree in the settlement or compromise.

SEC. 22. Section 798.86 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

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

SEC. 23. Section 799.1 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

799.1. A tenant may advertise the sale or exchange of his mobilehome or, if not prohibited by the terms of an agreement with the management or ownership, may advertise the rental of his mobilehome by displaying a sign in the window of his mobilehome stating that the mobilehome is for sale or exchange or, if not prohibited, for rent by the owner of the mobilehome or his agent. The sign shall state the name, address, and telephone number of the owner of the mobilehome or his agent, and may be at least 12 inches in width and 12 inches in length.

SEC. 24. Section 799.3 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended to read:

799.3. The ownership or management shall not require the removal of a mobilehome from a subdivision, cooperative, or condominium in the event of its sale to a third party, except to upgrade the quality of the subdivision, cooperative, or condominium, the ownership or management may require that a mobilehome may be removed where·

a. The mobilehome is less than 10 feet in width.

b. The mobilehome is 15 years or older and manufactured on or before September 15, 1971

c. The mobilehome is 25 years or older and manufactured after

September 15, 1971, or

d. The mobilehome is in rundown condition or in disrepair. The ownership or management shall use reasonable discretion in determining the condition of the mobilehome and its accessory structures.

SEC. 25. Section 799.6 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is repealed.

SEC. 26. Section 799.7 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is repealed.

SEC. 27. Section 799.8 of the Civil Code, as added by Senate Bill No. 2119 of the 1977–78 Regular Session, is amended and renumbered to read:

799.6. No agreement shall contain any provision by which the purchaser waives his rights under the provisions of this article. Any such waiver shall be deemed contrary to public policy and void and unenforceable.

SEC. 28. It is the intent of the Legislature that this bill shall become operative only if Senate Bill No. 2119 is enacted and becomes effective January 1, 1979. If Senate Bill No. 2119 is not enacted to become effective on January 1, 1979, this act shall not become operative.

SEC. 29. Section 1.5 of this act shall become operative only if Assembly Bill No. 2291 is enacted and becomes effective January 1, 1979, and adds Section 798 to the Civil Code, in which case Section 1 of this act shall not become operative.

SEC. 30. Section 10.5 of this act shall become operative only if Assembly Bill No. 2785 is enacted and becomes effective January 1, 1979, and this bill is chaptered last.

SEC. 31. It is the intent of the Legislature, if this bill and Assembly Bill No. 3315 are both chaptered and become effective January 1, 1979, Assembly Bill No. 3315 amends Section 789.14 of the Civil Code, and this bill amends Section 798.18 of the Civil Code, and this bill is chaptered after Assembly Bill No. 3315, that the amendments to Section 789.14 and Section 798.18 be given effect and incorporated in Section 798.18 in the form set forth in Section 7.5 of this act. Therefore, Section 7.5 of this act shall become operative only if this bill and Assembly Bill No. 3315 are both chaptered and become effective January 1, 1979, Assembly Bill No. 3315 amends Section 789.14 and this bill amends Section 798.18, and this bill is chaptered after Assembly Bill No. 3315, in which case Section 7 of this act, and Section 879.14 of the Civil Code, as amended by Assembly Bill No. 3315, shall not become operative.

CHAPTER 1034

An act to amend Section 789.10 of, and to add Section 798.73 to, the Civil Code, relating to mobilehome park tenancies

[Approved by Governor September 22, 1978 Filed with Secretary of State September 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, in the event of a sale to a third party, in order to upgrade the quality of a mobilehome park, any mobilehome meeting any of the following criteria may be required to be removed from the park:

(a) The mobilehome is less than 10 feet wide;

(b) The mobilehome is more than 20 years old or 25 years old if manufactured after September 15, 1971, if such mobilehome is 20 feet wide or more;

(c) The mobilehome is more than 17 years old or 25 years old if manufactured after September 15, 1971, if such mobilehome is less than 20 feet wide; or

(d) The mobilehome is in rundown condition or in disrepair.

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.

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 purchaser 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 798.73 is added to the Civil Code, to read:

798.73. The management shall not require the removal of a mobilehome from the park in the event of its sale to a third party during the term of the tenant's rental agreement. However, in the event of a sale to a third party, in order to upgrade the quality of the park, the management may require that a mobilehome be removed from the park where:

(a) It is less than 10 feet wide.

(b) It is more than 20 years old, or more than 25 years old if manufactured after September 15, 1971, and is 20 feet wide or more;

(c) The mobilehome is more than 17 years old, or more than 25 years old if manufactured after September 15, 1971, and is less than 20 feet wide;

(d) It is in rundown condition or in disrepair. The management shall use reasonable discretion in determining the condition of the mobilehome and its accessory structures.

SEC. 3. Section 798.73, 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 798.73 to the Civil Code, in which case Section 1 of this act, and Section 798.73 as added to the Civil Code by Senate Bill No. 2119, shall not become operative.

CHAPTER 1035

An act to amend Section 10131.6 of the Business and Professions Code, and to amend Section 789.5 of, and to add Sections 798 and 798.61 to, the Civil Code, relating to mobilehomes.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 10131.6 of the Business and Professions Code is amended to read:

10131.6 (a) Notwithstanding any other provision of law, a person licensed as a real estate broker may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain

listings of, or negotiate the purchase, sale, or exchange of any mobilehome if the mobilehome has been registered under the provisions of Division 3 (commencing with Section 4000) of the Vehicle Code for at least one year.

(b) No real estate broker who engages in the activities authorized by this section shall maintain any place of business where two or more mobilehomes are displayed and offered for sale by such person, unless said broker is also licensed as a vehicle dealer pursuant to Chapter 4 (commencing with Section 11700) of Division 5 of the Vehicle Code.

(c) As used in this chapter, "mobilehome" means a vehicle designed and equipped for human habitation which is greater than (1) eight feet in width and (2) 32 feet in length. "Mobilehome" does not include a motor vehicle.

(d) In order to carry out the provisions of this section, the commissioner shall prescribe by regulation, after consultation with the Department of Motor Vehicles, methods and procedures to assure compliance with requirements of the Vehicle Code pertaining to mobilehome registration, collection of sales and use taxes, and transaction documentation.

SEC. 2. Section 789.5 of the Civil Code is amended to read:

789.5. (a) No tenancy or other estate at will or lease, however created on or after the effective date of this section, in a mobilehome park may be terminated except upon the landlord's giving notice in writing to the tenant, in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove from the premises within a period of not less than 60 days, to be specified in the notice. No lease shall contain any provision by which the tenant waives his rights under this section or under Sections 789.6 to 789.15, inclusive, and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void. However, any lease may provide that the tenancy may be terminated upon the landlord's giving notice in writing to the tenant, in such prescribed manner, to remove from the premises within a period of more than 60 days, to be specified in the notice.

(b) This section shall apply only to: (1) mobilehomes or trailer coaches which are required to be moved under permit; and (2) mobilehomes or trailer coaches, without an engine for locomotion, which are at least 32 feet, but less than 40 feet, in length if the tenant has resided continuously in the mobilehome park for nine months after January 1, 1979.

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

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

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

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

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

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

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

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

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

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

SEC. 3. Section 789.5 of the Civil Code is amended to read·

789.5. (a) No tenancy or other estate at will or lease, however created on or after the effective date of this section, in a mobilehome park may be terminated except upon the landlord's giving notice in writing to the tenant, in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove from the premises within a period of not less than 60 days, to be specified in the notice. No lease shall contain any provision by which the tenant waives his rights under this section or under Sections 789.6 to 789.15, inclusive, and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void. However, any lease may provide that the tenancy may be terminated upon the landlord's giving notice in

writing to the tenant, in such prescribed manner, to remove from the premises within a period of more than 60 days, to be specified in the notice.

(b) This section shall apply only to: (1) mobilehomes or trailer coaches which are required to be moved under permit; and (2) mobilehomes or trailer coaches, without an engine for locomotion, which are at least 32 feet but less than 40 feet, in length if the tenant has resided continuously in the mobilehome park for nine months after January 1, 1979.

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

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

(1) Failure of the tenant to comply with local ordinances and state laws and regulations relating to mobilehomes within a reasonable time after the tenant's receipt of notice of his noncompliance from the appropriate governmental agency.

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

(3) Failure of the tenant to comply with reasonable rules and regulations of the mobilehome park. The management shall give at least one written notice to the tenant of an alleged rule or regulation violation and shall furnish the tenant with seven days to adhere to the rule prior to issuing a notice of termination.

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

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

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

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

SEC. 4. Section 798 is added to the Civil Code, to read:

798. This chapter shall be known and may be cited as the "Mobilehome Residency Law." It shall apply only to a mobilehome that requires a permit to be moved on a street or highway.

SEC. 5. Section 798.61 is added to the Civil Code, to read:

798.61. Sections 798.55, 798.56, and 798.57 apply only to: (1) a mobilehome or trailer coach that requires a permit to be moved upon a street or highway; and (2) a mobilehome or trailer coach, without an engine for locomotion, which is at least 32 feet, but less than 40 feet, in length if the tenant has resided continuously in the mobilehome park for nine months after January 1, 1979.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 3235 are both chaptered and become effective January 1, 1979, both bills amend Section 789.5 of the Civil Code, and this bill is chaptered after Assembly Bill No. 3235, that the amendments to Section 789.5 proposed by both bills be given effect and incorporated in Section 789.5 in the form set forth in Section 3 of this act. Therefore, Section 3 of this act shall become operative only if this bill and Assembly Bill No. 3235 are both chaptered and become effective January 1, 1979, both amend Section 789.5, and this bill is chaptered after Assembly Bill No. 3235, in which case Section 2 of this act shall not become operative.

SEC. 7. Sections 4 and 5 of this act shall become operative only if Senate Bill No. 2119 and Senate Bill No. 2120 are both enacted and become effective January 1, 1979, in which case, Section 2 of this act shall not become operative.

SEC. 8. Section 5 of this act shall become operative only if Senate Bill No. 2119 is enacted and becomes effective January 1, 1979, and Senate Bill No. 2120 is not enacted, in which case, Sections 2 and 4 of this act shall not become operative.

CHAPTER 1036

An act to amend Section 6316.2 of the Welfare and Institutions Code, relating to mentally disordered sex offenders, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 6316.2 of the Welfare and Institutions Code is amended to read:

6316.2. (a) A person may be committed beyond the term prescribed by Section 6316.1 only under the procedure set forth in this section and only if such person meets all of the following:

(1) The "sex offense" as defined in subdivision (a) of Section 6302 of which the person has been convicted is a felony, whether committed before or after July 1, 1977, or is a misdemeanor which was committed before July 1, 1977.

(2) Suffers from a mental disorder, and as a result of such mental disorder, is predisposed to the commission of sexual offenses to such a degree that he presents a serious threat of substantial harm to the health and safety of others.

(b) If during a commitment under this part, the Director of Mental Health has good cause to believe that a patient is a person described in subdivision (a), the director may submit such supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in subdivision (a).

(c) At the time of filing a petition, the court shall advise the patient named in the petition of his right to be represented by an attorney and of his right to a jury trial. The rules of discovery in criminal cases shall apply.

(d) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the patient and the prosecuting attorney. The trial shall commence no later than 30 days prior to the time the patient would otherwise have been released by the State Department of Mental Health.

(e) The patient shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The State Controller shall reimburse the counties for all expenses of transportation, care and custody of the patient and all trial and related costs. The state shall be represented by the Attorney General or the district attorney with the consent of the Attorney General. If the patient is indigent, the State Public Defender shall be appointed. The State Public Defender may provide for representation of the patient in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses.

(f) If the court or jury finds that the patient is a person described in subdivision (a), the court may order the patient committed to the State Department of Mental Health in a treatment facility A commitment or a recommitment under Section 6316.1 shall be for a period of one year from the date of termination of the previous commitment.

(g) A person committed under this section to the State Department of Mental Health shall be eligible for outpatient release as provided in this article.

(h) Prior to termination of a commitment under this section, a petition for recommitment may be filed to determine whether the person remains a person described in subdivision (a). Such recommitment proceeding shall be conducted in accordance with the provisions of this article.

(i) Any commitment to the State Department of Mental Health under this article places an affirmative obligation on the department to provide treatment for the underlying causes of the person's mental disorder.

This section shall remain in effect only until January 1, 1979, and on such date is repealed.

SEC. 2. Section 6316.2 of the Welfare and Institutions Code is amended to read:

6316.2. (a) A person may be committed beyond the term prescribed by Section 6316.1 only under the procedure set forth in this section and only if such person meets all of the following:

(1) The "sex offense" as defined in subdivision (a) of Section 6302 of which the person has been convicted is a felony, whether committed before or after July 1, 1977, or is a misdemeanor which was committed before July 1, 1977.

(2) Suffers from a mental disease, defect, or disorder, and as a result of such mental disease, defect, or disorder, is predisposed to the commission of sexual offenses to such a degree that he presents a danger to the health and safety of others.

(b) If during a commitment under this part, the Director of Mental Health has good cause to believe that a patient is a person described in subdivision (a), the director may submit such supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in subdivision (a).

(c) At the time of filing a petition, the court shall advise the patient named in the petition of his right to be represented by an attorney and of his right to a jury trial. The rules of discovery in criminal cases shall apply.

(d) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the patient and the prosecuting attorney. The trial shall commence no later than 30 days prior to the time the patient would otherwise have been released by the State Department of Mental Health.

(e) The patient shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All

proceedings shall be in accordance with applicable constitutional guarantees. The State Controller shall reimburse the counties for all expenses of transportation, care and custody of the patient and all trial and related costs. The state shall be represented by the Attorney General or the district attorney with the consent of the Attorney General. If the patient is indigent, the State Public Defender shall be appointed. The State Public Defender may provide for representation of the patient in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses.

(f) If the court or jury finds that the patient is a person described in subdivision (a), the court may order the patient committed to the State Department of Mental Health in a treatment facility. A commitment or a recommitment under Section 6316.1 shall be for a period of two years from the date of termination of the previous commitment.

(g) A person committed under this section to the State Department of Mental Health shall be eligible for outpatient release as provided in this article.

(h) Prior to termination of a commitment under this section, a petition for recommitment may be filed to determine whether the person remains a person described in subdivision (a). Such recommitment proceeding shall be conducted in accordance with the provisions of this article.

(i) Any commitment to the State Department of Mental Health under this article places an affirmative obligation on the department to provide treatment for the underlying causes of the person's mental disorder

This section shall remain in effect only until January 1, 1980, and on such date is repealed.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 3645 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 6316.2 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 3645, that Section 6316.2 of the Welfare and Institutions Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill No. 3645, and that on the effective date of Assembly Bill No. 3645, Section 6316.2 of the Welfare and Institutions 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 6316.2 proposed by Assembly Bill No. 3645. Therefore, if this bill and Assembly Bill No. 3645 are both chaptered and become effective on or before January 1, 1979, and Assembly Bill No. 3645 is chaptered before this bill and amends Section 6316.2, Section 2 of this act shall become operative on the effective date of Assembly Bill No. 3645.

SEC. 4. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to Section 6316.2 of the Welfare and Institutions Code as enacted by Chapter 164 of the Statutes of 1977 and as amended by this act.

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

This act is designed to correct a major technical flaw in Section 6316.2 of the Welfare and Institutions Code as enacted by Chapter 164 of the Statutes of 1977. That section operates in conjunction with other provisions of law which became operative on July 1, 1977, and provides additional safeguards against the premature release of dangerous persons and this act should, therefore, take effect as soon as possible.

CHAPTER 1037

An act to amend Sections 14132 and 14133.1 of the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Section 14132 of the Welfare and Institutions Code, as amended by Section 3.7 of Chapter 1066 of the Statutes of 1977, is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and

physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist's services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to

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circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.1. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services,

including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization

controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.2. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial

dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial

denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as

long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.4. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond

the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited

amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

SEC. 1.5. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished

prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.6. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the

provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 1.7. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent that federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial

dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(*l*) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an

inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

SEC. 2. Section 14133.1 of the Welfare and Institutions Code is amended to read:

14133.1. The director shall determine which of the utilization controls in Section 14133 shall be applied to any specific service or group of services which are subject to utilization controls. Each utilization control shall be reasonably related to the purpose for which it is imposed.

Except as provided in Section 14103.6, neither prior authorization nor the limitation specified in subdivision (d) of Section 14133 shall be required for the first two services per month which are included among the services listed in subdivision (a) of Section 14132, or for the first two drug prescriptions purchased during any one month, provided that the prescription drugs are included in the Medi-Cal Drug Formulary and the prescription otherwise conforms to applicable formulary requirements.

SEC. 3. There is hereby appropriated from the General Fund in the State Treasury the sum of one million eight hundred thousand dollars ($1,800,000) to the State Department of Health Services for transfer to the Health Care Deposit Fund to pay for the increased costs of implementing Sections 14132 and 14133.1 of the Welfare and Institutions Code, as amended by this act.

Such funds shall be apportioned according to the following schedule:

(a) For the 1978–1979 fiscal year	$600,000
(b) For the 1979–1980 fiscal year	$1,200,000

Funds appropriated for purposes of this act but not expended shall be carried over to the next fiscal year. If funds appropriated for the purposes of this act are fully expended prior to the end of a fiscal year, any application for replacement because of loss or destruction due to circumstances beyond a Medi-Cal beneficiary's control shall be granted only when additional funds are appropriated.

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 application of regulations adopted by the State Department of Health Services, Medi-Cal patients whose eyeglass frames, dentures, or hearing aids are destroyed or lost due to

circumstances beyond their control are currently finding it extremely difficult or impossible to replace these basic devices. In order to supersede these regulations and make such devices replaceable under Medi-Cal under such circumstances, it is necessary for this act to take effect immediately.

SEC. 5. It is the intent of the Legislature that if this bill and Assembly Bill No. 2424, Assembly Bill No. 2960, Assembly Bill No. 2961 are chaptered and amend Section 14132 of the Welfare and Institutions 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. 2424 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2960 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 2424, that Section 14132 of the Welfare and Institutions Code, as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 2424, and that on the operative date of Assembly Bill No. 2424, the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.1 of this act. Therefore, if Assembly Bill No. 2424 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 2960 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, Section 1.1 of this act shall be operative on the operative date of Assembly Bill No. 2424 and Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7 of this act shall not become operative.

(b) If this bill and Assembly Bill No. 2960 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2424 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 2960, that Section 14132 of the Welfare and Institutions Code as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 2960 and that on the operative date of Assembly Bill No. 2960 the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.2 of this act. Therefore, if Assembly Bill No. 2960 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 2424 and Assembly Bill No. 2961 are not chaptered or as chaptered do not amend that section, Section 1.2 shall be operative on the operative date of Assembly Bill No. 2960 and Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this act shall not become operative.

(c) If this bill and Assembly Bill No. 2961 are both chaptered and amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No 2424 and Assembly Bill No. 2960 are not chaptered or as chaptered do not amend that section, and this bill is chaptered after Assembly Bill No. 2961, that Section 14132 of the Welfare and Institutions Code as amended by Section 1 of this act shall remain

operative only until the operative date of Assembly Bill No. 2961 and that on the operative date of Assembly Bill No. 2961 the amendments proposed by both bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.3 of this act. Therefore, if Assembly Bill No. 2961 is chaptered before this bill and both bills amend Section 14132, and Assembly Bill No. 2424 and Assembly Bill No. 2960 are not chaptered or as chaptered do not amend that section, Section 1.3 of this act shall be operative on the operative date of Assembly Bill No. 2961 and Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6, and 1.7 of this act shall not become operative.

(d) If this bill, Assembly Bill No. 2424, and Assembly Bill No. 2960 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2961 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2424 and Assembly Bill No. 2960, that Section 14132 of the Welfare and Institutions Code as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 2424 and Assembly Bill No. 2960 and that on the operative date of Assembly Bill No. 2424 and Assembly Bill No. 2960 the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.4 of this act. Therefore, if Assembly Bill No. 2424 and Assembly Bill No. 2960 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 2961 is not chaptered or as chaptered does not amend that section, Section 1.4 of this act shall be operative on the operative date of Assembly Bill No. 2424 and Assembly Bill No. 2960 and Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6, and 1.7 of this act shall not become operative.

(e) If this bill, Assembly Bill No. 2424, and Assembly Bill No. 2961 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2960 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2424 and Assembly Bill No. 2961, that Section 14132 of the Welfare and Institutions Code as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 2424 and Assembly Bill No. 2961 and that on the operative date of Assembly Bill No. 2424 and Assembly Bill No. 2961 the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.5 of this act. Therefore, if Assembly Bill No. 2424 and Assembly Bill No. 2961 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 2960 is not chaptered or as chaptered does not amend that section, Section 1.5 of this act shall be operative on the operative date of Assembly Bill No. 2424 and Assembly Bill No. 2961 and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.6, and 1.7 of this act shall not become operative.

(f) If this bill, Assembly Bill No. 2960, and Assembly Bill No. 2961 are chaptered and all three amend Section 14132 of the Welfare and Institutions Code, but Assembly Bill No. 2424 is not chaptered or as

chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2960 and Assembly Bill No. 2961, that Section 14132 of the Welfare and Institutions Code as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 2960 and Assembly Bill No. 2961 and that on the operative date of Assembly Bill No. 2960 and Assembly Bill No. 2961 the amendments proposed by all three bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.6 of this act. Therefore, if Assembly Bill No. 2960 and Assembly Bill No. 2961 are chaptered before this bill and all three bills amend Section 14132, and Assembly Bill No. 2424 is not chaptered or as chaptered does not amend that section, Section 1.6 of this act shall be operative on the operative date of Assembly Bill No. 2960 and Assembly Bill No. 2961 and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.7 of this act shall not become operative.

(g) If this bill, Assembly Bill No. 2424, Assembly Bill No. 2960, and Assembly Bill No. 2961 are all chaptered, and all four amend Section 14132 of the Welfare and Institutions Code, but this bill is chaptered after Assembly Bill No. 2424, Assembly Bill No. 2960, and Assembly Bill No. 2961, that Section 14132 of the Welfare and Institutions Code as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 2424, Assembly Bill No. 2960, and Assembly Bill No. 2961 and that on the operative date of these three bills the amendments proposed by all four bills shall be given effect and incorporated in Section 14132 in the form set forth in Section 1.7 of this act. Therefore, if Assembly Bill No. 2424, Assembly Bill No. 2960 and Assembly Bill No. 2961 are chaptered before this bill and all four bills amend Section 14132 of the Welfare and Institutions Code, Section 1.7 of this act shall be operative on the operative date of Assembly Bill No. 2424, Assembly Bill No. 2960, and Assembly Bill No. 2961 and Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this act shall not become operative.

CHAPTER 1038

An act to amend Sections 429.72, 429.76, 429.78, and 429.80 of the Health and Safety Code, relating to health.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978.]

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

SECTION 1 The Legislature finds that the health manpower project pilot program created by Chapter 1350 of the Statutes of 1972 has provided valuable experimentation with new kinds and combinations of health care delivery systems. Based on this program's history of safe and innovative approaches to health care

training, the Legislature intends to extend eligibility for participation in this program to appropriate federal, state, and local government agencies.

SEC. 2. Section 429.72 of the Health and Safety Code, as amended by Chapter 429 of the Statutes of 1978, 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, nonprofit community hospitals or clinics, or government agencies engaged in health or education activities. Nothing in this section shall preclude approved projects from utilizing the offices of physicians, dentists, pharmacists, and other clinical settings as training sites.

SEC. 3. Section 429.76 of the Health and Safety Code, as amended by Chapter 429 of the Statutes of 1978, is amended to read:

429.76. The office, after one or more public hearings thereon, shall establish minimum standards, guidelines, and instructions for pilot projects. Advance notice of the hearing shall be sent to all interested parties and shall include a copy of the proposed minimum standards, guidelines, and instructions.

Organizations requesting designation as approved projects shall complete and submit to the office an application, which shall include 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. Additionally, the application shall contain a description of all of the following:

(a) The evaluation process to be used.

(b) The baseline data and information to be collected.

(c) The nature of program data that will be collected and the methods for collecting and analyzing such data.

(d) Provision for protecting the safety of patients seen or treated in the project.

(e) A statement of previous experience in providing related health care services.

SEC. 4. Section 429.78 of the Health and Safety Code, as amended by Chapter 429 of the Statutes of 1978, 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.

All data collected by the office and by projects approved pursuant to this article shall become public information, with due regard for the confidentiality of individual patient information. The raw data on which projects' reports are based and the data on which the office's evaluation is based shall be available on request for review by interested parties. The office shall provide a reasonable opportunity for interested parties to submit dissenting views or challenges to reports to the Legislature and professional licensing boards required by this section. The office shall publish those comments, subject only to nonsubstantive editing, as part of its annual, or any special, reports.

SEC. 5. Section 429.80 of the Health and Safety Code, as amended by Chapter 429 of the Statutes of 1978, 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. In the case of projects sponsored by a state agency, the following additional procedures shall apply:

(a) A hearing shall be conducted by a disinterested state government official selected by the Director of the Office of Statewide Health Planning and Development from a state agency other than the office or the proponent of the project. The cost of the services of such disinterested state governmental official shall be paid by the office pursuant to an interagency agreement with the state agency represented by such state governmental official.

(b) A notice of hearing shall be sent by the office to interested parties, as designated by the director of the office, by registered mail no less than 30 days preceding the date of the hearing. The notice shall include, but not be limited to, the date, time, location, and subject matter of the hearing, and shall include a copy of the application for a pilot project which is the subject of the hearing.

(c) A verbatim transcript of the hearing shall be prepared and distributed to interested parties upon request.

(d) Within 60 days of the release of the transcript, the office shall submit a recommendation on the proposal to the director of the office and shall send copies to the interested parties.

(e) The director of the office shall accept comments on such recommendations, and, on or after 30 days after transmittal of the recommendations, the director of the office shall approve or disapprove such proposed project.

CHAPTER 1039

An act to amend Section 6316.2 of the Welfare and Institutions Code, relating to mentally disordered sex offenders, and making an appropriation therefor.

[Approved by Governor September 22, 1978. Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Section 6316.2 of the Welfare and Institutions Code is amended to read:

6316.2. (a) A person may be committed beyond the term prescribed by Section 6316.1 only under the procedure set forth in this section and only if such person meets all of the following:

(1) The "sex offense" as defined in subdivision (a) of Section 6302 of which the person has been convicted is a felony, whether committed before or after July 1, 1977, or is a misdemeanor which was committed before July 1, 1977.

(2) Suffers from a mental disease, defect, or disorder, and as a result of such mental disease, defect, or disorder, is predisposed to the commission of sexual offenses to such a degree that he presents a serious threat of substantial harm to the health and safety of others.

(b) If during a commitment under this part, the Director of Mental Health has good cause to believe that a patient is a person described in subdivision (a), the director may submit such supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in subdivision (a).

(c) At the time of filing a petition, the court shall advise the patient named in the petition of his right to be represented by an attorney and of his right to a jury trial. The rules of discovery in criminal cases shall apply.

(d) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the patient and the prosecuting attorney. The trial shall commence no later than 30 days prior to the time the patient would otherwise have been released by the State Department of Mental Health.

(e) The patient shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. Pursuant to Sections 4700, 4700.1, and 4700.2 of the Penal Code, the state shall bear all expenses of transportation, care and

custody of the patient and all trial and related costs, and shall be represented by the Attorney General or the district attorney with the consent of the Attorney General. If the patient is indigent, the State Public Defender shall be appointed. The State Public Defender may provide for representation of the patient in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses.

(f) If the court or jury finds that the patient is a person described in subdivision (a), the court may order the patient committed to the State Department of Mental Health in a treatment facility. A commitment or a recommitment under Section 6316.1 shall be for a period of one year from the date of termination of the previous commitment.

(g) A person committed under this section to the State Department of Mental Health shall be eligible for outpatient release as provided in this article.

(h) Prior to termination of a commitment under this section, a petition for recommitment may be filed to determine whether the person remains a person described in subdivision (a). Such recommitment proceeding shall be conducted in accordance with the provisions of this article.

(i) Any commitment to the State Department of Mental Health under this article places an affirmative obligation on the department to provide treatment for the underlying causes of the person's mental disorder.

This section shall remain in effect only until January 1, 1980, and on such date is repealed. The provisions of this section shall remain in effect for the remainder of the term of commitment for any person committed under this section prior to January 1, 1980.

SEC. 2. Section 6316.2 of the Welfare and Institutions Code is amended to read:

6316.2. (a) A person may be committed beyond the term prescribed by Section 6316.1 only under the procedure set forth in this section and only if such person meets all of the following:

(1) The "sex offense" as defined in subdivision (a) of Section 6302 of which the person has been convicted is a felony, whether committed before or after July 1, 1977, or is a misdemeanor which was committed before July 1, 1977.

(2) Suffers from a mental disease, defect, or disorder, and as a result of such mental disease, defect, or disorder, is predisposed to the commission of sexual offenses to such a degree that he presents a serious threat of substantial harm to the health and safety of others.

(b) If during a commitment under this part, the Director of Mental Health has good cause to believe that a patient is a person described in subdivision (a), the director may submit such

supporting evaluations and case file to the prosecuting attorney who may file a petition for extended commitment in the superior court which issued the original commitment. Such petition shall be filed no later than 90 days before the expiration of the original commitment. Such petition shall state the reasons for the extended commitment, with accompanying affidavits specifying the factual basis for believing that the person meets each of the requirements set forth in subdivision (a).

(c) At the time of filing a petition, the court shall advise the patient named in the petition of his right to be represented by an attorney and of his right to a jury trial. The rules of discovery in criminal cases shall apply.

(d) The court shall conduct a hearing on the petition for extended commitment. The trial shall be by jury unless waived by both the patient and the prosecuting attorney. The trial shall commence no later than 30 days prior to the time the patient would otherwise have been released by the State Department of Mental Health.

(e) The patient shall be entitled to the rights guaranteed under the Federal and State Constitutions for criminal proceedings. All proceedings shall be in accordance with applicable constitutional guarantees. The State Controller shall reimburse the counties for all expenses of transportation, care and custody of the patient and all trial and related costs. The state shall be represented by the Attorney General or the district attorney with the consent of the Attorney General. If the patient is indigent, the State Public Defender shall be appointed. The State Public Defender may provide for representation of the patient in any manner authorized by Section 15402 of the Government Code. Appointment of necessary psychologists or psychiatrists shall be made in accordance with this article and Penal Code and Evidence Code provisions applicable to criminal defendants who have entered pleas of not guilty by reason of insanity or asserted diminished capacity defenses.

(f) If the court or jury finds that the patient is a person described in subdivision (a), the court may order the patient committed to the State Department of Mental Health in a treatment facility. A commitment or a recommitment under Section 6316.1 shall be for a period of one year from the date of termination of the previous commitment.

(g) A person committed under this section to the State Department of Mental Health shall be eligible for outpatient release as provided in this article.

(h) Prior to termination of a commitment under this section, a petition for recommitment may be filed to determine whether the person remains a person described in subdivision (a). Such recommitment proceeding shall be conducted in accordance with the provisions of this article.

(i) Any commitment to the State Department of Mental Health under this article places an affirmative obligation on the department to provide treatment for the underlying causes of the person's

mental disorder.

This section shall remain in effect only until January 1, 1980, and on such date is repealed. The provisions of this section shall remain in effect for the remainder of the term of commitment for any person committed under this section prior to January 1, 1980.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 2136 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 6316.2 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 2136, that Section 6316.2 of the Welfare and Institutions Code, as amended by Section 1 of Senate Bill No. 2136, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 6316.2 proposed by this bill. Therefore, if this bill and Senate Bill No. 2136 are both chaptered and become effective on or before January 1, 1979, and Senate Bill No. 2136 is chaptered before this bill and amends Section 6316.2, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

SEC. 4. There is hereby appropriated the sum of thirty-one thousand dollars ($31,000) from the General Fund to the State Department of Mental Health for the purpose of carrying out this act.

CHAPTER 1040

An act to amend and repeal Sections 283.4, 284.2, and 284.4 of the Health and Safety Code, and to repeal Section 2 of Chapter 1217 of the Statutes of 1975, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1978. Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 283.4 of the Health and Safety Code is amended to read:

283.4. The State Department of Health Services may establish one or more pilot programs, not to exceed four years in duration, to provide personal health care services in the perinatal period to high-risk pregnant women.

SEC. 2. Section 284.2 of the Health and Safety Code is amended to read:

284.2. The state department shall submit interim reports of its findings derived from the pilot programs to the Legislature and to the Secretary of the Health and Welfare Agency on or before June 30 of 1977, 1979, and 1980; and shall submit a final report on or before

June 30, 1981. The reports shall consider the effectiveness of the pilot programs in reducing the incidence and severity of defects or handicaps of children born to high-risk pregnant women and in reducing the infant and mother morbidity rate for such women and their infants, and shall consider the related economic impact of each such pilot program.

SEC. 3. Section 284.4 of the Health and Safety Code is amended to read:

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

SEC. 4. Section 2 of Chapter 1217 of the Statutes of 1975 is repealed.

SEC. 5. From the amount appropriated by Section 2 of Chapter 1217 of the Statutes of 1975, as amended, and scheduled in subdivisions (a) and (d) thereof, there is hereby reappropriated to the State Department of Health Services the sum of two million dollars ($2,000,000), or such lesser amount of the moneys made available under subdivisions (a) and (d) as remains unencumbered on the effective date of this act, for expenditure during the 1978–79, 1979–80, and 1980–81 fiscal years without limitation as to the proportion of this reappropriation expended during any of those fiscal years for the purposes of Article 2.4 (commencing with Section 283) of Chapter 2 of Division 1 of the Health and Safety Code.

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

In order to ensure that all available funds previously appropriated by Chapter 1217 of the Statutes of 1975 and reappropriated by Chapter 975 of the Statutes of 1976 may be expended when needed for necessary health services for high-risk pregnant women, it is necessary that this act take effect immediately.

CHAPTER 1041

An act to amend Section 2 of Chapter 36 of the Statutes of 1978, relating to the Indochinese Refugee Self-Support Project, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1978. Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Section 2 of Chapter 36 of the Statutes of 1978 is amended to read:

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 Social Services for expenditure to enable that department to provide reimbursement for services under its Indochinese Refugee Self-Support Project for the period of January 1, 1978, through June 30, 1978. At the discretion of the department, these funds may be used as matching funds for unallocated Title XX Social Services Funds. The Director of Social Services, 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 the project. The plan shall establish necessary procedures and controls which permit advanced payments of such funds on a quarterly basis. Authority to make advanced payments shall be subject to the approval of the appropriate federal agency overseeing the project. The plan shall be utilized until the termination of the federal Indochina Migration and Refugee Assistance Act of 1975 on September 30, 1981 (Public Laws 95-145 and 95-240). All General Fund money appropriated hereby, any 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 Social Services to finance the Indochinese Refugee Self-Support Project.

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 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 1042

An act to add Section 208.7 to the Health and Safety Code, relating to the State Department of Health Services.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 208.7 is added to the Health and Safety Code, to read:

208.7. When a dispute arises as to the interpretation or enforcement of the legally adopted rules and regulations of the state department which are being enforced by a city, city and county, county, or district, a request for clarification or interpretation may

be submitted to the state department. The state department shall make a determination of the proper interpretation and required enforcement thereof when so requested by a party to the dispute.

In making its determination the state department may conduct a hearing at which time all interested parties may present comments or arguments relative to the dispute.

Determinations of the state department made pursuant to this section shall be transmitted to the concerned local agency and the involved party or parties within 60 days after the receipt of the request. The determination of the state department shall be binding upon the local agency and the parties subject to the rules and regulations of the state department, except insofar as the matter may be subject to judicial review.

CHAPTER 1043

An act to amend Section 339 of the Streets and Highways Code, relating to state highways.

[Approved by Governor September 22, 1978. Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 339 of the Streets and Highways Code is amended to read:

339. Route 39 is from:

(a) Route 1 near Huntington Beach to Route 72 in La Habra via Beach Boulevard.

(b) Beach Boulevard to Harbor Boulevard in La Habra via Route 72.

(c) Route 72 in La Habra to Route 2 via Harbor Boulevard to the vicinity of Fullerton Road, then to Azusa Avenue, Azusa Avenue to San Gabriel Canyon Road, San Gabriel Avenue southbound between Azusa Avenue and San Gabriel Canyon Road, and San Gabriel Canyon Road.

The department shall not assume maintenance of any portion of Route 39 until such portion has been constructed or reconstructed to the minimum state highway standards established pursuant to Sections 81 and 2109.

CHAPTER 1044

An act to amend Section 11475 of, and to repeal Section 10602.5 of, the Welfare and Institutions Code, relating to child support.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 10602.5 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 11475 of the Welfare and Institutions Code is amended to read:

11475. (a) The department is hereby designated the single organizational unit whose duty it shall be to administer the state plan for securing child support and determining paternity. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements. The director shall, not later than February 1, 1976, and annually thereafter, report to the Legislature on the administration of the state plan for securing support and determining paternity. Such report shall include, but not be limited to, the following:

(1) Information on the administration of the program, including the number of cases and a summary of the amounts collected from noncustodial parents and an analysis of the disbursement of such funds to recipients, counties, and the state.

(2) An analysis of the cost effectiveness of the program.

(3) Any changes in federal statutes or regulations which have occurred on or after July 1, 1975.

The report shall be made available to the public.

(b) The director shall formulate, adopt, amend or repeal, in accordance with provisions of Section 10554, 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 the state plan for securing child support and determining paternity. The department, with the cooperation of the Department of Justice, shall insure that there is an adequate organizational structure and sufficient staff to perform functions delegated to any governmental unit relating to Title IV-D of the Social Security Act.

CHAPTER 1045

An act to amend Section 7017 of the Civil Code, relating to parent and child.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978.]

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

SECTION 1. 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 for, consents to, or proposes to relinquish for 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 of the mother and any other appropriate person 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, or in the case of a stepparent adoption, at the option of the board of supervisors, a licensed county adoption agency, the county department designated by the board of supervisors to administer the public social services program, or the county probation department. 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. 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 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 1046

An act relating to domestic water supply systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. A grant not to exceed the amount of four hundred thousand dollars ($400,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the City of Delano 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 determine eligibility for such grant in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with such provisions.

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 City of Delano to immediately develop a secondary water supply in order to enable the residents of the community to have a dependable and potable water supply.

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 authorize a grant from a California Safe Drinking Water Fund to the City of Delano to resolve the critical water supply problem of such city at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 1047

An act to amend Sections 17.1, 23, 27, 27.1, 29, 31.5, 38, and 38.1 of, and to repeal Section 29.2 of, the Orange County Water District Act (Chapter 924 of the Statutes of 1933), relating to the Orange County Water District.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 17.1 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 17.1. "General reserve" means funds allocated from the general fund used to meet cash requirements before the proceeds from taxes are available and to meet emergency expenditures. The amount of said general reserve shall not at any time exceed the sum of one million dollars ($1,000,000).

"Appropriation for contingencies" means funds allocated from the general fund to cover expenditures that have not been provided for or that have been insufficiently provided for or for unappropriated requirements. Said appropriation for contingencies shall not at any time exceed the sum of three million dollars ($3,000,000).

SEC. 2. Section 23 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 23. Replenishment assessments levied pursuant to this act are declared to be in furtherance of district activities in the protection of the water supplies for users within the district which are necessary for the public health, welfare and safety of the people of this state. The replenishment assessments are authorized to be levied upon the production of ground water from all water-producing facilities, whether public or private, within said district for the benefit of all who rely directly or indirectly upon the ground water supplies of such district

The proceeds of the replenishment assessment levied, assessed and collected upon the production of water from the ground water supplies within said district shall be used to acquire water and to pay the costs of initiating, carrying on, and completing any of the powers, projects, and purposes for which this district is organized.

SEC. 3. Section 27 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 27. If the board of directors finds and determines that an overdraft, either annual or accumulated, does exist, then said board may levy and assess a charge or replenishment assessment against all persons operating water-producing facilities and producing water during the ensuing water year, which assessment or charge shall be computed and fixed at a uniform rate per acre-foot of such water production.

The total of the replenishment assessment levied in any year shall not exceed an amount of money found to be necessary to purchase sufficient water to replenish the average annual overdraft for the immediate past five water years plus an additional amount of water sufficient to eliminate over a period of not less than 10 years nor more than 20 years, the accumulated overdraft, plus an amount of money to pay the costs of initiating, carrying on, and completing any of the powers, projects, and purposes for which this district is organized.

On the date of the regular meeting of the board of directors in April of each year the board of directors shall hold a public hearing for the purpose of determining the need and desirability of levying a replenishment assessment and fixing the rate thereof. In

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computing and fixing the replenishment assessment rate, there shall be allowed such percent, not to exceed 10 percent, as shall be determined by the board of directors of the district for delinquencies. Notice of such hearing shall be published in the district pursuant to Section 6061 of the Government Code, at least 10 days prior to the date set for said hearing.

Any replenishment assessment levied by this section shall be in addition to any general assessment levied by said district.

Clerical errors occurring or appearing in the name of any person or in the description of the water-producing facility where the production of water therefrom is otherwise properly assessed, or in the making or extension of any assessment upon the records, which do not affect the substantial rights of the assessee or assessees, shall not invalidate the assessment.

SEC. 4. Section 27.1 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 27.1. At the time of the hearing specified in Section 27 of said act the board of directors may also hold a hearing for the purpose of determining the need and advisability of levying an additional replenishment assessment against all persons operating water-producing facilities for all purposes other than irrigation at a uniform rate per acre-foot for water produced during the ensuing year. Any such replenishment assessment levied and assessed under this section shall be in addition to the replenishment assessment authorized by said Section 27 and may be levied and assessed in such amounts necessary for the purposes set forth in Section 23 of this act, without regard to the limitations provided by said Section 27 Before levying said additional replenishment assessment, the board must find and determine by a vote of eight members that said additional replenishment assessment is necessary for the protection of the water supply purposes of the district and that the amount thereof is reasonable. In computing and fixing the additional replenishment assessment rate, there shall be allowed such percent, not to exceed 10 percent, as shall be determined by the board of directors of the district for delinquencies.

"Irrigation," as used in this act, means the act of first using water to place it on lands by any means for the commercial production of agricultural, horticultural, or floricultural crops and for pasture grown for commercial purposes.

SEC. 5. Section 29 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 29. Each operator of a water-producing facility within said district, until such time as said water-producing facility has been permanently abandoned, shall file with said district, on or before the thirty-first day of January and on or before the thirty-first day of July of each year, a statement setting forth the total production in acre-feet of water for the preceding six months period (excluding the month in which the statement is due), a general description or number locating each water-producing facility and the method or

basis of the computation of such water production. If no water has been produced from said water-producing facility during the preceding six months period, said statement shall be filed as provided for herein setting forth that no water has been produced during said period. Said statement shall be verified by a written declaration that it is made under the penalties of perjury. The replenishment assessment and the additional replenishment assessment are payable to said district on or before the last date on which the water production statements shall be filed and are computed by multiplying the production in acre-feet of water as disclosed in the statement, by the replenishment assessment rate and the additional replenishment assessment rate. At such time as any said water-producing facility has been permanently abandoned, the operator thereof shall give written notice of such abandonment to said district.

If any operator of a water-producing facility shall fail to pay the replenishment assessements when due, said district shall charge interest at a rate of 1 percent each month on the delinquent amount of the replenishment assessments.

Should any operator of a water-producing facility fail to register each water-producing facility or fail to file on or before the thirty-first day of January and the thirty-first day of July of each year the water production statement, said district shall in addition to charging interest as provided herein assess a penalty charge against such operator in an amount of 10 percent of the amount found by said district to be due.

The board of directors may, at the time of fixing the replenishment assessment rate and additional replenishment assessment rate, provide by resolution that the operator of any water-producing facilities having a discharge opening not greater than two inches in diameter and which do not provide domestic or irrigation water for an area in excess of one acre may pay a fixed amount as his replenishment assessment and additional replenishment assessment, in lieu of filing a sworn statement as to the production of ground water.

SEC. 6. Section 29.2 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is repealed.

SEC. 7. Section 31.5 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 31.5. Basin equity assessments, as well as production requirements and limitations on persons and operators within the district are declared to be in furtherance of district activities in the protection of water supplies for users within the district which are necessary for the public health, welfare and safety of the people of this state. The basin equity assessments, as well as the production requirements and limitations provided for herein, are authorized to be levied upon and applied to all persons and producers within such district for the benefit of all who rely directly or indirectly upon the ground water supplies of such district.

The proceeds of the basin equity assessments levied and collected shall be used as provided for herein to equalize the cost of water to all persons and operators within the district, and to acquire water to replenish the ground water supplies of the district.

"Supplemental sources" as used in this act means sources of water outside the watershed of the Santa Ana River such as but not limited to water produced from the Metropolitan Water District of Southern California.

"Basin production percentage" as used in this act means the ratio that all water to be produced from ground water supplies within the district bears to all water to be produced by persons and operators within the district from supplemental sources as well as from ground water within the district during the ensuing fiscal year.

(a) Annually the district shall order an investigation and report to be prepared by an engineer or engineers employed by such district. The investigation and report shall set forth the following information, together with such other information as the district may desire, relating to the preceding fiscal year:

(1) Amount of water produced by persons and operators from ground water within district;

(2) Amount of water produced by persons and operators from supplemental sources;

(3) Amount of water produced by persons and operators from all other sources;

(4) Condition of ground water supplies within district;

(5) Information as to the probable availability of water from supplemental sources during the next succeeding fiscal year;

(6) The cost of producing water from ground water within the district, including any replenishment assessment of district;

(7) The cost of water produced within the distict from supplemental sources.

(b) On the second Wednesday in February of each year the engineering investigation and report provided for herein shall be delivered to the secretary of such district, in writing. The secretary shall publish, pursuant to Section 6061 of the Government Code, a notice of the receipt of such report and of the public hearing to be held on the date of the regular meeting of the board of directors in March, in a newspaper of general circulation printed and published within the district, at least 10 days prior to the date at which the public hearing regarding water supplies within the district shall be held. The notice, among other information which the district may provide therein, shall contain an invitation to all persons or operators within the district to call at the offices of said district to examine said engineering investigation and report. There shall be held, by the board of directors on the date of the regular meeting of the board of directors in March of each year, a public hearing at which time any person or operator within the district or any person interested in the amounts and source from which all persons and operators produce their total supply of water as well as the estimated difference in the

cost of water produced from ground water within district or supplemental sources, may in person, or by representative, appear and be heard.

(c) On the date of the regular meeting of the board of directors in April of each year, the board of directors shall hold a public hearing for the purpose of determining the need and desirability of levying a basin equity assessment and the amount thereof as well as the need for establishing production requirements and limitations and the extent thereof as to each person or operator within the district for the ensuing fiscal year. In computing and fixing the amount of any such basin equity assessment the board may allow a percent not to exceed 10 percent, as shall be determined by the board of directors of the district, for delinquencies. Notice of the proposed hearing shall be published in the district pursuant to Section 6061 of the Government Code at least 10 days prior to the date set for said hearing.

Such notice shall set forth the following:

(1) That a report regarding water supplies within the district has been prepared;

(2) The date, time and place of the proposed hearing;

(3) The board shall consider at said hearing the need and desirability of levying a basin equity assessment and the amount thereof as well as the need for establishing production requirements and limitations on persons and operators within the district for the ensuing fiscal year and surcharges in connection therewith;

(4) An invitation to all persons and operators to appear at the public hearing and be heard in regard to any of the foregoing matters.

(d) At the hearing the board shall hear, take, and receive all competent evidence presented and offered in regard to the need for a basin equity assessment, production requirements and limitations in general, and specifically, the extent of such requirements or limitations as to each person or operator within the district, the amount of the basin equity assessment which shall be levied against all persons and operators for all purposes other than irrigation at a uniform rate and may be levied against all persons and operators for irrigation purposes at a different uniform rate for the ensuing fiscal year and the amount of surcharges for production in excess of the basin production limitations. Subsequent to the hearing, the board may, by adopting a resolution which resolution shall require the vote of eight members of the board, find and determine for the ensuing fiscal year as follows:

(1) The estimated total amount of water to be produced by all persons and operators within the district from the ground water within the district and the estimated amount to be produced by such persons and operators from supplemental sources;

(2) The basin production percentage,

(3) That a basin equity assessement and production requirement and limitation from ground water within the district are necessary

for the protection of the water supply of the district;

(4) The surcharge, in an amount to be determined in the discretion of the board, for production in excess of the production limitations;

(5) The amount of the basin equity assessment to be levied against all persons and operators in a dollar amount per acre-foot of water produced from the ground water supply for all purposes other than irrigation and that such amount is reasonable;

(6) The amount of the basin equity assessment to be levied against all persons and operators in a dollar amount per acre-foot of water produced from the ground water supply for irrigation purposes and that such amount is reasonable;

(7) Production requirements or limitations and the surcharge for production in excess of the basin production limitations on persons and operators within the district shall be applicable during the ensuing fiscal year. Such requirements and limitations shall be on the amount of ground water produced by such persons and operators expressed in a percentage of overall water produced or obtained by such persons or operators from ground water within the district and from supplemental sources;

(8) That during the ensuing fiscal year, upon the district giving published notice thereof, pursuant to Section 6061 of the Government Code in a newspaper of general circulation printed and published within the district at least 10 days prior to such a hearing, a subsequent public hearing may be held to modify the basin production percentage, the basin equity assessment, any production requirement or limitation, or the surcharge for production in excess of the production limitation established by the district. Such modifications, if any, shall be effective on the date established by the board and the district shall give notice of such modification 10 days prior to the effective date thereof in the manner provided hereafter in subdivision (e).

The board may exclude all persons and operators who produced 25 acre-feet or less of water from ground water within the district during the ensuing fiscal year from the levy of the basin equity assessment and the production requirements and limitations provided for herein.

The findings and determinations of the board in regard to any of the foregoing shall be final, conclusive and binding upon all persons and parties.

(e) The district shall thereafter, and in any event prior to July 1 in each year, give notice to each person or operator within the district which notice shall state:

(1) The amount of the basin equity assessment per acre-foot of water produced for purposes other than irrigation and the amount of the basin equity assessment per acre-foot of water produced for irrigation purposes;

(2) The basin production percentage;

(3) The production requirement or limitation upon the person or

operator, and

(4) The amount of surcharge imposed for production in excess of the basin production limitations.

The notice provided for herein and the notice of any subsequent modifications may be sent by post card or by other first-class mail with postage prepaid by the district.

(f) Each person or operator within the district not excluded from the levy of the basin equity assessment and the production requirements and limitations, shall file with the district, on or before the 30th day of September of each year, a basin equity assessment report in the form prescribed by the district setting forth the total amounts of water produced from ground water within the district and from supplemental sources during the preceding fiscal year by such person or operator. The statement shall be verified by a written declaration under penalty of perjury. In the event that the person or operator has been required by the district to produce or has in fact produced more water from ground water within the district than the equivalent of the basin production percentage determined by the district, such person or operator shall pay to the district, on or before September 30, an amount determined by the number of acre-feet of water which such person or operator has produced from ground water within the district in excess of the acre-foot equivalent of the basin production percentage multiplied by the applicable basin equity assessment rate, plus the amount of surcharge due for production in excess of the production limitations In the event that a person or operator, pursuant to the requirement of the district, has produced from ground water within the district less than the equivalent of the basin production percentage, such person or operator, on or before the 30th day of November, shall be paid by the district from the basin equity assessment fund an amount determined by the number of acre-feet by which the production of such person or operator from ground water as required by the district is less than the acre-foot equivalent of the basin production percentage multiplied by the applicable basin equity assessment rate, or if the production of such person or operator from ground water is more than the production required by the district and less than the equivalent of the basin equity production percentage, then such person or operator shall be paid by the district an amount determined by the number of acre-feet by which the actual production of such person or operator from ground water is less than the acre-foot equivalent of the basin production percentage multiplied by the applicable basin equity assessment.

(g) If any person or operator shall fail to pay the amount due by reason of the basin equity assessment or surcharge due for production in excess of the production limitations when due, the district shall charge interest at the rate of 1 percent each month on said delinquent amount due. Should any person or operator within the district fail to file a basin equity assessment report on or before the 30th day of September of any year, the district shall, in addition

to charging interest as provided herein, assess a penalty charge against such operator in the amount of 10 percent of the amount found by said district to be due.

The district may, from time to time, require other reports from persons and operators as necessary and desirable in the application of the basin equity assessment procedures provided herein.

Upon good cause shown an amendment to any report required under this section may be filed or a correction of any such report may be made within six (6) months after the date such report was filed with the district.

SEC. 8. Section 38 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 38. Any water-producing facility which is not producing ground water from a zone replenished by the Santa Ana River or its tributaries may be excluded by order of the board of directors from the payment of the replenishment assessment and from the levy of the basin equity assessment and the production requirements and limitations provided by this act after the filing of a verified petition by the owner of a water-producing facility.

The petition shall be filed with the board of directors of the district and shall describe the land upon which the water-producing facility is located, a description of the water-producing facility, and the names and addresses of the owners of the water-producing facility, and shall set forth that such water-producing facility is not producing ground water from a zone replenished by the Santa Ana River or its tributaries. Petitioner shall pay to the district the expenses of advertising and costs incident to the proceedings

Upon the filing of the petition, the secretary of the district shall cause an investigation to be made by the district geologist or an engineer or engineers to determine whether the water-producing facility is or is not producing ground water from a zone replenished by the Santa Ana River or its tributaries. Upon completion of such investigation a report of the results thereof shall be filed with the board of directors and a copy shall be mailed to the petitioner

Upon the filing of the report, the board of directors shall fix a time for holding a hearing regarding the petition and report, which time shall be not less than 10 days and not more than 75 days after the filing of the report, and shall cause a notice of the filing thereof and time and place fixed for the holding of the hearing to be published one time at least 10 days before the date fixed for such hearing in a newspaper of general circulation printed and published within the district. The district shall also mail to the petitioner a notice of such hearing, not less than 7 days prior to the date of the hearing. Any owner of a water-producing facility within the district may appear in person or by representative at said hearing either in behalf or in opposition to the granting of the request of said petition If upon such hearing the board of directors determines that the petition complies with the provisions of this section, and determines and finds that such water-producing facility is not producing ground water from a zone

replenished by the Santa Ana River or its tributaries, the board of directors shall make an order that such water-producing facility shall be excluded from the payment of the replenishment assessment and from the levy of the basin equity assessment and the production requirements and limitations as provided in this act. From the making of such order the water-producing facility so excluded shall no longer pay any replenishment assessment or basin equity assessment thereafter levied but such order of exclusion shall not invalidate in any manner any replenishment assesssment or basin equity assessment theretofore levied.

The exclusion provisions provided in this section apply only to exclusion of water-producing facilities from the payment of the replenishment assessments or basin equity assessments authorized by this act, but do not in any manner exclude or limit the rights of the district to levy and collect a general assessment as provided in this act.

The finding and determination by said board is final and conclusive.

SEC 9. Section 38.1 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

Sec. 38.1. Any water-producing facility which is producing water within the exterior boundaries of the district may be exempted by order of the board of directors from the payment of the replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations provided for in this act upon the filing of a verifed petition by the owner of the water-producing facility.

The petition shall be filed with the board of directors of the district and shall include a description of the land upon which the water-producing facility is located, a description of the water-producing facility, a statement of water quality analysis of the water produced by the water-producing facility, the names and addresses of the owners of the water-producing facility, and shall set forth the purpose or purposes for which any water produced from the water-producing facility will be used. The petition may include one or more water-producing facilities located in the same general area, provided each of such facilities are owned by the same owner. Petitioner shall pay to the district the expenses of advertising and costs incident to the proceedings.

Upon the filing of the petition, the secretary of the district shall cause an investigation to be made by the district geologist or an engineer or engineers for the purpose of determining whether the water produced by the water-producing facility is suitable or unsuitable for domestic or agricultural purposes. Upon completion of the investigation, a report of the results thereof shall be filed with the board of directors and a copy shall be mailed to the petitioner. Upon filing of the report, the board of directors shall fix a time for a hearing upon said petition and report, which time shall be not less than ten (10) days and not more than seventy-five (75) days after the filing

of said report, and shall cause a notice of the filing thereof and time and place fixed for the holding of the hearing to be published one time, at least ten (10) days before the date fixed for such hearing, in a newspaper of general circulation printed and published within the district A copy of such notice shall be mailed to the petitioner by first-class mail with postage prepaid not less than seven (7) days prior to the date of the hearing.

At the time of the hearing, the board of directors shall determine whether the water produced from the water-producing facility or facilities is suitable or unsuitable for domestic or agricultural purposes. If the board of directors finds and determines the water produced from such facility or facilities or any of them is unsuitable for domestic or agricultural purposes, and further finds and determines that the production of such unsuitable water will have no adverse effects on the ground water supplies of the district, the board of directors may make an order that water produced from the water-producing facility or facilities shall be exempted from the payment of the replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations as provided in this act.

Nothing contained in this section shall exclude the operator of any water-producing facility exempted from the payments of replenishment assessments from filing the water production statements provided for in Section 29.

The board of directors of the district may from time to time require that the owner of any water-producing facility or facilities, which are exempted from the payment of replenishment assessments and basin equity assessments, provide additional water quality analyses of water being produced from any water-producing facility which has been exempted from the payment of replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations as provided in this act.

The district shall at all times have the right to enter upon the premises where such exempted water-producing facility or facilities are located for the purpose of obtaining samples of the water being produced.

If at any time it appears that the quality of water being produced from a water-producing facility which has been exempted from payment of replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations has become suitable for domestic or irrigation purposes, the secretary of the district shall fix a time for a hearing to determine whether the water produced from the water-producing facility has become suitable for domestic or agricultural purposes. The secretary of the district shall cause a notice of the hearing to be published one time, at least ten (10) days before the date fixed for such hearing, in a newspaper of general circulation printed and published within the district A copy of such notice shall be mailed to the owner of the

water-producing facility by first-class mail with postage prepaid not less than seven (7) days prior to the date of the hearing.

If upon such hearing, the board of directors finds and determines that the quality of the water being produced from such water-producing facility has become suitable for domestic or irrigation purposes or that the production of water therefrom will have an adverse effect on the ground water supplies of the district, the board of directors shall make an order that the exemption of payment of replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations on water being produced from said water-producing facility shall be canceled. Notice of such cancellation of exemption shall be sent to the owner of the specified water-producing facility by first-class mail with postage prepaid. The effective date of the cancellation of exemption from the payment of replenishment assessments and from the levy of the basin equity assessment and the production requirements and limitations shall be ten (10) days after the date of mailing of the notice of cancellation.

CHAPTER 1048

An act to add Sections 12757.5, 12758.5, and 12859 to, to repeal and add Section 12802 to, and to repeal Article 5 5 (commencing with Section 12871) of Chapter 2 of Division 7 of, the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor September 22, 1978. Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 12757.5 is added to the Food and Agricultural Code, to read:

12757.5. "Service container" means any container, other than the original labeled container of a registered economic poison provided by the registrant, that is utilized to hold, store, or transport such economic poison or the use-dilution of such economic poison.

SEC. 2. Section 12758.5 is added to the Food and Agricultural Code, to read:

12758.5. "Use-dilution" means a dilution specified on the label or labeling which produces the concentration of the economic poison for a particular purpose or effect.

SEC. 3. Section 12802 of the Food and Agricultural Code is repealed.

SEC. 4. Section 12802 is added to the Food and Agricultural Code, to read:

12802. A person may mix or dilute any registered economic poison in accordance with its registered labeling for his or her own

use or for use in his or her own business without having obtained a license or having become a registrant pursuant to this chapter.

SEC. 5. Section 12859 is added to the Food and Agricultural Code, to read:

12859. The director shall adopt regulations governing the labeling of service containers. Such labeling regulations shall not apply to containers used by a person engaging in the business of farming when the containers are used on the property that the person is farming. The regulations shall provide that such labeling only include the following:

(a) Name and address of the person or firm responsible for such container.

(b) Identity of the economic poison contained within.

(c) The word "DANGER", "WARNING", or "CAUTION" in accordance with the label on the original container.

SEC. 6. Article 5.5 (commencing with Section 12871) of Chapter 2 of Division 7 of the Food and Agricultural Code is repealed.

CHAPTER 1049

An act to amend Section 12003 of, to amend and renumber Sections 12972, 12977, 12978, and 12979 of, to add Sections 12972 and 12977 to, to repeal and add Section 12973 to, and to repeal Sections 12971, 12974, 12975, and 12976 of, the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 22, 1978. Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Section 12003 of the Food and Agricultural Code is amended to read:

12003. Agricultural pest control advisers shall put all recommendations concerning any agricultural use in writing. One copy of each such written recommendation shall be signed and dated and shall be furnished to the grower. Where a pesticide use is recommended a copy shall also be furnished to the dealer and the applicator.

Each written recommendation shall include, when applicable, the following:

(a) The name and dosage of each pesticide to be used or description of method recommended.

(b) The identity of each pest to be controlled.

(c) The owner or operator, location of and acreage to be treated.

(d) The commodity, crop, or site to be treated.

(e) The suggested schedule, time, or conditions for the pesticide application or other control method.

(f) A warning of the possibility of damages by the pesticide application that are known to exist.

(g) The signature and address of the person making the recommendation, the date, and the name of the business such person represents.

(h) Any other information the director may require.

SEC. 2. Section 12971 of the Food and Agricultural Code is repealed.

SEC. 3. Section 12972 of the Food and Agricultural Code is amended and renumbered to read:

12971. No recommendation shall be in conflict with the registered labeling for the product being recommended.

SEC. 4. Section 12972 is added to the Food and Agricultural Code, to read:

12972. The use of any pesticide by any person shall be in such a manner as to prevent substantial drift to nontarget areas.

SEC. 5. Section 12973 of the Food and Agricultural Code is repealed.

SEC. 6. Section 12973 is added to the Food and Agricultural Code, to read:

12973. The use of any pesticide shall not conflict with labeling registered pursuant to this chapter which is delivered with the pesticide or with any additional limitations applicable to the conditions of any permit issued by the director or commissioner.

SEC. 7. Section 12974 of the Food and Agricultural Code is repealed.

SEC. 8. Section 12975 of the Food and Agricultural Code is repealed.

SEC. 9. Section 12976 of the Food and Agricultural Code is repealed.

SEC. 10. Section 12977 of the Food and Agricultural Code is amended and renumbered to read:

12974. Failure of a person using a pesticide to possess a written recommendation shall create a rebuttable presumption that he has assumed responsibility for the recommendation.

SEC. 11. Section 12977 is added to the Food and Agricultural Code, to read:

12977. 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.

SEC. 12. Section 12978 of the Food and Agricultural Code is amended and renumbered to read:

12975. A person making a written recommendation does not incur an obligation to insure that the actual use follows his or her recommendation

SEC. 13. Section 12979 of the Food and Agricultural Code is amended and renumbered to read:

12976. The director, after investigation and hearing, may adopt regulations which govern the use of any pesticide which he finds

necessary to carry out the purposes of Division 6 (commencing with Section 11401) or this division.

SEC. 14. 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 1050

An act to amend Sections 11405, 11407, 11410, 11411, 12024, and 12042 of, to add Section 11407.5 to, and to repeal Section 11904 of, the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 11405 of the Food and Agricultural Code is amended to read:

11405. "Registrant" means any person that registers pursuant to Section 11732 or 12031.

SEC. 2. Section 11407 of the Food and Agricultural Code is amended to read:

11407. "Pesticide dealer" means any person, including any manufacturer, distributor, or retailer who engages in any of the following business activities:

(a) Selling pesticides to users for an agricultural use.

(b) Selling to users any method or device for the control of agricultural pests, such as biological agents, lures, or insect-trapping devices.

(c) Soliciting sales of pesticides by making agricultural use recommendations through field representatives. or other agents.

(d) Selling to a user a pesticide classified pursuant to Section 14004.5 as a restricted material that requires either a permit for possession and use or which may be used only by or under the direct supervision of a certified applicator.

SEC. 3. Section 11407.5 is added to the Food and Agricultural Code, to read:

11407.5. "Pesticide dealer" does not include either of the following:

(a) Any person licensed pursuant to Section 11701 to engage for hire in the business of agricultural pest control, as to pesticides recommended or sold by the licensee and applied by the licensee

pursuant to the conditions of the license.

(b) Any person licensed to engage in any activity that is defined as structural pest control pursuant to Chapter 14 (commencing with Section 8500), of Division 3 of the Business and Professions Code, as to pesticides recommended or sold by the licensee and applied by the licensee pursuant to the conditions of the license.

SEC. 4. Section 11410 of the Food and Agricultural Code is amended to read.

11410. Except as provided in Section 12001, "agricultural pest control advisor" means any person who offers a recommendation or who holds himself forth as an authority on any agricultural use, or a general advisor on any agricultural use who solicits services or sales.

SEC. 5. Section 11411 of the Food and Agricultural Code is amended to read:

11411. "Recommendation" means the giving of any instruction or advice on any agricultural use as to any particular application on any particular piece of property. "Recommendation" does not include any summary that does not specify the use to be made for any designated pest, provided that such summary is not in conflict with any registered pesticide label or with the supplementary printed direction delivered therewith or with any rule or regulation of the director.

SEC. 6. Section 11904 of the Food and Agricultural Code is repealed.

SEC. 7. Section 12024 of the Food and Agricultural Code is amended to read:

12024. The director by regulation shall establish the minimum requirement for pest control advisor by education, experience, and examination to carry out the purposes of this division.

SEC. 8. Section 12042 of the Food and Agricultural Code is amended to read:

12042. The term of office of the members of the committee is three years. Vacancies shall be filled for an unexpired term.

CHAPTER 1051

An act to amend Section 12991 of, to add Article 5 (commencing with Section 11891) and Article 6 (commencing with Section 11896) to Chapter 4 of Division 6 of, and to add Article 12 (commencing with Section 12996) and Article 13 (commencing with Section 13101) of Chapter 2 of Division 7 of the Food and Agricultural Code, relating to pesticides, and making an appropriation therefor.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Article 5 (commencing with Section 11891) is added to Chapter 4 of Division 6 of the Food and Agricultural Code, to read:

Article 5. Penalties

11891. Every person who violates any provision of this division, or any regulation issued pursuant to a provision of the division, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by imprisonment of not less than 10 days nor more than six months, or by both fine and imprisonment. Each violation constitutes a separate offense.

11892. In lieu of seeking prosecution of any violation of this division as a misdemeanor, and the penalty prescribed in Section 11891, the director may prosecute civilly pursuant to Sections 11893 and 11894.

11893. Any person who violates any provision of this division, or any regulation issued pursuant to a provision of this division, shall be liable civilly in an amount not exceeding five hundred dollars ($500) for each violation. Any money recovered under this section shall be paid into the Department of Agriculture Fund for use by the department in administering the provisions of this division, and Division 7 (commencing with Section 12501) of this code.

11894. Upon a complaint by the director, the Attorney General may bring an action for civil penalties in any court of competent jurisdiction in this state against any person violating any provision of this division, or any regulation issued pursuant to it. The Attorney General may bring an action for civil penalties on his own initiative if, after examining the complaint and the evidence, he or she believes a violation has occurred.

SEC. 2. Article 6 (commencing with Section 11896) is added to Chapter 4 of Division 6 of the Food and Agricultural Code, to read:

Article 6. Cease and Desist

11896. The director, upon a finding that the use, handling, delivery, or sale of an economic poison in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and such activity if allowed to proceed will present an immediate hazard or cause irreparable damage, may issue an order to the persons responsible for such activity to cease and desist from further commission of such violation

11897. The agricultural commissioner, upon a finding that the use, handling, delivery or sale of an economic poison in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and such activity if allowed to proceed will present an immediate hazard or cause irreparable

damage, may issue an order to the persons responsible for such activity to cease and desist from further commission of such violation.

Any person aggrieved by a cease and desist order issued by an agricultural commissioner may appeal the order to the director who shall affirm, modify, or rescind the order. The order of the agricultural commissioner shall remain in force during the appeal to the director, and until the director's decision has been rendered.

SEC. 3. Section 12991 of the Food and Agricultural Code is amended to read:

12991. It is unlawful for any person, by himself, or through another, in connection with any substance or mixture of substances included within the scope of this chapter, to do any of the following:

(a) Make any material or substantial misrepresentation.

(b) Make any false promises of a character likely to influence, induce or deceive.

(c) Engage in illegitimate business or dishonest dealing.

(d) Cause to be published or distributed any false or misleading literature, or cause to be displayed any false or misleading advertisement

(e) For any person to use, store, transport, handle, or dispose of any economic poison, or of any container which holds or has held such economic poison, except in compliance with rules and regulations of the director.

SEC. 4. Article 12 (commencing with Section 12996) is added to Chapter 2 of Division 7 of the Food and Agricultural Code, to read:

Article 12. Penalties

12996. Every person who violates any provision of this division, or any regulation issued pursuant to a provision of this division, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by imprisonment of not less than 10 days nor more than six months, or by both fine and imprisonment. Each violation constitutes a separate offense.

12997. In lieu of seeking prosecution of any violation of this division as a misdemeanor, and the penalty prescribed in Section 12996, the director may prosecute civilly pursuant to Sections 12998 and 12999.

12998. Any person who violates any provision of this division, or any regulation issued pursuant to a provision of this division, shall be liable civilly in an amount not exceeding five hundred dollars ($500) for each violation. Any money recovered under this section shall be paid into the Department of Agriculture Fund for use by the department in administering the provisions of this division, and Division 6 of this code.

12999. Upon a complaint by the director, the Attorney General may bring an action for civil penalties in any court of competent jurisdiction in this state against any person violating any provision of

this division, or any regulation issued pursuant to it. The Attorney General may bring an action for civil penalties on his own initiative if, after examining the complaint and the evidence, he or she believes a violation has occurred.

SEC. 5 Article 13 (commencing with Section 13101) is added to Chapter 2 of Division 7 of the Food and Agricultural Code, to read:

Article 13. Cease and Desist

13101. The director, upon a finding that the use, handling, delivery or sale of economic poison in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and such activity if allowed to proceed will present an immediate hazard or cause irreparable damage, may issue an order to the persons responsible for such activity to cease and desist from further commission of such violation.

13102. The agricultural commissioner, upon a finding that the use, handling, delivery or sale of an economic poison in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and such activity if allowed to proceed will present an immediate hazard or cause irreparable damage, may issue an order to the persons responsible for such activity to cease and desist from further commission of such violation

Any person aggrieved by a cease and desist order issued by an agricultural commissioner may appeal the order to the director who shall affirm, modify, or rescind such order. The order of the agricultural commissioner shall remain in force during the appeal to the director, and until the director's decision has been rendered.

CHAPTER 1052

An act to amend, repeal, and add Section 12844 of the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 12844 of the Food and Agricultural Code is amended to read:

12844. Notwithstanding Section 12784, the director shall pay five-eighths of the money received pursuant to this article to the counties as reimbursement for costs incurred by the counties in the administration and enforcement of the provisions of Division 6 (commencing with Section 11401) and Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), and Chapter 3.5 (commencing with Section 14101) of this division

The development of regulations pursuant to this section shall be the joint and mutual responsibility of the director and the county agricultural commissioners. After public hearing, the director shall adopt regulations specifying the criteria to be used in allocating pesticide mill assessment funds to the counties based upon each county's pest control activities, costs, workload, and performance. The criteria shall include, but is not limited to, the following:

(a) The effectiveness of the pesticide use enforcement program in each county.

(b) The number, comprehensiveness, and effectiveness of pest control inspections performed in each county.

(c) The number of licensed pest control advisers, pesticide dealers, pest control operators, and other persons, firms, and agencies using pesticides in each county.

(d) The work hours expended by certified pesticide use enforcement personnel in each county.

(e) The total amount of dollars expended by each county relating to pesticide regulatory activities.

(f) The number of private applicators certified in each county.

(g) The volume and type of pesticides used and the number of pesticide applications in each county.

This section shall remain in effect only until January 1, 1982, and as of that date is repealed.

SEC. 2. Section 12844 is added to the Food and Agricultural Code, to read:

12844. Notwithstanding Section 12784, the director shall pay five-eighths of the money received pursuant to this article to the counties as reimbursement for costs incurred by the counties in the administration and enforcement of the provisions of Division 6 (commencing with Section 11401) and Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), and Chapter 3.5 (commencing with Section 14101) of this division.

Such payment shall be apportioned to the counties by the director in relation to each county's expenditures for such programs to the total amount expended by all counties for such programs. The director shall by regulation establish procedures for the determination and payment to the counties of such funds.

This section shall become operative on January 1, 1982.

SEC. 3. It is the intent of the Legislature that the amendments to Section 12844 of the Food and Agricultural 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 12844 to the form in which it read immediately prior to the effective date of this act.

CHAPTER 1053

An act to amend Section 405 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 22, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 405 of the Food and Agricultural Code is amended to read:

405. (a) With the prior approval of the Department of Fish and Game and the Department of Health Services, the department may reproduce or distribute biological control organisms that are not detrimental to the public health and safety which are known to be useful in reducing or preventing plant or animal damage due to pests or diseases.

(b) The department shall not engage in the production of beneficial organisms when such organisms are available for purchase from commercial sources.

CHAPTER 1054

An act to amend Section 1524 of, to repeal Section 3401 of, and to add Chapter 4 (commencing with Section 3410) to Title 2 of Part 3 of, the Penal Code, relating to crimes.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

(1) When the property was stolen or embezzled.

(2) When the property or things were used as the means of committing a felony.

(3) When the property or things are in the possession of any person with the intent to use it as a means of committing a public offense, or in the possession of another to whom he may have delivered it for the purpose of concealing it or preventing its being discovered.

(4) When the property or things to be seized consist of any item or constitutes any evidence which tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(b) The property or things described in subdivision (a) may be

taken on the warrant from any place, or from any person in whose possession it may be.

(c) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

SEC. 2. The Legislature finds that the separation of infants from their mothers, while their mothers are in prison, can cause serious psychological damage to such infants. To alleviate the harm to such infants, consistent with the interest of public safety and justice, the following pilot program is enacted.

SEC. 3. Section 3401 of the Penal Code is repealed.

SEC. 4. Chapter 4 (commencing with Section 3410) is added to Title 2 of Part 3 of the Penal Code, to read:

CHAPTER 4. COMMUNITY TREATMENT PROGRAMS

3410. The term "community" shall, for the purposes of this chapter, mean an environment away from the prison setting which is in an urban or suburban area.

3411. The Department of Corrections shall on or before January 1, 1980, establish and implement a community treatment program under which mother inmates who have one or more children under the age of two years and two months, whether born prior to or after January 1, 1978, shall be eligible to participate within the provisions of this section. The community treatment program shall provide for the release of the mother and child or children to a public or private facility in the community suitable to the needs of the mother and child or children, and which will provide the best possible care for the mother and child. In establishing and operating such program, the department shall have as a prime concern the establishment of a safe and wholesome environment for the participating children.

3412. The Department of Corrections shall provide pediatric care consistent with medical standards and, to the extent feasible, shall be guided by the need to provide the following:

(a) A stable, care giving, stimulating environment for the children as developed and supervised by professional guidance in the area of child development.

(b) Programs geared to assure the stability of the parent-child relationship during and after participation in the program, to be developed and supervised by appropriate professional guidance. These programs shall, at a minimum, be geared to accomplish the following:

(1) The mother's mental stability.

(2) The mother's familiarity with good parenting and housekeeping skills.

(3) The mother's ability to function in the community, upon parole or release, as a viable member.

(4) The securing of adequate housing arrangements after participation in the program.

(5) The securing of adequate child care arrangements after

participation in the program.

(c) Utilization of the least restrictive alternative to incarceration and restraint possible to achieve the objectives of correction and of this chapter consistent with public safety and justice.

3413. In determining how to implement this chapter, the Department of Corrections shall be guided by the need to utilize the most cost efficient methods possible. Therefore, the Director of Corrections may enter into contracts, with the approval of the Director of General Services, with appropriate public or private agencies, to provide housing, sustenance, and supervision for such inmates as are eligible for placement in community treatment programs. Prisoners in the care of such agencies shall be subject to all provisions of law applicable to them.

3414. The department shall establish reasonable rules and regulations concerning the operation of the program.

3415. (a) The probation department shall, on the day that any woman is sentenced to the state prison notify such woman of the provisions of this chapter, if the term of the state imprisonment does not exceed two years on the basis of either the probable release or parole date computed as if the maximum amount of good time credit would be granted. The probation department shall determine such term of state imprisonment at such time for the purposes of this section.

(b) The woman may, upon the receipt of such notice, give notice of her desire to be admitted to a program under this chapter. The probation department or the defendant shall transmit such notice to the Department of Corrections, and to the appropriate local social services agency that conducts investigations for child neglect and dependency hearings.

3416. If any woman received by or committed to the Department of Corrections has a child under two years of age, or gives birth to a child while an inmate under the jurisdiction of the Department of Corrections, such child and his or her mother shall, upon her request, be admitted to and retained in a community treatment program established by the Department of Corrections subject to the provisions of this chapter.

3417. Subject to reasonable rules and regulations promulgated pursuant to Section 3414, the Department of Corrections shall admit to the program any applicant whose child was born prior to the receipt of the inmate by the department, if all of the following requirements are met:

(a) The applicant has a probable release or parole date with a maximum time to be served of two years, calculated after deduction of any possible good time credit.

(b) The applicant had no prior convictions for which she served a state prison term.

(c) The applicant was the primary caretaker of the infant prior to incarceration. If the infant was living with anyone other than the applicant and was receiving primary care from that person, the

applicant is not eligible.

(d) At the date of the mother's application, the infant cannot be older than:	If the applicant's release or parole date is:
2 months	2 years
8 months	16 months
18 months	5⅓ months

(e) The applicant had not been found to be an unfit parent in any court proceeding, and the mother's fitness is not challenged pursuant to Section 3420 or she is found to be fit in a court proceeding. An inmate applicant shall not be denied the opportunity to participate in the program based in whole or in part on a determination that she is an unfit mother unless that decision is made pursuant to Section 232 of the Civil Code, Section 2625 of the Penal Code, or Section 600 of the Welfare and Institutions Code.

(f) Not more than 30 days has elapsed from the receipt of the mother by the Department of Corrections to the date of her application.

The Department of Corrections shall determine if the applicant meets the requirements of this section. The department may establish an appeal procedure for the applicant to appeal an adverse decision by the department. However, given the need to quickly place the child, the department's first determination shall govern the applicant's initial status as to these eligibility requirements.

3418. In the case of any inmate who gave birth to a child after the date of sentencing, and in the case of any inmate who gave birth to a child prior to such date and meets the requirements of subdivisions (a), (b), and (d) of Section 3417 but has not yet made application for admission to a program, the department shall, upon the birth of the child, or the receipt of the inmate to the custody of the Department of Corrections, as the case may be, notify the inmate of the provisions of this chapter.

3419 In the case of any inmate who gives birth after her receipt by the Department of Corrections, the department shall, subject to reasonable rules and regulations promulgated pursuant to Section 3414, upon her request, declare the inmate eligible to participate in a program pursuant to this chapter if all of the requirements of subdivisions (a), (b), (d), (e), and (f) of Section 3417 are met.

3420 (a) Within five days after the receipt of an inmate by the Department of Corrections who has already applied for admission to a program, or of her application for admission to a program, whichever is later, the department shall give notice of her application to the child's current caretaker or guardian, if any, and if it has not already been notified pursuant to Section 3415, the appropriate local social services agency that conducts investigations for child neglect and dependency hearings

(b) The department and the individuals and agencies notified shall have five days from the date of such notice to decide whether or not

to challenge the mother's fitness. Lack of a petition filed by that time shall result in an assumption of the mother's fitness for the purposes of this chapter.

(c) The local agency which has been notified pursuant to Section 3415 shall not initiate the process of considering whether or not to file until after the sentencing court has sentenced the applicant to state prison.

(d) The appropriate local agency that conducts investigations for child neglect and dependency hearings, the Department of Corrections, and the current guardian or caretaker of the child, shall have the authority to file for a fitness proceeding against the mother after the mother has applied in writing to participate in the program.

(e) The determination of whether or not to file shall be based in part on the likelihood of the mother being a fit parent for the child in question both during the program and afterwards. Program content shall be taken into account in this determination. There shall be a presumption affecting the burden of producing evidence in favor of filing for a fitness proceeding under the following circumstances:

(1) The applicant was convicted of one or more of the following violent felonies:

(i) Murder.

(ii) Mayhem.

(iii) Kidnapping as defined in Section 207 or 209.

(iv) Lewd acts on a child under 14 as defined in Section 288.

(v) Any other felony in which the defendant inflicts great bodily injury on a person other than accomplices which has been alleged and proven.

(vi) Forceable rape in violation of subdivision (2), (3), or (4) of Section 261.

(vii) Sodomy by force, violence, duress, menace, or threat of great bodily injury.

(viii) Oral copulation by force, violence, duress, menace, or threat of great bodily injury.

(2) The applicant was known to be addicted to any drug immediately prior to the date of her crime leading to the prison sentence, and the mother is not under the care of a doctor who has prescribed such drug.

(3) The applicant was convicted of child abuse in the current or any proceeding.

(f) Fitness petitions shall be resolved in the court of first instance as soon as possible for purposes of this section. Given the need to place the child as soon as possible, the first determination by the court as to the applicant's fitness as a mother shall determine her eligibility for the program for the current application. Outcomes of appeals shall not affect eligibility.

3421. Children of women inmates may only participate in the program until they reach the age of two years and two months, at which time the Community Release Board may arrange for their care elsewhere under any procedure authorized by statute and trans-

fer the mother to another placement under the jurisdiction of the Department of Corrections if necessary; and provided further, that at its discretion in exceptional cases, including, but not limited to, cases where the mother's period of incarceration is extended, the board may retain such child and mother for a longer period of time.

3422. The costs for care of any mother and child placed in a community treatment program pursuant to this section shall be paid for out of funds allocated to the department in the normal budgetary process. The department shall make diligent efforts to procure the allocation of sufficient funds and shall limit its use of the General Fund to meet the matching fund requirements of other funding sources. However, in no event shall General Fund moneys exceed 25 percent of the overall costs of the project.

3423 Any woman inmate who would give birth to a child during her term of imprisonment may be temporarily taken to a hospital outside the prison for the purposes of childbirth, and the charge for hospital and medical care shall be charged against the funds allocated to the institution The board shall provide for the care of any children so born and shall pay for their care until suitably placed, including, but not limited to, placement in a community treatment program.

3424. On or before March 30, 1980, and on or before March 30, 1981, the Department of Corrections shall evaluate the cost efficiency and effect of this chapter and shall report back to the Legislature with the department's recommendations as to whether or not this chapter should be altered or repealed and if so, why.

CHAPTER 1055

An act to amend Sections 84500 and 84520 of the Education Code, relating to community college attendance.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978.]

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

SECTION 1 Section 84500 of the Education Code is amended to read:

84500. (a) (1) Except as otherwise provided, in computing the average daily attendance of a community college district, there shall be included only the attendance of students while engaged in educational activities required of such students and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law, authorizing him to render service in the capacity and during the period in which he served.

(2) A community college district may, until June 30, 1982, also include the attendance of students enrolled in approved courses or

programs of independent study, including courses or programs formerly conducted as coordinated instruction systems, who are under the supervision, control, and evaluation but not necessarily in the immediate presence of an employee of the district who possesses a valid certification document; provided that such attendance may only be included for college level credit courses and programs which are accepted for completion of an appropriate educational sequence leading to an associate degree, and which generally are recognized upon transfer by an institution of the University of California or the California State University and Colleges.

The community college district shall determine the nature, manner, and place of conducting any independent study course or program in accordance with rules and regulations adopted by the Board of Governors of the California Community Colleges to implement the purposes of this subdivision. Such rules and regulations shall require community college districts to ensure that the components of each individual study course or program for each student shall be set out in a written record which includes the goals and methodology of the course or program, the number of units and hours of study required, the arrangements for consultation with the instructor, the work product to be evaluated, and the college facility required. Such rules and regulations shall also provide for input from, and participation by, faculty, who are selected by academic senates or faculty councils, and students, including, but not limited to, academic senates or faculty councils, in the development and evaluation of such approved educational courses and programs.

The board of governors or its designee shall study the educational and fiscal effects of the authorization provided by this subdivision and shall report to the Legislature prior to June 30, 1981, on the appropriateness of deleting or extending such authorization, as well as other changes that should be made.

(b) For the purpose of work experience education programs in the secondary schools meeting the standards of the California State Plan for Vocational Education, "immediate supervision" of off-campus work training stations means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in any such work experience program shall not exceed 125 students per full-time equivalent certificated coordinator. A pupil enrolled in such work experience program shall not be credited with more than one day of attendance in any calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 76313.

(c) For purposes of computing the average daily attendance of a community college district, attendance shall also include student attendance and participation in in-service training courses in the areas of police, fire, corrections, and other criminal justice system

occupations that conform to all apportionment attendance and course of study requirements otherwise imposed by law; provided that such courses are fully open to the enrollment and participation of the public pursuant to subdivision (2) of Section 78450; and provided further, that prerequisites for such courses shall not be established or construed so as to prevent academically qualified persons not employed by agencies in the criminal justice system from enrolling in and attending such courses.

(d) In the event that certain in-service training courses are restricted to employees of police, fire, corrections, and other criminal justice agencies, attendance for such restricted courses shall not be reported for purposes either of state apportionments or district revenue limits computed pursuant to Sections 85132 and 85140. Notwithstanding the provisions of Section 78450, a community college district which restricts enrollment in such in-service training courses may contract with any public agency to provide compensation for the cost of conducting such courses.

(e) Positive records of student admissions and daily attendance in all in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations, as described in subdivision (c), shall be maintained by each district and shall be separately reported annually to the chancellor's office of the California Community Colleges.

SEC. 2. Section 84520 of the Education Code is amended to read:

84520. Pursuant to the provisions of Section 84500, the units of average daily attendance for apportionment purposes of regularly enrolled students of a community college district during the academic year, as defined in Section 78008, and subject to the provisions of Section 78452 shall be computed by multiplying the weekly student contact hours of enrollment as recorded for the census day or days each semester or quarter by statewide factors heretofore established by the board of governors, subject to review by the Department of Finance. The census day shall be Monday of each of two census weeks of five or six consecutive days of regularly scheduled classes each term or session as approved by the board of governors.

For purposes of computing the units of average daily attendance for courses which do not have a regularly scheduled number of weekly student contact hours, one weekly student contact hour shall be counted for each unit of credit in which a student is enrolled during any census period. The nature, manner, and place of conducting courses and programs under this section shall be determined by the community college district pursuant to rules and regulations adopted by the board of governors.

Attendance of such students enrolled in classes conducted in summer sessions, as distinct from summer quarters, of four weeks or more shall be counted in the computation of average daily attendance for apportionment purposes under the provisions of this section using the following formula: Multiply the sum of the weekly

student contact hours of enrollment in each class during the census week of each class of the summer session by the number of scheduled weeks for each class, multiply the product so derived by the statewide factors established by the board of governors, subject to review by the Department of Finance, and divide by 525. The census day shall be Monday of the second week. For classes of less than four weeks, the units of average daily attendance shall be computed by dividing the total actual class hours of attendance by 525.

CHAPTER 1056

An act relating to child care.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. During the 1979–80 and 1980–81 school years, the Berkeley Unified School District may undertake a pilot project, in conjunction with its existing State Preschool Program, which allows children of low-middle-income families to be eligible to participate in the State Preschool Program. The purpose of such a pilot project shall be to determine the feasibility of increasing the cultural diversity of the State Preschool Program.

If the Berkeley Unified School District elects to undertake this pilot project, the project shall be administered according to the following provisions:

(a) The maximum income level for a family to be deemed a "low-middle-income family" for the purpose of determining eligibility to participate in the pilot project shall be determined by the State Department of Education, using the guidelines established by Title XX of the Social Security Act. The fee schedule developed by the State Department of Health Services and administered by the Department of Education in accordance with the provisions of Title XX of the Social Security Act shall be utilized for participants in this project from low-middle-income families. Funds collected from the fees imposed on participants from low-middle-income families shall be used to offset any local administrative costs incurred by the collection and recording of fees and to augment existing funds.

(b) During the two-year duration of this pilot project, the Berkeley Unified School District shall maintain the 175 state preschool slots presently allocated.

(c) The pilot project authorized by this act, for the purposes of administration and evaluation, shall be composed of both the state preschool places and the Berkeley Unified School District places which are funded by the adult education budget and parent fees.

(d) The State Preschool Program conducted in the Berkeley

Unified School District shall continue to maintain the priority given to low-income families during the duration of this pilot project and the active recruitment of children from low-income families shall continue during the life of the pilot project. To this end, since experience in the Berkeley Unified School District has shown that the State Preschool Program enrollment stabilizes in mid-October, the recruitment of low-middle-income families shall begin no earlier than mid-October to ensure that every effort has been made to place children from low-income families in the program. It is the intent of the Legislature in enacting this act that children in low-income families, as identified in the Department of Education guidelines for the State Preschool Program, shall always have priority over children from low-middle-income families whenever there is competition for a place in the project.

SEC. 2. If the Berkeley Unified School District elects to undertake the pilot project authorized in Section 1 of this act, the district shall annually conduct an evaluation of the pilot project, and shall annually report thereon to the Legislature no later than August 31, 1980, and August 31, 1981. The report shall include, but need not be limited to, the following:

(a) A breakdown of the cultural and racial composition of the program participants.

(b) The changes in the cultural and racial composition of the program participants as a result of the project's implementation.

(c) Parent participation in the project and the extent of changes in such participation as a result of the project's implementation.

(d) A breakdown of the income levels of families participating in the entire project.

If, after the first report has been submitted to the Legislature, it is found that the recruitment timetable or the procedures for recruitment are not appropriate and need adjustment, the Department of Education may recommend any changes in the pilot project which are necessary to fulfill the intent of the pilot project prescribed by this act.

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.

CHAPTER 1057

An act to amend Section 2982.8 of the Civil Code, relating to automobile sales.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 2982.8 of the Civil Code is amended to read:

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and subsequent to the execution of the contract the buyer either fails to maintain or requests the holder to procure such insurance, any amounts advanced by the holder to procure such insurance may be added to the contract balance. Such amounts shall be secured by the motor vehicle provided that the holder notifies the buyer in writing of his or her option to repay such amounts in any one of the following ways:

(1) Full payment within 10 days from the date of giving or mailing the notice.

(2) Full amortization during the term of the insurance.

(3) Full amortization after the term of the conditional sale contract to be payable in installments which do not exceed the average payment allocable to a monthly period under the contract. The option offered under this subparagraph shall not apply to any industrial loan company licensed pursuant to Division 7 (commencing with Section 18000) of the Financial Code.

(4) If offered by the holder, any other amortization plan.

If the buyer neither pays in full the amounts advanced nor notifies the holder in writing of his or her choice regarding amortization options before the expiration of 10 days from the date of giving or mailing the notice by the holder, the holder may amortize the amounts advanced on a secured basis pursuant to either paragraph (2) or (3) of this subdivision.

(b) The written notification described in subdivision (a) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan the amount of the additional finance charge, the sum of the amounts advanced and the additional finance charge, the number of installments required, the amount of each installment and the date for payment of the installments.

(c) The maximum finance charge which may be imposed on amounts advanced by the holder hereunder shall not exceed the rate specified in subdivision (c) of Section 2982.

CHAPTER 1058

An act to amend Sections 66901 and 66907 of the Education Code, relating to postsecondary education.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 66901 of the Education Code is amended to read·

66901. There is hereby created the California Postsecondary Education Commission, which shall be advisory to the Governor, the Legislature, other appropriate governmental officials, and institutions of postsecondary education. The commission shall be composed of the following members:

(1) One representative of the Regents of the University of California designated by the regents, one representative of the Trustees of the California State University and Colleges designated by the trustees, and one representative of the Board of Governors of the California Community Colleges designated by the board. Representatives of the regents, the trustees, and the board of governors shall be chosen from among the appointed members of their respective boards, but in no instance shall an ex officio member of a governing board serve on the commission.

(2) One representative of the independent California colleges and universities which are accredited by a national or regional association which is recognized by the United States Office of Education. This member shall be appointed by the Governor from a list or lists submitted by an association or associations of such institutions.

(3) The chair or the designee of the chair of the Council for Private Postsecondary Educational Institutions.

(4) The President of the State Board of Education or his or her designee from among the other members of the board.

(5) Nine representatives of the general public appointed as follows: three by the Governor, three by the Senate Rules Committee, and three by the Speaker of the Assembly. It is the intent of the Legislature that the commission be broadly and equitably representative of the general public in the appointment of its public members and that the appointing authorities, therefore, shall confer to assure that their combined appointments include adequate representation on the basis of sex and on the basis of the significant racial, ethnic, and economic groups in the state.

No person who is employed by any institution of public or private postsecondary education shall be appointed to or serve on the commission, except that a person who is not a permanent, full-time employee and who has part-time teaching duties which do not exceed six hours per week may be appointed to and serve on the commission.

The commission members designated in subdivisions (1), (3), and (4) shall serve at the pleasure of their respective appointing authorities. The member designated in subdivision (2) shall serve a three-year term The members designated in subdivision (5) shall each serve a six-year term The respective appointing authority may appoint an alternate for each member who may, during the

member's absence, serve on the commission and vote on matters before the commission. When vacancies occur prior to expiration of terms, the respective appointing authority may appoint a member for the remainder of the term.

Any person appointed pursuant to this section may be reappointed to serve additional terms.

Any person appointed pursuant to this section who no longer has the position which made him or her eligible for appointment may nonetheless complete his or her term of office on the commission.

No person appointed pursuant to this section shall, with respect to any matter before the commission, vote for or on behalf of, or in any way exercise the vote of, any other member of the commission.

The commission shall meet as often as it deems necessary to carry out its duties and responsibilities.

Any member of the commission who in any calendar year misses more than one-third of the meetings of the full commission forfeits his office, thereby creating a vacancy.

The commission shall select a chair from among the members representing the general public. The chair shall hold office for a term of one year and may be selected to successive terms.

There is established an advisory committee to the commission and the director, consisting of the chief executive officers of each of the public segments, or their designees, the Superintendent of Public Instruction or his or her designee, and an executive officer from each of the groups of institutions designated in subdivisions (2) and (3) of Section 66901 to be designated by the respective commission representative from such groups. Commission meeting agenda items and associated documents shall be provided to the committee in a timely manner for its consideration and comments.

The commission may appoint such subcommittees or advisory committees as it deems necessary to advise it on matters of educational policy. Such advisory committees may consist of commission members or nonmembers or both, including students, faculty members, segmental representatives, governmental representatives, and representatives of the public.

The commission shall appoint and may remove a director in the manner hereinafter specified. The director shall appoint persons to such staff positions as the commission may authorize.

The commission shall prescribe rules for the transaction of its own affairs, subject, however, to the following requirement and limitations: (1) The votes of all representatives shall be recorded, (2) effective action shall require the affirmative vote of a majority of all the duly appointed members of the commission, not including vacant commission seats, and (3) the affirmative votes of two-thirds of all the duly appointed members of the commission, not including vacant commission seats, shall be necessary to the appointment of the director.

SEC 2 Section 66907 of the Education Code is amended to read:

66907. Initial appointments to the California Postsecondary

Education Commission shall become effective on January 10, 1974. All subsequent terms will begin on January 1 of the year in which the respective terms are to start.

Responsibilities heretofore assigned to the Coordinating Council for Higher Education through legislative resolution and budget language shall be assumed by the commission on April 1, 1974. All ongoing projects, information, and files of the council shall be transferred to the commission on that date.

SEC. 3. For the purpose of effecting the reduction in membership of the California Postsecondary Education Commission required by this act, the following directions shall be observed:

(a) As of January 1, 1980, one of each of the offices hitherto filled by designation of the Regents of the University of California, the Trustees of the California University and Colleges, and the Board of Governors of the California Community Colleges, pursuant to subdivision (1) of Section 66901, shall be abolished. The office to be abolished shall be determined by each of such designating authorities.

(b) As of January 1, 1980, one of the offices filled by designation of the Governor pursuant to subdivision (2) of Section 66901 shall be abolished, and one of each of the offices filled by designation of the Governor, the Senate Rules Committee, and the Speaker of the Assembly pursuant to subdivision (5) of Section 66901 shall be abolished. The office to be abolished shall be an office the term of which is already due to expire on January 1, 1980, pursuant to the provisions of 66907 as they read before the effective date of this act.

CHAPTER 1059

An act to add Part 2.7 (commencing with Section 60) to Division 1 of the Civil Code, relating to minors.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Part 2.7 (commencing with Section 60) is added to Division 1 of the Civil Code, to read:

PART 2.7. EMANCIPATION OF MINORS

60. This part shall be known and may be cited as the "Emancipation of Minors Act."

61. The Legislature finds and declares that the case law of this state is unclear as to the definition and consequences of emancipation of minors; that a legislative statement is required; and that a process should be provided so that emancipated minors can

obtain an official declaration of their status. It is the purpose of this part to provide a clear statement defining emancipation and its consequences and to permit an emancipated minor to obtain a court declaration of his status. This part is not intended to affect the status of minors who are now or may become emancipated under present decisional case law.

62. Any person under the age of 18 years who comes within the following description is an emancipated minor:

(a) Who has entered into a valid marriage, whether or not such marriage was terminated by dissolution; or

(b) Who is on active duty with any of the armed forces of the United States of America; or

(c) Who willingly lives separate and apart from his parents or legal guardian, with the consent or acquiescence of the parents or guardian, and who is managing his own financial affairs, regardless of the source of his income so long as it is not derived from any activity declared to be a crime by the laws of the State of California, or declared to be a crime by the laws of the United States.

63. An emancipated minor shall be considered as being over the age of majority for the following purposes:

(a) For the purpose of consenting to medical, dental, or psychiatric care, without parental consent, knowledge, or liability.

(b) For the purpose of his capacity to enter into a binding contract.

(c) For the purpose of his capacity to sue and be sued in his own name.

(d) For the purpose of his right to support by his parents.

(e) For purposes of the rights of his parents to his earnings, and to control him.

(f) For the purpose of establishing his own residence.

(g) For the purpose of buying or selling real property.

(h) For purposes of the application of Sections 300 and 601 of the Welfare and Institutions Code.

(i) For purposes of applying for a work permit pursuant to Section 49110 of the Education Code without the request of parents or guardian.

(j) For the purpose of ending all vicarious liability of the minor's parents or guardian for the minor's torts; provided, that nothing in this section shall affect any liability of a parent, guardian, spouse, or employer imposed by the Vehicle Code, or any vicarious liability which arises from an agency relationship.

(k) For the purpose of enrolling in any school or college.

64. (a) An emancipated minor may petition the superior court of the county in which he resides, for a declaration of emancipation. The petition shall be verified and shall set forth with specificity the facts bringing the minor within the provisions of Section 62.

(b) Before the petition is heard, such notice as the court deems reasonable must be given to the minor's parents, guardian, or other person entitled to the custody of the minor, or proof made to the

court that their addresses are unknown, or that for other reasons such notice cannot be given. When a minor is a ward or dependent child of the court, notice shall be given to the probation department.

(c) The court shall sustain the petition if it finds that the minor is a person described by subdivision (a) or (b) of Section 62.

(d) If the petition is based solely upon subdivision (c) of Section 62, and the court finds that the minor is 16 years of age or older and is a person described by that subdivision, the court shall grant the petition unless, after having considered all of the evidence introduced at the hearing, it finds that granting the petition would be contrary to the best interests of the minor. If the court finds that the minor is under 16 years of age or is not a person described in subdivision (c) of Section 62, or finds that granting the petition would be contrary to the best interests of the minor, it shall deny the petition.

(e) If the petition is sustained, the court shall forthwith issue a declaration of emancipation, which shall be filed by the county clerk. Upon application of the emancipated minor, the Department of Motor Vehicles shall enter identifying information in its law enforcement computer network, and the fact of emancipation shall be stated on the department's identification cards issued to emancipated minors.

(f) If the petition is denied, the minor shall have a right to file a petition for a writ of mandate.

(g) If the petition is sustained, the parents or guardian shall have a right to file a petition for a writ of mandate if they have appeared in the proceeding and opposed the granting of the petition.

(h) A declaration shall be conclusive evidence that the minor is emancipated, but emancipation may also be proved by other evidence like any other fact.

65. (a) A minor declared emancipated under subdivision (c) of Section 64 or his conservator may petition the superior court of the county in which he resides, to rescind the declaration issued under Section 64.

(b) Before the petition is heard, such notice as the court deems reasonable must be given to the minor's parents or guardian or proof made to the court that their addresses are unknown, or that for other reasons such notice cannot be given, however, no liability shall accrue to any parent or guardian not given actual notice, as a result of rescission of the declaration of emancipation, until such parent or guardian is given actual notice.

(c) The court shall sustain the petition and rescind the declaration of emancipation if it finds that the minor is indigent and has no means of support.

(d) If the petition is sustained, the court shall forthwith issue a court order rescinding the declaration of emancipation granted under Section 64, which shall be filed by the county clerk. Notice shall be sent immediately to the Department of Motor Vehicles which shall remove the information relating to emancipation in its

law enforcement computer network entered pursuant to subdivision (d) of Section 64. Any identification card issued stating emancipation shall be invalidated.

(e) Rescission of the declaration of emancipation shall not alter any contractual obligations or rights or any property rights or interests which arose during the period that the declaration was in effect.

66. A person who, in good faith, has examined a minor's identification card and relies upon a minor's representation that he is emancipated, shall have the same rights and obligations as if the minor were in fact emancipated at the time of the representation.

67. The issuance of a declaration of emancipation shall not entitle the minor to any benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code which would not otherwise accrue to an emancipated minor.

68. No public entity or employee shall be liable for any loss or injury resulting directly or indirectly from false or inaccurate information contained in the Department of Motor Vehicles records system or identification cards as provided in this part.

CHAPTER 1060

An act to amend Section 23986 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 23, 1978. Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Section 23986 of the Business and Professions Code is amended to read:

23986. (a) Any applicant for an on-sale license shall cause a notice of the application, giving the name or names of the applicant and the premises where the business is to be conducted, to be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation, other than a legal or professional trade publication, in the city in which the premises are situated, or if the premises are not in a city the publication shall be made in a newspaper of general circulation nearest the premises where the business is to be conducted. The form of the notice shall be prescribed by the department. Affidavit of publication shall be filed with the department prior to the issuance of any license. The department shall adopt rules and regulations to enforce the provisions of this section.

(b) Any applicant for an on-sale or off-sale license at a premises which is located in a census tract which has an undue concentration of licenses, as defined by departmental rule or regulation, shall cause

a notice of the application to be published pursuant to Section 6063 of the Government Code in a newspaper of general circulation other than a legal or trade publication. Such publication shall be made in the city in which the premises is situated, or if the premises is not a city the publication shall be made in a newspaper of general circulation nearest the premises where the business is to be conducted. The form of the notice shall be prescribed by the department. Affidavit of publication shall be filed with the department prior to the issuance of any license. The department shall adopt rules and regulations to enforce the provisions of this subdivision.

CHAPTER 1061

An act to amend Section 207 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 September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 207 of the Welfare and Institutions Code is amended to read:

207. (a) No court, judge, referee, or peace officer shall knowingly detain in any jail or lockup any person under the age of 18 years, unless a judge of the juvenile court shall determine that there are no other proper and adequate facilities for the care and detention of such person, or unless such person has been transferred by the juvenile court to another court for proceedings not under the Juvenile Court Law and has been charged with or convicted of a felony. If any person under the age of 18 years is transferred by the juvenile court to another court and is charged with or convicted of a felony as herein provided and is not released pending hearing, such person may be committed to the care and custody of a sheriff, constable, or other peace officer who shall keep such person in the juvenile hall or in such other suitable place as such latter court may direct, provided that no such person shall be detained in or committed to any hospital except for medical or other remedial care and treatment or observation.

(b) Notwithstanding the provisions of subdivision (a), no minor shall be detained in any jail, lockup, juvenile hall, or other secure facility who is taken into custody solely upon the ground that he is a person described by Section 601 or adjudged to be such or made a ward of the juvenile court solely upon that ground, except as provided in subdivision (c). If any such minor, other than a minor described in subdivision (c), is detained, he shall be detained in a

sheltered-care facility or crisis resolution home as provided for in Section 654, or in a nonsecure facility provided for in subdivision (a), (b), (c), or (d) of Section 727.

(c) A minor taken into custody upon the ground that he is a person described in Section 601, or adjudged to be a ward of the juvenile court solely upon that ground, may be held in a secure facility, other than a facility in which adults are held in secure custody, in any of the following circumstances:

(1) For up to 12 hours after having been taken into custody for the purpose of determining if there are any outstanding wants, warrants, or holds against the minor in cases where the arresting officer or probation officer has cause to believe that such wants, warrants, or holds exists.

(2) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his parent or guardian.

(3) For up to 24 hours after having been taken into custody, in order to locate the minor's parent or guardian as soon as possible and to arrange the return of the minor to his parent or guardian, whose parent or guardian is a resident outside of the state wherein the minor was taken into custody, except that such period may be extended to no more than 72 hours when the return of the minor cannot reasonably be accomplished within 24 hours due to the distance of the parents or guardian from the county of custody, difficulty in locating the parents or guardian, or difficulty in locating resources necessary to provide for the return of the minor.

(d) Any minor detained in juvenile hall pursuant to subdivision (c) may not be permitted to come or remain in contact with any person detained on the basis that he has been taken into custody upon the ground that he is a person described in Section 602 or adjudged to be such or made a ward of the juvenile court upon that ground.

(e) Minors detained in juvenile hall pursuant to Sections 601 and 602 may be held in the same facility provided they are not permitted to come or remain in contact within that facility.

(e) Every county shall keep a record of each minor detained under subdivision (c), the place and length of time of such detention, and the reasons why such detention was necessary. Every county shall report, on a monthly basis, this information to the Department of the Youth Authority, on forms to be provided by that agency.

The Youth Authority shall not disclose the name of the detainee, or any personally identifying information contained in reports sent to the Youth Authority under this subdivision.

SEC. 2. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the General Fund to the Department of the Youth Authority for allocation and disbursement to local agencies for the purpose of providing financial assistance for capital costs associated with implementation of subdivision (d) of Section 207 of the Welfare and Institutions Code as amended by this

act.

No allocation or disbursement, or both, may be made from the above appropriation for capital expenditures incurred under subdivision (d) of Section 207 of the Welfare and Institutions Code until the necessity for such expenditure is approved by the Department of the Youth Authority. The Department of the Youth Authority shall review all requests from counties for modification of existing facilities, the construction of new facilities, and the need for additional beds, pursuant to subdivsion (d) of Section 207 of the Welfare and Institutions Code, for purposes of determining the number of additional beds, if any, necessary to implement this section, and the reasonably necessary costs, if any, for modification or construction of such facilities.

SEC. 3. It is the intent of the Legislature in providing the appropriation contained in this act that the funds be used to assist local entities in meeting nonrecurring program costs and that such funds be considered as a one-time grant and not as reimbursement for costs incurred pursuant to Section 2231 of the Revenue and Taxation Code. Further, it is the intent of the Legislature that implementation of the provisions of this act be at the option of any local entity affected and, consequently, be ineligible for reimbursement pursuant to Section 2231 of the Revenue and Taxation Code.

It is the intent of the Legislature that this act restores to local entities the ability to provide secure detention, under specified conditions, for persons described in Section 601 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:

In order to clarify the extensive changes made in the juvenile court law at the 1976 Regular Session of the Legislature, it is imperative that this act go into immediate effect.

CHAPTER 1062

An act to add Section 49426 to the Education Code, relating to school nurses.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 49426 is added to the Education Code, to read:

49426. A school nurse is a registered nurse currently licensed

under Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, and who has completed the additional educational requirements for, and possesses a current credential in, school nursing pursuant to Section 44877.

School nurses strengthen and facilitate the educational process by improving and protecting the health status of children and by identification and assistance in the removal or modification of health-related barriers to learning in individual children. The major focus of school health services is the prevention of illness and disability, and the early detection and correction of health problems. The school nurse is especially prepared and uniquely qualified in preventive health, health assessment, and referral procedures.

Nothing in this section shall be construed to limit the scope of professional practice or otherwise to change the legal scope of practice for any registered nurse or other licensed healing arts practitioner. Rather, it is the intent of the Legislature to provide positively for the health services, many of which may be performed in the public schools only by physicians and school nurses. School nurses may perform, if authorized by the local governing board, the following services:

(a) Conduct immunization programs pursuant to Section 49403 and assure that every pupil's immunization status is in compliance with the law, including parental or guardian consent, and good health practice.

(b) Assess and evaluate the health and developmental status of pupils to identify specific physical disorders and other factors relating to the learning process, communicate with the primary care provider, and contribute significant information in order to modify the pupils' educational plans.

(c) Interpret the health and developmental assessment to parents, teachers, administrators, and other professionals directly concerned with the pupil.

(d) Design and implement a health maintenance plan to meet the individual health needs of the students, incorporating plans directed by a physician.

(e) Refer the pupil and his or her parent or guardian to appropriate community resources for necessary services.

(f) Maintain communication with parents and all involved community practitioners and agencies to promote needed treatment and secure reports of findings pertinent to educational planning.

(g) Interpret medical and nursing findings appropriate to the student's individual educational plan and make recommendations to professional personnel directly involved.

(h) Consult with, conduct in-service training to, and serve as a resource person to teachers and administrators, and act as a participant in implementing any section or sections of a comprehensive health instruction curriculum for students by providing current scientific information regarding nutrition, preventive dentistry, mental health, genetics, prevention of

communicable diseases, self-health care, consumer education, and other areas of health.

(i) Counsel pupils and parents by:

(1) Assisting children and youth, parents, and school personnel in identifying and utilizing appropriate and mutually acceptable private and community health delivery services for professional care and remediation of defects.

(2) Counseling with parents, pupils and school staff regarding health-related attendance problems.

(3) Helping parents, school personnel and pupils understand and adjust to physical, mental and social limitations.

(4) Exploring with families and pupils, attitudes, information and values which affect their health behavior.

(j) Assist parents and pupils to solve financial, transportation and other barriers to needed health services.

CHAPTER 1063

An act to add Sections 42639.1 and 85239.1 to, the Education Code, relating to schools.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 42639.1 is added to the Education Code, to read:

42639.1. The county auditor may authorize the destruction of any bill or supporting document received from a school district for purposes of Section 42639 if all of the following conditions are met:

(a) The record, paper, or document is photographed, microphotographed, or reproduced on film of a type approved for permanent photographic records by the National Bureau of Standards;

(b) The device used to reproduce such record, paper, or document on film is one which accurately reproduces the original thereof in all details; and

(c) The photographs, microphotographs, or other reproductions on film are placed in conveniently accessible files and provision is made for preserving, examining, and using the same.

SEC. 2. Section 85239.1 is added to the Education Code, to read:

85239.1. The county auditor may authorize the destruction of any bill or supporting document received from a school district for purposes of Section 85239 if all of the following conditions are met:

(a) The record, paper, or document is photographed, microphotographed, or reproduced on film of a type approved for permanent photographic records by the National Bureau of

Standards;

(b) The device used to reproduce such record, paper, or document on film is one which accurately reproduces the original thereof in all details; and

(c) The photographs, microphotographs, or other reproductions on film are placed in conveniently accessible files and provision is made for preserving, examining, and using the same.

CHAPTER 1064

An act to amend Sections 44346, 44836, 45123, 87290, 87405, and 88022 of the Education Code, relating to school employees.

[Approved by Governor September 23, 1978. Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Section 44346 of the Education Code is amended to read:

44346. (a) The commission shall deny any application for the issuance of a credential or for the renewal of a credential made by any applicant who comes within any of the following classes:

(1) Has been determined to be a sexual psychopath under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

(2) Has been convicted of any sex offense as defined in Section 44010.

(3) Has been convicted of a narcotics offense as defined in Section 44011.

(b) Notwithstanding paragraphs (2) and (3) of subdivision (a), no person shall be denied a credential solely on the basis that he has been convicted of a crime specified in paragraphs (2) and (3) of subdivision (a) if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code, and if his probation has been terminated and the information or accusation has been dismissed pursuant to Section 1203.4 of the Penal Code.

(c) Notwithstanding paragraph (3) of subdivision (a) or subdivision (b), the commission may issue a credential to a person convicted of a narcotics offense as defined in Section 44011 if the commission determines from the evidence presented that the person has been rehabilitated for at least five years, or has received a certificate of rehabilitation and pardon pursuant to Section 4852.01 of the Penal Code, or if the accusation or information against the person has been dismissed and he or she has been released from all disabilities and penalties resulting from the offense pursuant to Section 1203.4 of the Penal Code.

SEC. 2. Section 44836 of the Education Code is amended to read:

44836. Governing boards of school districts shall not employ or retain in employment persons in public school service who have been convicted of any sex offense as defined in Section 44010 or narcotics offense as defined in Section 44011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

However, a governing board may employ a person convicted of a narcotics offense in a position requiring certification qualifications if such person holds an appropriate credential issued by the Commission for Teacher Preparation and Licensing.

SEC. 3. Section 45123 of the Education Code is amended to read:

45123. No person shall be employed or retained in employment by a school district who has been convicted of any sex offense as defined in Section 44010 or narcotics offense as defined in Section 44011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

Further, the governing board of a school district may employ a person convicted of a narcotics offense if the governing board of the school district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

SEC. 4. Section 87290 of the Education Code is amended to read:

87290. (a) The Board of Governors of the California Community Colleges shall deny any application for the issuance of a credential authorized by this article made by any applicant who comes within any of the following classes:

(1) Has been determined to be a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300), Chapter 2, Part 2, Division 6 of the Welfare and Institutions Code or under similar provisions of law of any other state.

(2) Has been convicted of any sex offense as defined in Section 87010.

(3) Has been convicted of a narcotics offense as defined in Section 87011.

(b) Notwithstanding paragraphs (2) and (3) of subdivision (a), no person shall be denied a credential solely on the basis that he has been convicted of a crime specified in paragraphs (2) and (3) of subdivision (a) if he has obtained or applied for a certificate of rehabilitation under Section 4852.01 and following of the Penal Code, and if his probation has been terminated and the information or accusation has been dismissed pursuant to Section 1203.4 of the Penal Code.

(c) Notwithstanding paragraph (3) of subdivision (a) or

subdivision (b), the board of governors may issue a credential to a person convicted of a narcotics offense as defined in Section 87011 if the board of governors determines from the evidence presented that the person has been rehabilitated for at least five years, or has received a certificate of rehabilitation and pardon pursuant to Section 4852.01 of the Penal Code, or if the accusation or information against the person has been dismissed and he or she has been released from all disabilities and penalties resulting from the offense pursuant to Section 1203.4 of the Penal Code.

SEC. 5. Section 87405 of the Education Code is amended to read:

87405. Governing boards of commmunity college districts shall not employ or retain in employment persons in public school service who have been convicted of any sex offense as defined in Section 87010 or narcotics offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

However, a governing board may employ a person convicted of a narcotics offense in a position requiring certification qualifications if such a person holds an appropriate credential issued by the board of governors.

SEC. 4. Section 88022 of the Education Code is amended to read:

88022. No person shall be employed or retained in employment by a community college district who has been convicted of any sex offense as defined in Section 87010 or narcotics offense as defined in Section 87011. If, however, any such conviction is reversed and the person is acquitted of the offense in a new trial or the charges against him are dismissed, this section does not prohibit his employment thereafter.

Further, the governing board of a community college district may employ a person convicted of a narcotics offense if the governing board of the district determines, from the evidence presented, that the person has been rehabilitated for at least five years.

The governing board shall determine the type and manner of presentation of the evidence, and the determination of the governing board as to whether or not the person has been rehabilitated is final.

CHAPTER 1065

An act to amend Sections 78008, 84504, 84520, 84522, 84526, and 84701 of the Education Code, relating to community colleges

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 78008 of the Education Code is amended to read:

78008. (a) The governing board of a community college district may maintain an intersession school during the period between the close of any academic semester or quarter and the beginning of the succeeding academic semester or quarter in accordance with rules and regulations of the board of governors and with the prior written approval of the board of governors.

(b) The term "academic year" as used in this section means that portion of the school year during which the regular day community college is maintained, which period must include not less than the number of days of teaching required to entitle the district to apportionments of state funds.

SEC. 2. Section 84504 of the Education Code is amended to read:

84504. Notwithstanding any other provision of law, the average daily attendance of students enrolled in intersession schools shall be credited to the community college district in the fiscal year in which the last day of the intersession school falls.

SEC. 3. Section 84520 of the Education Code is amended to read:

84520. The units of average daily attendance for apportionment purposes of regularly enrolled students of a community college district during the academic year, as defined in Section 78008, and subject to the provisions of Section 78452 shall be computed by multiplying the weekly student contact hours of enrollment as recorded for the census day or days each semester or quarter by statewide factors heretofore established by the board of governors, subject to review by the Department of Finance. The census day shall be Monday of each of two census weeks of five or six consecutive days of regularly scheduled classes each term or session as approved by the board of governors.

Attendance of such students enrolled in classes conducted in intersession schools, as distinct from summer quarters, of four weeks or more shall be counted in the computation of average daily attendance for apportionment purposes under the provisions of this section using the following formula: Multiply the sum of the weekly student contact hours of enrollment in each class during the census week of each class of the intersession schools by the number of scheduled weeks for each class, multiply the product so derived by the statewide factors established by the board of governors, subject to approval by the Department of Finance, and divide by 525. The census day shall be Monday of the second week. For classes of less than four weeks, the units of average daily attendance shall be computed by dividing the total actual class hours of attendance by 525.

Attendance of a student in classes conducted in intersession school shall be reported and included in the computation of average daily attendance for apportionment purposes if, and only if, both of the

following conditions are met:

(a) The student was regularly enrolled during the immediately preceding semester or quarter in a high school or in the community college district which reports such attendance; and

(b) Attendance is in a course or courses offered for credit.

The conditions imposed by this paragraph shall not be applicable to the reporting of attendance of students in classes conducted during summer intersession.

SEC. 3.5. Section 84520 of the Education Code is amended to read:

84520. Pursuant to the provisions of Section 84500, the units of average daily attendance for apportionment purposes of regularly enrolled students of a community college district during the academic year, as defined in Section 78008, and subject to the provisions of Section 78452 shall be computed by multiplying the weekly student contact hours of enrollment as recorded for the census day or days each semester or quarter by statewide factors heretofore established by the board of governors, subject to review by the Department of Finance. The census day shall be Monday of each of two census weeks of five or six consecutive days of regularly scheduled classes each term or session as approved by the board of governors.

For purposes of computing the units of average daily attendance for courses which do not have a regularly scheduled number of weekly student contact hours, one weekly student contact hour shall be counted for each unit of credit in which a student is enrolled during any census period. The nature, manner, and place of conducting courses and programs under this section shall be determined by the community college district pursuant to rules and regulations adopted by the board of governors.

Attendance of such students enrolled in classes conducted in intersession schools, as distinct from summer quarters, of four weeks or more shall be counted in the computation of average daily attendance for apportionment purposes under the provisions of this section using the following formula: Multiply the sum of the weekly student contact hours of enrollment in each class during the census week of each class of the intersession schools by the number of scheduled weeks for each class, multiply the product so derived by the statewide factors established by the board of governors, subject to approval by the Department of Finance, and divide by 525. The census day shall be Monday of the second week. For classes of less than four weeks, the units of average daily attendance shall be computed by dividing the total actual class hours of attendance by 525.

Attendance of a student in classes conducted in intersession school shall be reported and included in the computation of average daily attendance for apportionment purposes if, and only if, both of the following conditions are met:

(a) The student was regularly enrolled during the immediately

preceding semester or quarter in a high school or in the community college district which reports such attendance; and

(b) Attendance is in a course or courses offered for credit.

The conditions imposed by this paragraph shall not be applicable to the reporting of attendance of students in classes conducted during summer intersession.

SEC. 4. Section 84522 of the Education Code is amended to read:

84522. The board of governors shall, with the approval of the Department of Finance, determine two census weeks for each term of the regular academic year, and a single census week for intersession schools.

The board of governors, after appropriate study, shall develop a drop date for reporting students in active attendance which shall be no later than the day prior to the beginning of the second census week in regular academic terms; and such census weeks shall be used for all apportionment purposes for the fiscal year beginning July 1, 1975, and subsequent fiscal years.

In its study, the board of governors shall consider the needs of students, most particularly those who are unable to complete a term due to illness or other extenuating circumstances, while at the same time making the drop date meaningful to the measurement of average daily attendance.

In implementing the intent of this section, the board of governors shall insure that local governing boards maintain sufficient administrative flexibility to provide adequately for the academic needs of students.

Beginning with the fiscal year 1975–76, new census week or weeks factors shall be used for all computations of state apportionment.

The chancellor's office shall study and test the validity of such factors, and periodically the board of governors may make such adjustments as are necessary and as are agreed to by the Department of Finance.

SEC. 5. Section 84526 of the Education Code is amended to read:

84526. The attendance of all students not residents of a community college district enrolled in courses during the academic year shall be kept separately from all other attendance and the units of average daily attendance for such students shall be computed on an individual basis in the applicable manner prescribed in Section 84520 or Section 84524.5.

The units of average daily attendance of students who are not residents of the community college district enrolled in intersession schools and classes for adults shall be kept separately from all other attendance and be computed on an individual basis in the applicable manner prescribed in Section 84520 or Section 84524.5.

SEC. 6. Section 84701 of the Education Code is amended to read:

84701. For the purposes of this chapter, the governing board of each community college district shall report to the Chancellor of the California Community Colleges during each fiscal year the average daily attendance of the district for all full school months during (1)

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the period between July 1st and December 31st, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the "second period" report for the second principal apportionment. If the average daily attendance in the regular day schools of a district for the period of time between July 1st and June 30th is greater or lesser than the average daily attendance in the regular day schools reported for the second period report, the appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be recomputed on the basis of the foundation program and assessed valuation of the district of the fiscal year in which such increases and decreases in average daily attendance were applicable and the appropriate increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 84330.

Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Chancellor of the California Community Colleges and average daily attendance shall be computed in the following manner:

(a) With the exception of days of attendance in special day classes convened, or other instruction provided a student for days in a school year which are in excess of the number of days in the school year on which the regular day schools of the district are convened, if the average daily attendance in schools and classes maintained by community college districts other than regular day schools and classes for the period of time between July 1st and June 30th is greater or lesser than the average daily attendance in such schools and classes reported for the second period report, the separate state support which is provided for attendance in such schools and classes shall be recomputed on the basis of the fiscal year average daily attendance, and increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 84330.

(b) The average daily attendance of each community college shall be determined pursuant to the provisions of Article 2 (commencing with Section 84520) of Chapter 4 of this part. For community colleges under the provisions of this paragraph, the "first period" shall be the summer intersession school and the fall semester for semester system colleges, the summer and fall quarter for colleges on the three-quarter system, and the summer and fall quarters for colleges on the four-quarter system. The "second period" shall be the "academic year" which is any intersession school plus the first and second semester for semester system colleges, any intersession school plus the first and second quarters for three-quarter-system colleges and the summer, fall, and winter quarters for four-quarter-system colleges.

The "academic year" for three- or four-quarter-system colleges is reported on the annual report and adjustments shall be made as set

forth in the first paragraph of this session.

(c) The average daily attendance in intersession schools and outdoor science and conservation education classes maintained in accordance with subdivision (a) or (b) of Section 78008 shall be reported on both the first period and second period reports. The hours of attendance shall be divided by 525 for all classes of less than four weeks duration. For intersession schools of four weeks or more, average daily attendance shall be computed as provided in Section 84520.

(d) The days of attendance in classes for adults maintained after the last full school month of the second period of the preceding year and prior to the end of each reporting period shall be reported on each report.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 941 are both chaptered and become effective January 1, 1979, both bills amend Section 84520 of the Education Code, and this bill is chaptered after Senate Bill No. 941, that the amendments to Section 84520 proposed by both bills be given effect and incorporated in Section 84520 in the form set forth in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and Senate Bill No. 941 are both chaptered and become effective Janaury 1, 1979, both amend Section 84520, and this bill is chaptered after Senate Bill No. 941, in which case Section 3 of this act shall not become operative.

CHAPTER 1066

An act to add Section 6709 to the Government Code, relating to Dr. Martin Luther King, Jr., Day.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 6709 is added to the Government Code, to read:

6709. The governor shall proclaim January 15 to be known hereafter as Dr. Martin Luther King, Jr., Day.

CHAPTER 1067

An act relating to inundation maps, and making an appropriation therefor.

[Approved by Governor September 23, 1978. Filed with Secretary of State September 25, 1978.]

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

SECTION 1. The sum of twenty-four thousand forty-nine dollars and thirty-three cents ($24,049.33) is hereby appropriated from the General Fund to the State Controller for disbursement to reimburse local agencies for costs incurred in the preparation of inundation maps pursuant to Section 8589.5 of the Government Code, in accordance with the following schedule:

(a) Merced Irrigation District	$10,000.00
(b) County of Fresno	3,311.59
(c) Nevada Irrigation District	5,820.09
(d) San Bernardino Valley Municipal Water District	4,917.65

SEC. 2. The funds to be reimbursed pursuant to this act shall be paid by the State Controller upon presentation of claims and satisfactory evidence of costs incurred by the local agencies in the preparation of inundation maps pursuant to Section 8589.5 of the Government Code.

CHAPTER 1068

An act to amend, add and repeal Section 8836 of the Government Code, relating to public broadcasting, making an appropriation therefor, and declaring the urgency thereof, to take effect immmediately.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 8836 of the Government Code is amended to read:

8836. The commission shall annually divide the total amount, less the commission's necessary administrative expenses, available from the California Public Broadcasting Fund for distribution to public broadcasting stations into three accounts, a television account to be used for television purposes, a radio account to be used for radio purposes, and a discretionary account to be used for radio or television purposes, or for both radio and television purposes, as the commission deems necessary. The television account shall be allocated no less than 70 percent of the amount available, the radio account shall be allocated no less than 15 percent of the amount available, and the balance shall be allocated to the discretionary account.

This section shall remain in effect only until January 1, 1981, and as of that date is repealed.

SEC. 2. Section 8836 is added to the Government Code, to read:

8836. The commission shall annually divide the total amount, less the commission's necessary administrative expenses, available from the California Public Broadcasting Fund for distribution to public broadcasting stations into two accounts, one to be used for television purposes, and one to be used for radio purposes. The account used for television purposes shall be allocated 83.25 percent of the amount available and the account used for radio purposes shall be allocated 16.75 percent of the amount available.

This section shall become operative on January 1, 1981.

SEC. 3. It is the intent of the Legislature that the amendments to Section 8836 of the Government Code which are made by Section 1 of this act shall remain in effect only until January 1, 1981, and on that date Section 2 of this act shall become operative to restore Section 8836 to the form in which it read immediately prior to the effective date 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 allow the California Public Broadcasting Commission the flexibility it needs to meet existing grant commitments and offer emergency assistance to public broadcasting stations, it is necessary that this act take effect immediately.

CHAPTER 1069

An act to add Article 4 (commencing with Section 2037) to Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, relating to discovery.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Article 4 (commencing with Section 2037) is added to Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, to read:

Article 4. Discovery of Expert Witnesses

2037. (a) Not later than the 10th day after a trial date is selected or 70 days prior to the date set for the commencement of trial, whichever is later, any party may file and serve on any party a demand to exchange lists of expert witnesses. Thereafter, the court may, upon noticed motion and a showing of good cause, permit any party to serve such a demand upon any other party.

The demand shall include a statement in substantially the following form:

"You are requested to serve and deposit with the clerk of court a list of expert witnesses in compliance with Section 2037 of the Code of Civil Procedure not later than the date of exchange thereby established. Except as otherwise provided in that article, your failure to do so will constitute a waiver of your right to call unlisted expert witnesses at the trial."

2037.1. For the purposes of this article, the "date of exchange" for the exchange of lists of expert witnesses shall be 20 days after the date of service of the demand on the party or 50 days prior to the date set for commencement of the trial, whichever is later.

2037.2. (a) Not later than the date of exchange:

(1) Each party who served a demand and each party upon whom a demand was served shall deposit with the clerk of the court their list of expert witnesses.

(2) A party who served a demand shall serve his list upon each party on whom he served his demand.

(3) Each party on whom a demand was served shall serve his list upon the party who served the demand.

(b) The clerk of the court shall make an entry in the register of actions for each list of expert witnesses deposited with him pursuant to this article. The lists shall not be filed in the proceeding, but the clerk shall make them available to the court at the commencement of the trial for the limited purpose of enabling the court to apply the provisions of this article. Unless the court otherwise orders, the clerk shall, at the conclusion of the trial, return all lists to the attorneys for the parties who deposited them. Lists ordered by the court to be retained may thereafter be destroyed or otherwise disposed of in accordance with the provisions of law governing the destruction or disposition of exhibits introduced in the trial.

2037.3. Each witness list shall include the name and business or residence address of each expert witness whom the party expects to call in person or through deposition and a brief narrative statement of the qualifications of such witnesses and the general substance of the testimony which the witness is expected to give.

2037.4. A party who is required to exchange lists of witnesses shall diligently give notice to the parties upon whom his list was served if, after service of his list he determines to call an expert witness not included in his list, and a party shall make available for deposition such expert witnesses as he has determined to call.

2037.5. Except as provided in Section 2037.6, upon objection of a party who has served his list of witnesses in compliance with Section 2037.2, no party required to serve a list of expert witnesses on the objecting party may call an expert witness to testify, except for purposes of impeachment, unless the information required by Section 2037.3 for such witness is included in the list served.

2037.6. (a) The court may, upon such terms as may be just (including but not limited to continuing the trial for a reasonable

period of time and awarding costs and litigation expenses), permit a party to call a witness, or permit a witness called by a party to testify to an opinion or data on direct examination, during the party's case in chief where such witness, is required to be, but is not, included in such party's list of expert witnesses so long as the court finds that such party has made a good faith effort to comply with Sections 2037 through 2037.3, inclusive, that he has complied with Section 2037.4, and that as of the date of exchange he:

(1) Would not in the exercise of reasonable diligence have determined to call such witness; or

(2) Failed to determine to call such witness through mistake, inadvertence, surprise, or excusable neglect.

(b) In making a determination under this section, the court shall take into account the extent to which the opposing party has relied upon the list of expert witnesses and will be prejudiced if the witness is called.

2037.7. Any other provision of law notwithstanding, any party desiring to take the deposition of a person retained as an expert by another party to a case, shall pay the expert a reasonable fee not exceeding his customary hourly or daily fee for the time reasonably and necessarily spent in connection with such deposition including time spent in travel to and from the deposition, but excluding time spent in preparation. A fee based upon the anticipated length of the deposition shall be tendered to the expert. In the event the examination and necessary cross-examination of the expert takes longer than originally anticipated, the balance of the fee due the expert shall be paid by the party who noticed the deposition within five days of receipt of an itemized statement from the expert.

2037.8. (a) Upon the motion of any party or the expert witness, the court shall have the power to issue protective orders with respect to any matter under this title to protect the party or witness from annoyance, embarrassment, or oppression and to determine the reasonableness of fees claimed under Section 2037.7.

(b) Upon motion of any party or the expert witness, the court shall fix the compensation of the expert witness and shall order payment thereof by the party who noticed the deposition.

2037.9. This article does not apply to eminent domain proceedings.

CHAPTER 1070

An act to amend Section 12975.7 of, and to add and repeal Article 5 (commencing with Section 12990) to Division 3 of, the Insurance Code, relating to insurance fraud, and making an appropriation therefor.

[Approved by Governor September 23, 1978. Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Section 12975.7 of the Insurance Code is amended to read:

12975.7. Except as provided in Sections 12975.1 and 12994, all moneys received by the commissioner pursuant to this code shall be transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund. The money in the Insurance Fund received from the commissioner pursuant to this section is hereby appropriated as follows:

(a) To pay the refunds authorized by this code.

(b) The balance of the money in the fund shall, on order of the Controller, be transferred to the State General Fund.

SEC. 2. Article 5 (commencing with Section 12990) is added to Division 3 of the Insurance Code, to read:

Article 5. Bureau of Fraudulent Claims

12990. There is created within the Division of Consumer Affairs of the department a Bureau of Fraudulent Claims to enforce the provisions of Section 556 of this Code.

12991. (a) If by its own inquiries or as a result of complaints, the Bureau of Fraudulent Claims has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates Section 556, the commissioner in his discretion (1) may make such public or private investigations within or outside of this state as he deems necessary to determine whether any person has violated or is about to violate any provision of Section 556, or to aid in the enforcement of this law, and (2) may publish information concerning any violation of this law.

(b) For purposes of any investigation under this law, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry, as provided by the provisions of Section 12924.

(c) If matter that the commissioner seeks to obtain by request is located outside the state, the person so requested may make it available to the commissioner or his representative to be examined at the place where it is located. The commissioner may designate representatives including officials of the state in which the matter is located, to inspect the matter on his behalf, and he may respond to similar requests from officials of other states.

(d) Except as provided in subdivision (e), the department's papers, documents, reports or evidence relative to the subject of an

investigation under this section shall not be subject to public inspection for so long a period as the commissioner deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to serve the public interest. Furthermore, such papers, documents, reports or evidence shall not be subject to subpoena or subpoena duces tecum until opened for public inspection by the commissioner, unless the commissioner otherwise consents or, after notice to the commissioner and a hearing, the superior court determines that the public interest and any ongoing investigation by the commissioner would not be unnecessarily jeopardized by obeyance of such a subpoena or subpoena duces tecum.

(e) The Bureau of Fraudulent Claims shall furnish all papers, documents, reports, complaints, or other facts or evidence to any police, sheriff or other law enforcement agency, when so requested, and will assist and cooperate with such law enforcement agencies.

12992. (a) Any company licensed to write insurance in this state which believes that a fraudulent claim is being made shall, within 60 days after determination by the insurer that the claim appears to be a fraudulent claim, send to the Bureau of Fraudulent Claims, on a form prescribed by the department, the information requested by the form and such additional information relative to the factual circumstances of the claim and the parties claiming loss or damages as the commissioner may require. The Bureau of Fraudulent Claims shall review each report and undertake such further investigation as it deems necessary and proper to determine the validity of the allegations. Whenever the commissioner is satisfied that fraud, deceit, or intentional misrepresentation of any kind has been committed in the submission of the claim, he shall report any such violations of law to the insurer, to the appropriate licensing agency and the district attorney of the county in which such offenses were committed, as provided by the provisions of Sections 12928 and 12930. If the commissioner is satisfied that fraud, deceit, or intentional misrepresentation has not been committed, he shall report such determination to the insurer. If prosecution by the district attorney concerned is not begun within 60 days of the receipt of the commissioner's report, the district attorney shall inform the commissioner and the insurer as to the reasons for the lack of prosecution regarding the reported violations.

(b) This section shall not require an insurer to submit to the bureau the information specified in subdivision (a) in either of the following:

(1) The insurer's initial investigation indicated a potentially fraudulent claim but which further investigation revealed not to be fraudulent.

(2) The insurer and the claimant have reached agreement as to the amount of the claim and the insurer does not have reasonable grounds to believe the claim to be fraudulent.

(c) Nothing contained in this article shall relieve an insurer of its

existing obligations to also report suspected violations of law to appropriate local law enforcement agencies.

(d) Any police, sheriff or other law enforcement agency shall furnish all papers, documents, reports, complaints, or other facts or evidence to the Bureau of Fraudulent Claims, when so requested, and shall otherwise assist and cooperate with the bureau.

12993. No insurer, or the employees or agents of any insurer, shall be subject to civil liability for libel, slander or any other relevant tort cause of action by virtue of the filing of reports, without malice, or furnishing other information, without malice, required by this article or required by the commissioner under the authority granted in this article.

12994. Nothing contained in this article shall preempt the authority of local law enforcement agencies to investigate and prosecute suspected violations of law nor shall it relieve them of their duty to do so.

12995. All costs of administration and operation of the Bureau of Fraudulent Claims shall be borne by all of the insurers admitted to transact insurance in this state. The commissioner shall divide such costs among all such companies, assessing each such company an identical amount adequate to provide the total cost of each fiscal year of operation of the bureau; provided, however, the assessment for each company shall not exceed five hundred dollars ($500) in each fiscal year. All moneys received by the commissioner pursuant to this section shall be transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Insurance Commissioner's Regulatory Trust Fund, which shall be created for this purpose. All moneys in such fund received from the commissioner pursuant to this section are hereby appropriated to the department and are to be exclusively used for the support of the Bureau of Fraudulent Claims. The total budget of the bureau shall be as determined annually in the budget act.

12996. For purposes of this article, "insurer" means any person who undertakes to indemnify another against loss, damage, or liability arising from a contingent or unknown event, including reciprocals and interinsurance exchanges.

SEC. 3. Section 2 of this act shall remain in effect until January 1, 1984, and on such date is repealed.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1071

An act to amend Section 20605 of the Revenue and Taxation Code, relating to tax accounts.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978.]

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

SECTION 1. Section 20605 of the Revenue and Taxation Code is amended to read:

20605. (a) The postponement of property taxes pursuant to this chapter shall not affect the obligation of a borrower to continue to make payments to a lender with respect to an impound, trust, or other type of account described in Section 2954 of the Civil Code which was established prior to the effective date of subdivision (b).

(b) Except where required by federal law or regulation and notwithstanding Sections 7153.2 and 7153.5 of the Financial Code, or in the case of a loan which is made, guaranteed, or insured by a federal governmental lending or insuring agency requiring the borrower to make payments to a lender with respect to an impound, trust, or other type of account described in Section 2954 of the Civil Code, or where this subdivision would impair the obligations of a loan agreement executed prior to the effective date of this subdivision, no lender shall require a borrower to maintain an impound, trust or other type of account with regard to taxes once such borrower has elected to postpone such taxes pursuant to this chapter and has first submitted to such lender evidence of tax postponement. Any payments made by such borrower, prior to the time of submission of such evidence of tax postponement, to such an impound, trust or other type of account with regard to taxes for any such period, if not previously used in payment or partial payment of such taxes, shall be refunded to such borrower within thirty days thereafter.

CHAPTER 1072

An act to amend Sections 1145 and 1149 of the Labor Code, relating to the Agricultural Labor Relations Act.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 1145 of the Labor Code is amended to read:

1145. The board may appoint an executive secretary and such attorneys, hearing officers, administrative law officers, and other

employees as it may from time to time find necessary for the proper performance of its duties. Attorneys appointed pursuant to this section may, at the discretion of the board, appear for and represent the board in any case in court. All employees appointed by the board shall perform their duties in an objective and impartial manner without prejudice toward any party subject to the jurisdiction of the board.

SEC. 2. Section 1149 of the Labor Code is amended to read:

1149. There shall be a general counsel of the board who shall be appointed by the Governor, subject to confirmation by a majority of the Senate, for a term of four years. The general counsel shall have the power to appoint such attorneys, administrative assistants, and other employees as necessary for the proper exercise of his duties. The general counsel of the board shall exercise general supervision over all attorneys employed by the board (other than administrative law officers and legal assistants to board members), and over the officers and employees in the regional offices. He shall have final authority, on behalf of the board, with respect to the investigation of charges and issuance of complaints under Chapter 6 (commencing with Section 1160) of this part, and with respect to the prosecution of such complaints before the board. He shall have such other duties as the board may prescribe or as may be provided by law. All employees appointed by the general counsel shall perform their duties in an objective and impartial manner without prejudice toward any party subject to the jurisdiction of the board. In case of a vacancy in the office of the general counsel, the Governor is authorized to designate the officer or employee who shall act as general counsel during such vacancy, but no person or persons so designated shall so act either (1) for more than 40 days when the Legislature is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted.

CHAPTER 1073

An act to amend Sections 44253.5 and 52178 of the Education Code, relating to school certificated employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1978 Filed with Secretary of State September 25, 1978]

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

SECTION 1. Section 44253.5 of the Education Code is amended to read:

44253.5. The Commission for Teacher Preparation and Licensing

shall grant certificates of bilingual-crosscultural competence. The purpose of these certificates is to increase the number of persons qualified to provide appropriate bilingual-crosscultural instruction to children whose native language is other than English and who are non- or limited-English speaking. The Commission for Teacher Preparation and Licensing shall also develop an assessment program which will provide a method by which persons holding valid teaching credentials may demonstrate their competence as bilingual-crosscultural teachers without additional postsecondary education coursework. These certificates shall certify, as a minimum, the following:

(a) That the person is competent in both the oral and written skills of a language other than English;

(b) That the person has both the knowledge and understanding of the cultural and historical heritage of the students whose native language is other than English;

(c) That the person successfully can teach the basic teaching authorization in English and in a language other than English. The holder of this certificate is authorized to teach students whose native language is other than English.

The Commission for Teacher Preparation and Licensing shall require institutions of higher education to use the same rigorous assessment procedures as the assessor agencies prior to being eligible to recommend individuals for the certificate of bilingual-crosscultural competence.

SEC. 2. Section 52178 of the Education Code is amended to read:

52178. All principal teachers providing instruction in programs defined by subdivision (a), (b), or (c) of Section 52163 shall be bilingual-crosscultural teachers as defined pursuant to subdivision (h) of Section 52163, or shall be bilingual in English and the primary language of the limited-English-speaking pupils in the bilingual class and hold an internship credential or an emergency bilingual-crosscultural credential.

In recognition of the shortage of qualified bilingual-crosscultural teachers, a school district may request a renewable one-year waiver from the board for each teacher who is not bilingual-crosscultural but who is enrolled and participating in a program leading to a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5. Such a teacher, with the assistance of a bilingual-crosscultural aide, may teach in a program of bilingual instruction mandated by Section 52165 for not more than three school years commencing September 1977.

Each school district which requests waivers for the 1977–78 or 1978–79, or 1979–80 school year shall file its application for such a waiver with the State Board of Education on or before October 1 of the appropriate year, and shall give assurance that all teachers receiving such a waiver will be participating in an appropriate program leading to a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5 during

the school year for which the waiver is granted, and shall state who is in charge of the program and which institution or district is conducting it. The district shall further assure that all teachers receiving such a waiver have been notified in writing by the school board as to their obligations while under waiver. The waiver application shall list the names of the teachers who are to receive the waiver, the school to which they are assigned, and the date by which the teacher is expected to obtain the certificate of competence. If a district hires new teachers, no waiver shall be granted unless the board finds that the district made a good faith effort to recruit and hire bilingual-crosscultural teachers including contacting the bilingual-crosscultural teachers annually listed by the Commission for Teacher Preparation and Licensing and contacting and requesting assistance from the clearinghouse maintained by the commission pursuant to Section 10106.

All waivers granted pursuant to this section shall expire not later than September 1, 1980. After September 1, 1979, only those teachers who have satisfied the competence requirement of subdivision (a) or (b) of Section 44253.5 shall be eligible for a waiver.

No teacher employed after January 1, 1978, to teach in programs defined by subdivision (a), (b), or (c) of Section 52163 shall be eligible for a waiver unless such teacher has satisfied the competence requirement of subdivision (a) or (b) of Section 44253.5.

All waiver applications submitted for the 1979–80 school year shall include a certification by an assessor agency approved by the Commission for Teacher Preparation and Licensing, that the applicant teacher has satisfied the competence requirement of subdivision (a) or (b) of Section 44253.5.

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 recognition of the fact that there are insufficient numbers of fully certificated bilingual-crosscultural teachers to meet the needs of limited-English-speaking public school students in the 1978–79, and 1979–80 school years, it is necessary to phase in the requirement that such teachers be provided by all school districts where they are needed, and therefore, it is essential that this act take immediate effect.

CHAPTER 1074

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1978. Filed with Secretary of State September 25, 1978.]

I am reducing the General Fund appropriation contained in Assembly Bill No 2407 from $1,494,632 47 to $1,479,632 47 by deleting claim #802 for the Eastern Fire District

This claim in question constitutes payment for services that were the legal responsibility of the fire district under the mutual aid agreement

With this reduction, I approve Assembly Bill No. 2407

EDMUND G. BROWN JR., Governor

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

SECTION 1. The sum of two million four hundred thirty-two thousand eight hundred thirty-two dollars and fifty-nine cents ($2,432,832.59) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund	$1,494,632.47
State Transportation Fund	
Motor Vehicle Account	18,015.94
State Highway Account	2,239.61
Transportation Tax Fund	
Motor Vehicle Account	13,577.44
Motor Vehicle License Fee Account	6,061.00
Public Employees' Retirement Fund	75.37
Employment Development Department Contingent Fund	1,362.90
Fish and Game Preservation Fund	8,278.23
Health Care Deposit Fund	815,729.28
Real Estate Fund	75.00
State Construction Program Fund Bond Act of 1968	29,583.82
State School Site Utilization Fund	4,037.00
State Teachers' Retirement Fund	608.00
Unemployment Administration Fund	17,915.76
Unemployment Compensation Disability Fund	1,391.87
Unemployment Fund	339.00
Water Resources Revolving Fund	660.00
Wildlife Restoration Fund	249.90
Indemnity Fund	18,000.00
Total	$2,432,832.59

SEC. 2. After January 1, 1979, the Board of Control shall award out-of-class employee claims for a period no greater than one year preceding the filing of a grievance.

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 settle claims against the state and ending a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1075

An act to amend Sections 30008, 30114, 30210, 30212, 30312, 30314, 30413, 30500, 30501, 30518, 30604, 30610, 30621, 30624, and 31152 of, and to add Sections 21080.9, 30310.5, 30340.5, and 30340.6 to, the Public Resources Code, and to repeal Section 16 of Chapter 1330 of the Statutes of 1976, as amended by Chapter 1331 of the Statutes of 1976, relating to the California coastal resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 21080.9 is added to the Public Resources Code, to read:

21080.9. This division shall not apply to activities and approvals by any local government, as defined in Section 30109, necessary for the preparation and adoption of a local coastal program pursuant to Division 20 (commencing with Section 30000); provided, however, that certification of a local coastal program by the California Coastal Commission pursuant to Chapter 6 (commencing with Section 30500) of Division 20 shall be subject to the requirements of this division. For the purpose of Section 21080.5, a certified local coastal program constitutes a plan for use in the California Coastal Commission's regulatory program.

SEC. 2. Section 30008 of the Public Resources Code is amended to read:

30008. This division shall constitute California's coastal zone management program within the coastal zone for purposes of the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.) and any other federal act heretofore or hereafter enacted or amended that relates to the planning or management of coastal zone resources; provided, however, that within federal lands excluded from the coastal zone pursuant to the Federal Coastal Zone Management Act of 1972, the State of California shall, consistent with applicable federal and state laws, continue to exercise the full range of powers, rights, and privileges it now possesses or which may be granted.

SEC. 3. Section 30114 of the Public Resources Code is amended to read:

30114. "Public works" means the following:

(a) All production, storage, transmission, and recovery facilities

for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

(b) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities. For purposes of this division, neither the Ports of Hueneme, Long Beach, Los Angeles, nor San Diego Unified Port District nor any of the developments within these ports shall be considered public works.

(c) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

(d) All community college facilities.

SEC. 4. Section 30210 of the Public Resources Code is amended to read:

30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

SEC. 5. Section 30310.5 is added to the Public Resources Code, to read:

30310.5. No provision of this division or any other law, including any doctrine of common law, shall preclude or prevent the appointment, as a public member, to the commission or any regional commission of any person who is not a locally elected official.

SEC. 6. Section 30212 of the Public Resources Code is amended to read:

30212. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

SEC. 6.5. 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, provided that such members may continue to serve beyond the two-year term until their appointing power has acted and the appointee is authorized to sit and serve on the commission or regional commission, as the case may be. 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. 7. Section 30314 of the Public Resources Code is amended to read:

30314. Except as provided in this section, members or alternates of the commission or any regional commission shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for such expenses is not otherwise provided or payable by another public agency or agencies, and shall receive fifty dollars ($50) for each full day of attending meetings of the commission or of any regional commission. In addition, members or alternates of the commission shall receive twelve dollars and fifty cents ($12.50) for each hour actually spent in preparation for a commission meeting; provided, however, that for each meeting no more than eight hours of preparation time shall be compensated as provided herein.

An alternate shall be entitled to payment and reimbursement for the necessary expenses incurred in participating in regional commission or commission meetings; provided, however, that only the member or his or her alternate shall receive such payment and reimbursement, and if both the member and alternate prepare for, in the case of alternates to the commission, attend, and participate in any portion of a regional commission or commission meeting, only the alternate shall be entitled to such payment and reimbursement.

For the purposes of this section, "full day of attending a meeting" means presence at, and participation in, not less than 60 percent of the total meeting time of the commission or regional commission during any particular 24-hour period.

SEC. 8. Section 30340.5 is added to the Public Resources Code, to read:

30340.5. (a) It is the policy of the state that no less than 50 percent of funds received by the state from the federal government pursuant to the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), shall be used for the preparation, review,

approval, certification, and implementation of local coastal programs.

(b) Any local government subject to the provisions of this division may claim reimbursement of costs incurred as a direct result of the operation of or any requirement promulgated pursuant to this division. Notwithstanding any other provision of law to the contrary, claims for reimbursement of mandated costs directly attributable to the operation of this division shall only be submitted, reviewed and approved in the manner set forth in this section.

(c) Claims pursuant to this section shall be submitted to the executive director of the commission no later than August 31, except that in 1978 such claim shall be submitted to the executive director of the commission no later than October 31. The executive director shall review such claims in accordance with the provisions of this section and shall submit all such claims to the Controller within 60 days after receipt of a claim but in no event later than October 31, provided however, that in 1978 such claims shall be submitted to the Controller no later than December 31.

(d) All claims submitted pursuant to this section shall be filed on forms approved and prepared by the commission in consultation with the Controller. Such forms shall specify the information needed to enable the executive director of the commission and the controller to make the determinations required by subdivision (e). The forms shall clearly set forth information requirements for the evaluation of the following categories of costs:

(1) Costs for work relating to the preparation, review, and approval of local coastal programs or any portion thereof.

(2) Costs for work which is not covered by paragraph (1).

The claim forms required by this section shall provide for claims of actual costs incurred during the fiscal year preceding submittal and for the costs the claimant local government estimates will be incurred during the then current fiscal year.

(e) The executive director shall review and evaluate each claim submitted pursuant to this section and shall determine whether:

(1) The costs claimed are not paid for or reimbursed from any other source of state or federal funding.

(2) The costs are for work which is the direct result of and is mandated by the operation of this division or by the commission or whether the work is optional.

(3) With respect to costs specified in paragraph (1) of subdivision (d), the work done or to be done is reasonable and necessary for the preparation and approval of a local coastal program pursuant to a local coastal program work program approved by the commission, or for work which is not part of an approved work program if such work can be shown to be necessary for the completion of a certifiable local coastal program or if new information or other circumstances cause the commission to require that such work be carried out.

(f) The executive director of the commission shall submit to the Controller, on behalf of each claimant local government, all claims

submitted pursuant to this section together with his or her recommendation whether the Controller should allow or deny, in whole or in part, the claim. The executive director's recommendation shall be based on his or her determinations made pursuant to subdivision (e). If the executive director fails to make a recommendation by the time claims must be submitted to the Controller as provided in subdivision (c), the executive director shall be deemed to have recommended approval of the claim.

(g) The provisions of Section 2231 of the Revenue and Taxation Code shall apply to claims filed pursuant to this section, provided however, where a conflict between Section 2231 of the Revenue and Taxation Code and this section occurs, such conflict shall be resolved in a manner that best carries out the purposes of this section. The Controller shall apply the criteria of subdivision (e) in determining whether to allow or deny, in whole or in part, any such claim and shall consider the recommendations of the executive director of the commission.

SEC. 9. Section 30340.6 is added to the Public Resources Code, to read:

30340.6. (a) It is the intent of the Legislature that all costs mandated by the operation of this division be paid either with state or federal funds or both. The Legislature hereby declares that Section 30340.5 is designed to ensure that local governments are paid for legitimate claims for costs mandated by this division or the commission, costs for work which is not optional, and costs which are not otherwise reimbursed.

(b) In the event a claimed mandated cost has been approved by the Controller pursuant to Section 30340.5 and the Legislature fails to appropriate the funds to pay such claims by special legislation or in the annual state budget for the fiscal year following approval of such claims by the Controller, except the date specified in Section 30518, any dates specified in this division or by order of the commission for the submission of a local coastal program or any portion thereof or for the performance of any task or duty by a claimant local government whose approved claim has not been paid shall, at the request of such claimant local government, be postponed by the number of years elapsing between such specified date and the year in which the funds to pay the approved claim are provided.

(c) The provisions of subdivision (b) shall not apply to any local government if the Legislature determines that such local government's claim should not be paid because such claim is not of the type intended to be subject to reimbursement pursuant to Section 30340.5.

SEC. 10. Section 30413 of the Public Resources Code is amended to read:

30413. (a) In addition to the provisions set forth in subdivision (f) of Section 30241, and in Sections 25302, 25500, 25507, 25508, 25510, 25514, 25516.1, 25523, and 25526, the provisions of this section shall apply to the commission and the State Energy Resources

Conservation and Development Commission with respect to matters within the statutory responsibility of the latter.

(b) The commission shall, prior to January 1, 1978, and after one or more public hearings, designate those specific locations within the coastal zone where the location of a facility as defined in Section 25110 would prevent the achievement of the objectives of this division; provided, however, that specific locations that are presently used for such facilities and reasonable expansion thereof shall not be so designated. Each such designation shall include a description of the boundaries of such locations, the objectives of this division which would be so affected, and detailed findings concerning the significant adverse impacts that would result from development of a facility in the designated area. The commission shall consider the conclusions, if any, reached by the State Energy Resources Conservation and Development Commission in its most recently promulgated comprehensive report issued pursuant to Section 25309. The commission shall transmit a copy of its report prepared pursuant to this subdivision to the State Energy Resources Conservation and Development Commission.

(c) The commission, after it completes its initial designations in 1978, shall, prior to January 1, 1980, and once every two years thereafter, revise and update the designations specified in subdivision (b) of this section. Such revisions shall be effective on January 1, 1980, or on January 1 of the first even-numbered year following adoption of the revisions. The provisions of subdivision (b) of this section shall not apply to any sites and related facilities specified in any notice of intention to file an application for certification filed with the State Energy Resources Conservation and Development Commission pursuant to Section 25502 prior to designation of additional locations made by the commission pursuant to this subdivision.

(d) Whenever the State Energy Resources Conservation and Development Commission exercises its siting authority and undertakes proceedings pursuant to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 with respect to any thermal powerplant or transmission line to be located, in whole or in part, within the coastal zone, the commission shall participate in such proceedings and shall receive from the State Energy Resources Conservation and Development Commission any notice of intention to file an application for certification of a site and related facilities within the coastal zone. The commission shall analyze each notice of intent and shall, prior to completion of the preliminary report required by Section 25510, forward to the State Energy Resources Conservation and Development Commission a written report on the suitability of the proposed site and related facilities specified in such notice of intent. The commission's report shall contain a consideration of, and findings regarding, all of the following:

(1) The compatibility of the proposed site and related facilities with the goal of protecting coastal resources.

(2) The degree to which the proposed site and related facilities would conflict with other existing or planned coastal-dependent land uses at or near the site.

(3) The potential adverse effects that the proposed site and related facilities would have on aesthetic values.

(4) The potential adverse environmental effects on fish and wildlife and their habitats.

(5) The conformance of the proposed site and related facilities with certified local coastal programs in those jurisdictions which would be affected by any such development.

(6) The degree to which the proposed site and related facilities could reasonably be modified so as to mitigate potential adverse effects on coastal resources, minimize conflict with existing or planned coastal-dependent uses at or near the site, and promote the policies of this division.

(7) Such other matters as the commission deems appropriate and necessary to carry out the provisions of this division.

(e) The commission may, at its discretion, participate fully in other proceedings conducted by the State Energy Resources Conservation and Development Commission pursuant to its powerplant siting authority. In the event the commission participates in any public hearings held by the State Energy Resources Conservation and Development Commission, it shall be afforded full opportunity to present evidence and examine and cross-examine witnesses.

(f) The State Energy Resources Conservation and Development Commission shall forward a copy of all reports it distributes pursuant to Sections 25302 and 25306 to the commission and the commission shall, with respect to any report that relates to the coastal zone or coastal zone resources, comment on such reports, and shall in its comments include a discussion of the desirability of particular areas within the coastal zone as designated in such reports for potential powerplant development. The commission may propose alternate areas for powerplant development within the coastal zone and shall provide detailed findings to support the suggested alternatives.

SEC. 11. Section 30500 of the Public Resources Code is amended to read:

30500. (a) Each local government lying, in whole or in part, within the coastal zone shall prepare a local coastal program for that portion of the coastal zone within its jurisdiction. However, any such local government may request the commission to prepare a local coastal program, or a portion thereof for the local government; provided, such request is submitted to the commission, in writing, not later than July 1, 1979. Each local coastal program prepared pursuant to this chapter shall contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

(b) Amendments to a local general plan for the purpose of developing a certified local coastal program shall not constitute an

amendment of a general plan for purposes of Section 65361 of the Government Code.

(c) The precise content of each local coastal program shall be determined by the local government, consistent with Section 30501, in full consultation with the commission and an appropriate regional commission, and with full public participation.

SEC. 12. Section 30501 of the Public Resources Code is amended to read:

30501. The commission shall, within 90 days after January 1, 1977, adopt, after public hearing, procedures for the preparation, submission, approval, appeal, certification, and amendment of any local coastal program, including, but not limited to, all of the following:

(a) A common methodology for the preparation of, and the determination of the scope of, the local coastal programs, taking into account the fact that local governments have differing needs and characteristics.

(b) A schedule for the processing of all local coastal programs and specific guidelines to be followed by each regional commission in establishing, within 30 days after the commission has adopted such guidelines, its own schedule for processing local coastal programs within its region; however, in no event shall a local coastal program that is prepared by a local government be required to be submitted to any regional commission prior to July 1, 1978, or later than January 1, 1981.

Local coastal programs or portions thereof, prepared by the commission shall be completed not later than December 1, 1980, and certified not later than June 1, 1981.

(c) Recommended uses that are of more than local importance that should be considered in the preparation of local coastal programs. Such uses may be listed generally or the commission may, from time to time, recommend specific uses for consideration by any local government.

SEC. 13. Section 30518 of the Public Resources Code is amended to read:

30518. If a local coastal program has not been certified and all implementing devices become effective on or before July 1, 1981, the commission may take any of the following actions, if it finds that, in the absence of a certified local coastal program, any new development in the coastal zone within the jurisdiction of the affected local government would not be consistent with the policies of this division:

(a) Prohibit or otherwise restrict, by regulation, the affected local government from issuing any permit or any type of entitlement for use for any development with the coastal zone, or any portion thereof, of such local government.

(b) By regulation, extend the permit requirements of Chapter 7 (commencing with Section 30600) by requiring a permit from the commission for any development within any area of the coastal zone

under the jurisdiction of the affected local government.

SEC. 14. Section 30604 of the Public Resources Code is amended to read:

30604. (a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

(b) After certification of the local coastal program a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

(d) No development or any portion thereof which is outside the coastal zone shall be subject to the coastal development permit requirements of this division, nor shall anything in this division authorize the denial of a coastal development permit by the commission or any regional commission on the grounds the proposd development will have an adverse environmental effect outside the coastal zone.

SEC. 15. Section 30610 of the Public Resources Code, is amended to read:

30610. Notwithstanding any provision in this division to the contrary, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

(a) Improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained under this chapter.

(b) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.

(c) Repair or maintenance activities that do not result in an

addition to, or enlargement or expansion of, the object of such repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained under this chapter.

(d) Any category of development, or any category of development within a specifically defined geographic area, that the commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and that such exclusion will not impair the ability of local government to prepare a local coastal program.

(e) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided, that the commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

SEC. 16. Section 30621 of the Public Resources Code is amended to read:

30621. The regional commission or the commission shall provide for a de novo public hearing on applications for coastal development permits and any appeals brought pursuant to this division and shall give to any affected person a written public notice of the nature of the proceeding and of the time and place of the public hearing. Notice shall also be given to any person who requests, in writing, such notification. A hearing on any coastal development permit application or an appeal shall be set no later than 42 days after the date on which the application or appeal is filed with the regional commission or the commission.

SEC. 17. Section 30624 of the Public Resources Code is amended to read:

30624. The commission shall provide, by regulation, for the issuance of coastal development permits by the executive director of the commission or any regional commission without compliance with the procedures specified in this chapter in cases of emergency, other than an emergency provided for under Section 30611, or for improvements to any existing structure not in excess of fifty thousand dollars ($50,000), any single family dwelling, and any other developments not in excess of fifty thousand dollars ($50,000). Such permit for nonemergency development shall not be effective until after reasonable public notice and adequate time for the review of such issuance has been provided. If any two members of the regional commission or the commission so request, at the first meeting following the issuance of such permit, such issuance shall not be effective, and, instead, the application shall be processed in

accordance with the commission's procedures for permits and pursuant to the provisions of this chapter.

No monetary limitations shall be required for emergencies covered by the provisions of this section.

SEC. 18. Section 31152 of the Public Resources Code is amended to read:

31152. Notwithstanding any other provisions of this division to the contrary, the conservancy shall not act to acquire any interests in lands in the coastal zone for agricultural purposes unless the conservancy finds that both of the following conditions apply to the proposed acquisition:

(a) The lands are specifically identified in a certified local coastal plan or program as agricultural lands.

(b) There is no other reasonable means, including the use of police power, of assuring continuous use of such lands for agricultural purposes.

SEC. 19. Section 16 of Chapter 1330 of the Statutes of 1976, as amended by Chapter 1331 of the Statutes of 1976, is repealed.

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 state and local agencies are currently in the process of implementing the California Coastal Act of 1976. The provisions of the act directly affect the work of the California Coastal Commission and the regional coastal commissions, and because of the short statutory deadlines provided for in the act, it is necessary that the provisions of this act become effective immediately.

CHAPTER 1076

An act to amend Section 30305 of the Public Resources Code, relating to coastal resources.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 30305 of the Public Resources Code is amended to read:

30305. Each regional commission shall terminate within 30 days after the last local coastal program required within its region pursuant to Chapter 6 (commencing with Section 30500) of this division has been certified and all implementing devices have become effective or June 30, 1981, whichever is the earlier date. Upon the termination of any regional commission, the commission shall succeed to any and all of such regional commission's obligations,

powers, duties, responsibilities, benefits, or legal interests.

CHAPTER 1077

An act to amend Section 70141.10 of the Government Code, relating to courts.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 70141.10 of the Government Code is amended to read:

70141.10. In the County of Marin, the superior court may provide that the commissioner, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the duties of a probate commissioner appointed pursuant to Section 69897 of this code.

Any commissioner appointed pursuant to this section shall have been admitted to practice law in California for not less than five years and shall receive a salary recommended by the superior court and approved by the board of supervisors.

If the board of supervisors, in its sole discretion, appropriates the necessary funds therefor, any court commissioner who has been duly appointed and has thereafter been retired from service, may be assigned by the presiding judge of the superior court to serve as a court commissioner for such periods as he is needed for the prompt and efficient discharge of the business of the court. If the board of supervisors, in its sole discretion, appropriates the necessary funds therefor, any court commissioner who has been duly appointed and has thereafter been retired from service, may be assigned by the presiding judge of the municipal court to serve as a court commissioner of the municipal court. While so serving, he shall receive his retirement allowance and, in addition, the county shall pay him the amount equal to the difference between such retirement allowance and the full compensation of a court commissioner. Such employment shall not operate to reinstate him as a member of the county retirement system or in any way affect his retirement rights or allowances, and no deduction shall be made from his compensation contributions to the retirement system.

CHAPTER 1078

An act to add Section 65403 to the Government Code, relating to local facilities planning.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 65403 is added to the Government Code, to read:

65403. (a) Each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that constructs or maintains public facilities essential to the growth and maintenance of an urban population may prepare a five-year capital improvement program. This section shall not preclude, limit, or govern any other method of capital improvement planning and shall not apply to any district or agency unless it specifically determines to implement this section. As used in this section, "public facilities" means any of the following:

(1) Public buildings, including schools and related facilities.

(2) Facilities for the storage, treatment, and distribution of nonagricultural water.

(3) Facilities for the collection, treatment, reclamation, and disposal of sewage.

(4) Facilities for the collection and disposal of storm waters and for flood control purposes.

(5) Facilities for the generation of electricity and the distribution of gas and electricity.

(6) Transportation and transit facilities, including but not limited to streets, roads, harbors, ports, airports, and related facilities.

(7) Parks and recreation facilities; provided, however, that this section shall not apply to a special district which constructs or maintains parks and recreation facilities if the annual operating budget of such district does not exceed one hundred thousand dollars ($100,000).

(b) The five-year capital improvement program shall indicate the location, size, time of availability, means of financing, including a schedule for the repayment of bonded indebtedness, and estimates of operation costs for all proposed and related capital improvements. The five-year capital improvement program shall also indicate a schedule for maintenance and rehabilitation and an estimate of useful life of all existing and proposed capital improvements.

(c) The capital improvement program shall be adopted by, and shall be annually reviewed and revised by, resolution of the governing body of the district or local agency. Annual revisions shall include an extension of the program for an additional year to update

the five-year program. At least 60 days prior to its adoption or annual revision, as the case may be, the capital improvement program shall be referred to the planning agency of each affected city and county within which the district or agency operates, for review as to its consistency with the applicable general plan, any applicable specific plans, and all elements and parts of such city or county. Failure of the planning agency to report its findings within 40 days after receipt of a capital improvement program or revision thereof shall be conclusively deemed to constitute a finding that the capital improvement program is consistent with the general plan.

A district or local agency shall not carry out its capital improvement program or any part thereof if the planning agency finds that the capital improvement program or a part of the capital improvement program is not consistent with the applicable general plan, any specific plans, and all elements and parts thereof. A district or local agency may overrule the finding and carry out its capital improvement program.

(d) Before adopting its capital improvement program, or annual revisions thereof, the governing body of each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement shall hold at least one public hearing. Notice of the time and place of the hearing shall be given at least 10 calendar days before any such hearing. The notice shall be published at least once in a newspaper of general circulation distributed within the district or agency. In addition to notice by publication, the district or agency may give notice of a public hearing in such other manner as it may deem desirable.

CHAPTER 1079

An act to add Article 2.5 (commencing with Section 16378) to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, relating to state motor vehicle insurance, and making an appropriation therefor.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Article 2.5 (commencing with Section 16378) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 2.5. State Motor Vehicle Insurance Account

16378. The State Motor Vehicle Insurance Account is hereby created as a special account in the General Fund.

16379. Amounts collected by the Department of General Services pursuant to subdivision (a) of Section 11290 shall be deposited in the account and such amounts are continuously appropriated for the purposes set forth in subdivision (a) of Section 11290.

CHAPTER 1080

An act to amend Sections 10081, 10161.7, 10171.6, 10216.5, and 10221 of, to add Section 10161.75 to, and to repeal Sections 10161.7, 10171.6, 10216, 10216.5, 10218, 10219 and 10221 of, the Business and Professions Code, relating to real estate.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 10081 of the Business and Professions Code is amended to read:

10081. (a) Whenever the commissioner believes from evidence satisfactory to him that any person has violated or is about to violate any of the provisions of this part or of Chapter 1 of Part 2 or any order, license, permit, decision, demand or requirement, or any part or provision thereof, he may bring an action in the name of the people of the State of California in the superior court of the State of California against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof.

In this action an order or judgment may be entered awarding such preliminary or final injunction as may be proper, but no preliminary injunction or temporary restraining order shall be granted without at least five days' notice to the opposite party.

(b) The commissioner may include in any action authorized by subdivision (a), a claim for restitution on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award appropriate relief to such persons.

SEC. 2. Section 10161.7 of the Business and Professions Code is amended to read:

10161.7. The license of a real estate broker or salesperson may be inactivated within the period for which the license was issued by notifying the commissioner in writing of the inactivation. The change of status from active to inactive shall be made by the licensee on the active license by marking out all but the licensee's name on the face of the license; by typing or writing in ink on the reverse side the words "Inactive License"; and by typing or writing the licensee's residence address, and date and placing his initials thereon

An inactive license which is not suspended or revoked may be reinstated at any time during the period for which the license was issued, and may be renewed each four-year period upon the making of application therefor and the payment of the appropriate fee. Compliance with Section 10171 is not required for renewal of a license in an inactive status.

Notwithstanding any other provision of this part, on or after July 1, 1980, any license which has been inactive for a continuous period of five years may be reinstated or renewed provided the licensee complies with the provisions of Section 10171.6 and has met the examination requirement of an original applicant.

An inactive broker need not maintain a place of business as required by Section 10162.

An inactive licensee shall not be entitled to act in any capacity for which the license is required until the license has been reinstated.

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

SEC. 3. Section 10161.75 is added to the Business and Professions Code, to read:

10161.75. On or after January 1, 1981, the holder of an inactive license may reinstate or renew such license on an active basis only, provided the licensee presents evidence of compliance with Section 10171 and is otherwise qualified.

SEC. 4. Section 10171.6 of the Business and Professions Code is amended to read:

10171.6. Any licensee who applies for reinstatement of his license under the provisions of Section 10161.7, shall, if the previous active license issued to him was issued four or more years prior to his application for reinstatement, present evidence of compliance with Section 10171. If no such qualifying evidence is presented, the commissioner may reactivate the license for a period of 90 days upon a showing of hardship.

If the applicant presents evidence within such 90 days of compliance with Section 10171 and is otherwise qualified, the commissioner shall fully reactivate the license without additional fee.

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

SEC. 5. Section 10216 of the Business and Professions Code is repealed.

SEC. 6. Section 10216.5 of the Business and Professions Code is amended to read:

10216.5. The fee for an inactive original or renewal license is one-half of the fee for an active license of the same class.

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

SEC. 7. Section 10218 of the Business and Professions Code is

repealed.

SEC. 8. Section 10219 of the Business and Professions Code is repealed.

SEC. 9. Section 10221 of the Business and Professions Code is amended to read:

10221. The fee for reinstatement of a license within a license period is the difference, if any, between the fee previously paid for issuance of the license and the fee for an active license in effect at the time the renewal application is filed.

As used in this section, "reinstatement of a license" means the reissuance of a canceled or inactivated real estate broker's license, or the reissuance of a real estate salesperson's license which was canceled or inactivated during the period for which it was issued upon the salesperson's withdrawal from the employ of a real estate broker.

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

CHAPTER 1081

An act to add Sections 12749.3 and 12749.4 to the Water Code, relating to flood control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 12749.3 is added to the Water Code, to read:

12749.3. The project for flood control runoff retardation and soil erosion prevention in the watershed of the Hagador-Tin Mine-Kroonen Oak Street Channel, as authorized by Section 216 of the Flood Control Act of 1950, Public Law 81-516, 81st Congress, 2nd Session (64 Stat. 163), is adopted and authorized at such cost to the state as may be appropriated for state cooperation by the Legislature upon the recommendation and advice of the department.

SEC. 2. Section 12749.4 is added to the Water Code, to read:

12749.4. The Riverside County Flood Control and Water Conservation District shall give the necessary assurances that the local cooperation required by the United States on the project adopted and authorized in Section 12749.3 shall be furnished by the district. The district shall execute the project in conjunction with the Secretary of Agriculture and may make such modifications and amendments to the project as may be necessary to execute it for the purposes of Chapters 1 (commencing with Section 12570) and 2 (commencing with Section 12639) of this part

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.

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 properly safeguard lives and property from floods and debris on the Hagador-Tin Mine-Kroonen Oak Street Channel watershed, which has suffered a sudden impairment due to fires and other natural elements, it is essential that state authorization for this flood control project be provided immediately. Such authorization will facilitate the acquisition of lands, easements, and rights-of-way necessary for construction of the project. It is necessary therefore that this act go into immediate effect.

CHAPTER 1082

An act to amend Sections 6710, 6711, and 6712 of the Business and Professions Code, relating to professional engineers.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 6710 of the Business and Professions Code is amended to read:

6710. There is in the Department of Consumer Affairs a State Board of Registration for Professional Engineers, which consists of 13 members appointed by the Governor.

SEC. 2. Section 6711 of the Business and Professions Code is amended to read:

6711. Each member of the board shall be a citizen of the United States. Five members shall be registered under this chapter. One member shall be licensed under the Land Surveyors' Act, Chapter 15 (commencing with Section 8700) of this division, and seven shall be public members who are not registered under this act or licensed under the Land Surveyors' Act. Each member, except the public members, shall have at least 12 years active experience and shall be of good standing in his profession. Each member shall be at least 30 years of age, and shall have been a resident of this state for at least five years immediately preceding his appointment.

SEC. 3. Section 6712 of the Business and Professions Code is amended to read:

6712. All appointments to the board shall be for a term of four

years. Vacancies shall be filled by appointment for the unexpired term. Each appointment thereafter shall be for a four-year term expiring on June 1 of the fourth year following the year in which the previous term expired.

Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms, but this provision shall not apply to any member in office on November 23, 1970.

The Governor shall appoint the public members provided for at the 1976 portion of the 1975–76 session of the Legislature to fill any vacancy, consistent with the requirements of licentiate representation, occurring in the office of a member who is a licentiate of the board.

The Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an electrical engineer, one as a mechanical engineer, another is authorized to use the title of structural engineer, and one is a member of one of the remaining branches of engineering.

CHAPTER 1083

An act to amend Section 41954 of the Health and Safety Code, relating to vehicles, and declaring the urgency thereof to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 41954 of the Health and Safety Code is amended to read:

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

(b) The state board shall certify any gasoline vapor control system, upon its determination that the system, if properly installed and maintained, will meet the requirements of subdivision (a). The state board shall enumerate the specifications used for issuing such certification. After a system has been certified, if circumstances beyond control of the state board cause the system to no longer meet the required specifications, the certification may be revoked or modified.

(c) The state board may test, or contract for testing, gasoline vapor control systems in order to certify them.

(d) The state board shall charge a reasonable fee for certification, not to exceed its estimated costs therefor. Payment of the fee shall be a condition of certification.

(e) No person shall install a gasoline vapor control system unless it has been certified by the state board.

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

(g) With respect to those vapor recovery systems subject to certification by the state board, there shall be no criminal or civil proceedings commenced or maintained for failure to comply with any statute, rule, or regulation requiring a specified vapor recovery efficiency if the vapor control equipment which has been installed to comply with applicable vapor recovery requirements has been:

(1) Certified by the state board at an efficiency equal to or greater than the efficiency required by applicable statutes, rules, and regulations; and

(2) Installed, operated, and maintained in accordance with the instructions of the equipment manufacturer.

(h) Notwithstanding subdivision (f), for a period of three years after the effective date of the act amending this section in 1978, gasoline vapor control systems which have been installed and are operating in compliance with the requirements of the Bay Area Air Pollution Control District shall be exempt from any requirements for retrofitting such systems with new or additional equipment for the purpose of achieving greater vapor recovery efficiency. All necessary replacement parts shall be those certified by the state board. In all other areas of the state, the state board may implement its regulations adopted pursuant to subdivision (a).

(i) On or after July 1, 1980, but not later than January 1, 1981, the state board shall report to the Legislature on the actual in-use efficiency and durability of all gasoline vapor recovery systems certified pursuant to subdivision (a). If the air quality benefits of systems certified by the state board for a vapor recovery efficiency of 95 percent or greater are not as great as the technical reports of the state board currently indicate, the state board shall reconsider, at a formal public hearing, its regulations relative to installation of such systems.

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 individuals not be cited by air pollution control districts on the basis that their gasoline vapor recovery systems are not operating at required efficiency even though the systems (1) were certified by the State Air Resources Board at an efficiency equal to or greater than the required efficiency and (2) are installed,

operated, and maintained in accordance with instructions of the system manufacturer, it is necessary that this act take effect immediately.

CHAPTER 1084

An act to amend Section 4675 of, and to add Sections 2636, 2708, 2772, and 2927.6 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 2636 is added to the Revenue and Taxation Code, to read:

2636. Notwithstanding any other provision of law, in the case of a deficiency in the payment of taxes due and payable pursuant to this chapter, the tax collector, with the approval of the board of supervisors, may accept such partial payment from the taxpayer. The difference between the amount paid by the taxpayer and the amount due shall be treated as a delinquent tax in the same manner as any other delinquent tax.

SEC. 2. Section 2708 is added to the Revenue and Taxation Code, to read:

2708. Notwithstanding any other provision of law, in the case of a deficiency in the payment of taxes due and payable pursuant to this chapter, the tax collector, with the approval of the board of supervisors, may accept such partial payment from the taxpayer. The difference between the amount paid by the taxpayer and the amount due shall be treated as a delinquent tax in the same manner as any other delinquent tax.

SEC. 3. Section 2772 is added to the Revenue and Taxation Code, to read:

2772. Notwithstanding any other provision of law, in the case of a deficiency in the payment of taxes due and payable pursuant to this chapter, the tax collector, with the approval of the board of supervisors, may accept such partial payment from the taxpayer. The difference between the amount paid by the taxpayer and the amount due shall be treated as a delinquent tax in the same manner as any other delinquent tax.

SEC. 4. Section 2927.6 is added to the Revenue and Taxation Code, to read:

2927.6. Notwithstanding any other provision of law, in the case of a deficiency in the payment of taxes due and payable pursuant to this chapter, the tax collector, with the approval of the board of supervisors, may accept such partial payment from the taxpayer. The

difference between the amount paid by the taxpayer and the amount due shall be treated as a delinquent tax in the same manner as any other delinquent tax.

SEC. 5. Section 4675 of the Revenue and Taxation Code is amended to read:

4675. Any party of interest in the property at the time of sale by the state may file with the county a claim for the excess proceeds at any time prior to the expiration of one year following the execution of the tax collector's deed to the purchaser.

After the property has been sold by the state, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph.

The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

No sooner than one year following the execution of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, such excess proceeds shall be distributed only to those parties of interest who have claimed such excess proceeds on order of the board of supervisors to the parties of interest who have claimed such excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:

(a) First, lienholders of record prior to the property becoming tax deeded to the state or to any other taxing agency, in the order of their priority, as to liens that were extinguished by the issuance of the deed to the state; and

(b) Then, any person who would be established with title to all or any portion of the property sold by the state by redemption of such property immediately prior to the sale by the state.

In the event more than one party of interest, as defined in subdivisions (a) and (b) of this section, files claims for the excess proceeds as provided herein, the board of supervisors shall give all claimants opportunity for a hearing to establish the priority and extent of their claim following a period of at least 30 days after written notice has been given to each claimant. Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of such decision of the board of supervisors.

CHAPTER 1085

An act to amend Section 7.1 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944, Second Extraordinary Session), relating to water control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 7.1 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944, Second Extraordinary Session) is amended to read:

Sec. 7.1. In addition to the powers described in Section 7 of this act, the district shall have the power by ordinance or resolution to prescribe, revise and collect fees and charges in any zone and in any special zone as a condition of development of land. Land to be developed within a special zone shall be subject both to the fees and charges of the zone in which it is located and the fees and charges of the special 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; 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 and for each special zone shall be determined separately and shall be based upon the need created by development of land for flood control facilities within the zone or special zone. The amount of fees and charges levied for any zone, other than a special zone, shall not exceed one thousand two hundred dollars ($1,200) 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. 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 within such zone, or within any special zone located in such zone, or used to pay the interest on or reduce the principal of any bonded indebtedness of such zone. At the discretion of the board of supervisors, all or part of fees and charges prescribed for any zone which are collected as a condition of development of land located within a special zone may be used to pay the interest on or reduce the principal of any bonded indebtedness of such special zone. Except as hereinafter provided, revenues derived from fees and charges prescribed for any special

zone shall be used only for the acquisition, engineering, design, construction, reconstruction, maintenance or operation of flood control or storm drainage facilities within such special zone or used to pay the interest on or reduce the principal of any bonded indebtedness of such special zone. At the discretion of the board of supervisors, all or part of fees and charges prescribed for any zone or special zone need not be collected as a condition of development of land located within a protection district established under the Protection District Act of 1907 or if collected from such land, all or part of such fees may be remitted to the protection district to be used to pay the interest on or reduce the principal of any bonded indebtedness of such protection district. Whenever the development of land within any zone or within any special zone is made subject to fees or charges by the board of supervisors pursuant to this section, said board of supervisors may allow a credit against such fees for the acquisition, engineering, design, construction, reconstruction, maintenance or operation costs of any flood control or storm drainage facility within such zone or special zone which has been constructed or paid for in connection with the development of land within such zone or special zone. The board of supervisors may also reduce fees or charges prescribed for any part of the land to be developed within such zone or special 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. 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 the corporate boundaries of such city.

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:

Drainage relief in zones 1 and 3 of the Ventura County Flood Control District is presently needed, and fees levied under the four hundred dollars ($400) per acre limitation of the zones would not generate sufficient revenue to cover the cost of providing the needed relief. In order to provide such relief at the earliest possible time, it is essential that this act take effect immediately.

CHAPTER 1086

An act to amend Section 7634 of the Business and Professions Code, to amend Section 27491 45 of the Government Code, and to amend Section 7155.5 of the Health and Safety Code, relating to human remains.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 7634 of the Business and Professions Code is amended to read:

7634. Notwithstanding any other provision of law, a licensed embalmer, at the request of a licensed physician, may remove tissue from a dead human body for transplant, or therapeutic, or scientific purposes specified in, and pursuant to, the provisions of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code), if such embalmer has completed a course in tissue removal for transplant, or therapeutic, or scientific purposes approved by the Board of Medical Quality Assurance of the State of California.

SEC. 1.5. Section 27491.45 of the Government Code is amended to read:

27491.45. (a) The coroner shall have the right to retain tissues of the body removed at the time of autopsy as may, in the opinion of the coroner, be necessary or advisable for scientific investigation.

Such tissues may be submitted by the coroner to hospitals, medical educational research institutions, and law enforcement agencies for training, educational, and research purposes.

(b) The coroner may, in his or her discretion, allow removal of parts of the body by a licensed physician and surgeon or trained transplant technician for transplant, or therapeutic, or scientific purposes pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code if the following conditions are met:

(1) The provision of the part will not unnecessarily mutilate the body or interfere with the autopsy.

(2) The decedent or other person, as specified in Section 7151.5 of the Health and Safety Code, has consented to the provision of the part, as prescribed by Section 7154 of the Health and Safety Code. If the decedent has not made such a gift of a part of his or her body, the coroner, or a person designated by the coroner, shall make diligent efforts to locate and secure such gift within 24 hours of the decedent's death from an appropriate person specified in Section 7151.5 of the Health and Safety Code. In obtaining such gift, the coroner shall notify the donor of the specific part or parts requested and shall obtain the donor's informed consent, as provided in subdivision (e) of Section 7154.

(c) Nothing in this section shall be construed as limiting any right provided for in Section 7151.7 of the Health and Safety Code.

(d) For purposes of this section, "trained transplant technician" means a person who has completed training in tissue removal for transplant or therapeutic, or scientific purposes, which the coroner determines to be adequate for the purposes.

SEC. 2. Section 7155.5 of the Health and Safety Code is amended to read:

7155.5. (a) The donee may accept or reject a gift. If the donee accepts a gift of the entire body, the donee may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons specified in Section 7100.

(b) The donee, in order to receive a gift, may act through a licensed physician or trained transplant technician authorized by the donee, or through a licensed embalmer, pursuant to Section 7634 of the Business and Professions Code, who shall remove tissue from a legally dead individual for transplant, or therapeutic, or scientific purposes according to an established State Department of Health Services, protocol involved in removal.

(c) The time of death shall be determined by a physician who tends the donor at his death, or, if none, the physician or coroner who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(d) A person who acts in good faith in accord with the terms of this chapter shall not be liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her act.

(e) For purpose of this section, "trained transplant technician" means a person who has completed training in tissue removal for transplant or therapeutic or scientific purposes, which the donee determines to be adequate for the purpose.

CHAPTER 1087

An act to amend Section 2458, and to amend and renumber Section 2217.5, of the Business and Professions Code, relating to podiatrists, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. 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 or a certificate to practice podiatry 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, 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 being such as to make the practitioner ineligible for full social security benefits.

SEC. 2. Section 2458 of the Business and Professions Code is amended to read:

2458. The amount of fees and refunds prescribed by this chapter in connection with physician's and surgeon's certificates, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners is that fixed by the following schedule:

(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed by the board at an amount not to exceed one hundred dollars ($100) nor less than fifteen dollars ($15). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars ($10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed by the board at a sum not in excess of one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(c) Each applicant for a certificate under Article 6 (commencing with Section 2210) shall pay an application fee of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed by the board at a sum not in excess of forty dollars ($40) nor less than five dollars ($5) for the issuance of the certificate.

(d) The initial license fee shall be fixed by the board until January 1, 1982, at a sum not in excess of two hundred dollars ($200), except that if the certificate will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the initial license fee fixed by the board. Any physician and surgeon, or podiatrist, enrolled in an approved residency program shall be required to pay only 50 percent of the initial license fee fixed by the board.

(e) The biennial renewal fee shall be fixed by the board at a sum not in excess of two hundred dollars ($200) until January 1, 1982. Any physician and surgeon, or podiatrist enrolled in an approved residency program shall be required to pay only 50 percent of the initial biennial renewal fee fixed by the board.

(f) The delinquency fee is twenty-five dollars ($25) until January 1, 1982.

(g) The duplicate certificate fee is two dollars ($2).
(h) The endorsement fee is five dollars ($5).

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 podiatric residents who will be initially licensed in the summer of 1978 may pay the reduced fee provided by this act it is necessary that this act go into immediate effect.

CHAPTER 1088

An act to repeal and add Chapter 4 (commencing with Section 400) of Division 1 of the Water Code, relating to weather resources management.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Chapter 4 (commencing with Section 400) of Division 1 of the Water Code is repealed.

SEC. 2. Chapter 4 (commencing with Section 400) is added to Division 1 of the Water Code, to read:

CHAPTER 4. WEATHER RESOURCES MANAGEMENT

Article 1. General Provisions

400. This chapter shall be known and may be cited as the California Weather Resources Management Act of 1978.

401. It is hereby declared that weather resources management within the state shall be regulated by the state in order to augment, develop, conserve, and protect the natural water resources of the state, protect the environment, and safeguard life and property. It is also hereby declared that atmospheric water within the state which is caused to fall by weather resources management activities, shall for the purpose of water rights determinations, be considered as if it occurred as natural precipitation.

402. As used in this chapter:

(a) "Cloud water conversion" means the conversion of cloud material into precipitation in a manner different from that which would have occurred naturally.

(b) "Inadvertent weather modification" means the unintentional deviations from natural weather resulting as byproducts of activities having primary purposes other than weather resources management. Either positive or negative effects on cloud water

conversion, light adjustment, and weather hazard suppression, shall be included.

(c) "License" means a professional license issued by the department to an individual indicating that the individual has met the criteria for certification to design and direct weather resources management projects for which permits may be issued under the provisions of this chapter.

(d) "Operations" means each specific weather resources management activity not to exceed 24 hours in length undertaken as a part of a project.

(e) "Permit" means a conditional operating permit issued by the department indicating that approval has been given for conducting a specified project during a specified period of time within the state, subject to the conditions and within the limitations established pursuant to this chapter.

(f) "Person" means any individual, firm, association, organization, partnership, company, corporation, private or public, and any state, county, city, city and county, district, or other public agency.

(g) "Light adjustment" means the adjustment of solar radiation reaching the ground, of earth radiation reaching the sky, or of visibility by means of affecting the coverage of fog, stratus, cirrus, or other cloud formations.

(h) "Weather hazard suppression" means the reduction of hazardous aspects of the weather, such as hurricanes, tornados, hail, lightning, or excessive precipitation.

(i) "Weather resources management" means attempting to produce by physical means any of the following: cloud water conversion, light adjustment, or weather hazard suppression. Weather resources management does not include agricultural frost protection or inadvertent weather modification.

(j) "Weather resources management project" or "project" means the performance of weather resources management with a specified purpose within a specified geographical area over a specified time interval.

403. The department, after public notice and hearing, shall adopt regulations necessary to carry out the purposes of this chapter. Such regulations shall include, but not be limited to, criteria and procedures for regulation of weather resources management activities in a manner which will augment, develop, conserve and protect the natural water resources of the state, protect the environment, and safeguard life and property.

Article 2. Licenses

405. No person shall engage in weather resources management within the state without a license.

406. Any person desiring to design or conduct weather resources management operations within the state shall file with the department an application in writing for a license. Each application

shall be accompanied by a filing fee fixed by the department, but not to exceed one hundred dollars ($100), and shall be on a form supplied for such purpose by the department.

407. Every application shall set forth all of the following:

(a) The name and address of the applicant.

(b) The education, experience, and qualifications of the applicant.

(c) A general description of the operations which the applicant intends to design or conduct.

(d) Such other information as the department may require.

408. Upon the filing of the application upon a form supplied by the department and containing the information prescribed by this chapter and accompanied by the required filing fee, the department shall issue a license to the applicant, if the department determines that the applicant meets the minimum qualifications for a license as set by the state, entitling the applicant to design and conduct the operations described in the application for the year for which the license is issued, unless the license is sooner revoked or suspended. A license shall be effective for the period from October 1 to the next September 30. Applications shall be accepted beginning the April 1 prior to the licensing year and shall be acted upon by the department within 30 working days after the receipt of the application.

408.5. Minimum qualifications for a license shall include each of the following or the equivalent, as determined by the department:

(a) Experience in weather resources management, including design, planning, operations, and evaluation, totaling at least 36 months.

(b) A baccalaureate degree in engineering or science. For applications received before December 31, 1979, five additional years of experience under subdivision (a) may be substituted for the requirements of this subdivision.

(c) Additional requirements as defined by the department.

409. A current license may be renewed annually upon application to the department on or before the last day of September and payment of a renewal fee. The renewal fee shall be fixed by the department with the approval of the Department of General Services, but may not exceed fifty dollars ($50). The department may refuse to renew a license if the department finds that the licensee has failed or refused to comply with any of the provisions of this chapter, after notice and opportunity for hearing.

Article 3. Permits

410. On or after October 1, 1979, no person, without first securing a permit from the department, shall undertake a weather resources management project within the state. If conditions for the permit are satisfied, the department shall issue a permit subject to additional operating conditions as determined necessary by the department. The department may issue only one permit for a weather resources management project in a specified geographical area if two or more

projects in such area would adversely interfere with each other, as determined by the department. Conflicts shall be resolved by giving priority to projects that provide the greater overall public benefit as measured by both the direct product of the project and its contribution to knowledge that will improve weather resources management technology. The department shall not issue a permit for any project which it finds may result in a high degree of risk of substantial harm to public health or safety, or the environment.

411. A person desiring to conduct a weather resources management project shall file with the department an application in writing for a permit. Each application shall be accompanied by a filing fee fixed by the department, but not to exceed five hundred dollars ($500), and shall be on a form to be supplied for such purpose by the department.

The permit application shall set forth all of the following:

(a) The name and address of the permit applicant and the licensee who shall supervise operations under the permit.

(b) The name, address, and qualifications of any individual conducting day-to-day operations of the project.

(c) The person or persons on whose behalf the project is to be conducted if other than the applicant.

(d) The nature and purpose of the intended project, and the equipment, seeding agents, seeding techniques, operational techniques, and method of evaluation to be used.

(e) The geographical area of the project and time interval in which, and the approximate conditions under which, the project will be conducted.

(f) The geographical target area which will be affected by the project, as near as it may be determined in advance, including an estimation of other areas which may be affected.

(g) A description of project operations, including operational methods and criteria, supervision and monitoring procedures, sources of wind and weather information, and type, location, and wavelength of radar, if any.

(h) Suspension criteria for the intended project which establish when project operations shall be suspended due to hazardous conditions. Suspension criteria shall consider, where relevant, the effect of projected increased precipitation to be caused by the weather resources management project on flood conditions, soil moisture capacity of the watershed, adverse runoff projections, reservoir storage capacity, and soil conditions.

(i) Proof of publication of a notice of intention as required by Section 422.

(j) Such other pertinent information as the department may require.

412. Before the issuance of a weather resources management permit, the department may hold one or more public hearings in or near an area which may be affected. The department shall hold such a public hearing if so requested by the board of supervisors of a

county within an area which may be affected by a proposed weather resources management project.

The department may assess an additional permit fee to pay for the administrative costs of holding the public hearings, which shall not exceed five hundred dollars ($500) per day or two thousand dollars ($2,000) total.

413. A weather resources management permit shall normally expire four years after the date of issue. The department may renew the permit for a fee not to exceed two hundred fifty dollars ($250).

413.5. Notwithstanding the provisions of Section 413, the department shall issue a permit to any applicant filing in 1979 who has operated a project in essentially the same geographical area and in essentially the same manner, as determined by the department, in each of the last 10 years. Such permit shall be valid for a period of 10 years.

414. The department may revise the terms and conditions of a permit if the permittee is first given notice and a reasonable opportunity for a hearing on the need for such revision.

415. In the event of an emergency which affects public health and welfare, but which is not a part of project operations or suspension criteria, the department may immediately modify the conditions of a permit, or order temporary suspension of a permit. Failure to comply with an order temporarily suspending a project or modifying the conditions of a permit shall be grounds for immediate revocation of the permit and of the license. At the request of the permittee, the department shall hold a hearing to review the reasons for the temporary suspension or modification within two working days of the request.

416. After a permit is issued, the activities of the permittee shall be confined within the limits of time and area specified in the permit. The permittee shall comply with any terms and conditions of the permit as originally issued or as subsequently revised or modified by the department.

417. A request for a public hearing shall be made within 15 working days after the filing of the permit application. Within 20 working days after the filing of the application, the department shall either deny the application, grant the permit, or set a public hearing on the application. If a public hearing is held, the department shall issue its final decision within five working days of the end of the hearing.

418. The department may, at its own discretion, issue a temporary permit for a period not to exceed 30 days.

Article 4. Notice of Intention

420. Prior to applying for a permit, the applicant shall file with the department and cause to be published a notice of intention which sets forth information as specified by the department.

421. The applicant shall cause the notice of intention to be

published pursuant to Section 6063 of the Government Code in a newspaper having a general circulation and published within any county wherein the project is to be conducted and in which the affected area is located, or, if the project is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then such notice shall be published in like manner in a newspaper having a general circulation and published within each of such counties. In case there is no newspaper published within the appropriate county, publication shall be made in a newspaper having a general circulation within the county. The applicant shall also send the notice of intention to the boards of supervisors of counties to be affected by the project.

422. Proof of publication shall be by copy of the notice as published attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing the notice.

Article 5. Reporting

425. The permittee shall keep a record of all operations conducted under a permit, showing the equipment, methods, and types, amounts, times, and places of seeding agents employed, a statement as to the estimated effect of the operation in relation to its intended purpose, the name and address of each person participating or assisting in the operation, and such other information as may be required by the department, and shall report the same to the department within 30 days of the completion of a project and at least annually. The permittee shall file with the department a summary of monthly activities by the 10th of the following month which shall include such information as required by the department. A report on the evaluation of project results shall be filed with the department within one year of the termination of the annual operations, unless this evaluation period is extended by the department.

426. The department shall publish annually a comprehensive report of all the projects.

Article 6. Suspension of Licenses

435. Any license or permit may be revoked or suspended if the department finds, after due notice to the licensee or permittee and a hearing thereon, that the licensee or permittee has failed or refused to comply with any of the provisions of this chapter. The proceedings herein referred to shall be conducted in accordance with the provisions of the Administrative Procedure Act (commencing with Section 11500 of the Government Code), and the department shall have all the powers granted therein.

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Article 7. Immunity to Liability

440. No action shall be brought against the state or the department or its agents or employees for the recovery of damages caused by any weather resources management operation upon the ground that such defendant is liable by virtue of any of the following:

(a) The issuance of any license or permit.

(b) The modification or suspension of any operation or project pursuant to Section 415.

Article 8. Penalties

445. Any person who violates any provision of this chapter is guilty of a misdemeanor.

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 infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1089

An act to add and repeal Section 25611 of the Public Resources Code, relating to wind energy, and making an appropriation therefor.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. The Legislature finds and declares the following:

(a) That wind energy in California is abundant. The technology to convert wind to electricity is proven and the economics of electrical generation from wind are promising.

(b) That wind should be an important element of the state's energy supply mix and that 10 percent of California's electricity could be supplied cost effectively by wind energy by the year 2000. As stated in the 1977 Biennial Report of the State Energy Resources Conservation and Development Commission, 500 megawatts of wind electricity could be on line in California in the middle 1980's, given an aggressive program of wind exploration, demonstration of wind technologies, and development of wind turbine models suited to California conditions.

(c) The lack of quantifiable wind-site data, the lack of operations testing of existing wind turbine designs, and the lack of appropriate

large-scale wind electric turbine prototypes for conditions in California are limiting the statewide implementation of wind electric systems.

(d) California needs a wind energy program which will result in siting of large-scale wind electric systems owned and operated by private and public utilities throughout the state.

SEC. 2. Section 25611 is added to the Public Resources Code, to read:

25611. (a) For the purposes of this section:

(1) "Large-scale wind electric turbine" means any wind device including blades, tower, and turbine, which uses wind as the primary source of energy to generate electricity and has a rated electrical generating capacity of at least 250 kilowatts.

(2) "Prospecting" means the initial mapping of wind resources and general indication of the wind potential of different locations.

(3) "Validation" means the verification of wind resources and wind potential at a given site by extensive instrumentation and testing of that site.

(4) "Wind electric system" means a group of large-scale wind electric turbines which are sited together in order to take maximum advantage of wind resources in a particular location.

(5) "Wind energy" means electricity generated by any device which uses wind as its primary source of power.

(b) The commission shall implement a state wind energy program to speed commercialization of wind electric systems at appropriate locations throughout the state. The goal of the program shall be to obtain 10 percent of the state's electricity from wind by the year 2000. It is the intent of the Legislature to encourage public- and investor-owned utility participation, and also private sector participation in this program, to the greatest extent possible.

(c) The program shall include, but shall not be limited to, the following tasks:

(1) An assessment of wind resources in the state, including: prospecting for sites with commercial wind potential; validation of sites; and establishment of a wind information center to gather, analyze, map, and centralize wind information from all available sources and to disseminate such information to all potential users.

(2) Operations testing of wind electric systems using currently available wind electric turbines, including: selection and acquisition of one southern California and one northern California site; design and construction of test facilities at selected sites; and selection, ordering, and performance testing of currently available wind electric turbines.

(3) The research and development of large scale prototype wind electric turbines to meet California requirements.

(d) At least the following tasks shall be accomplished during the first year:

(1) Procurement and testing of one currently available medium scale wind electric turbine not to exceed 150 kilowatts.

(2) Establishment of the wind information center.

(3) Prospecting for sites in California with commercial wind potential.

(e) The commission shall report to the Legislature on the progress in the implementation of the provisions of this section on or before January 1, 1980, January 1, 1982, and January 1, 1984.

(f) This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 3. Notwithstanding the provisions of Section 25804 of the Public Resources Code, the sum of eight hundred thousand dollars ($800,000) is hereby appropriated from the State Energy Resources Conservation and Development Reserve Account in the General Fund to the State Energy Resources Conservation and Development Commission for the purpose of carrying out the provisions of Section 25611 of the Public Resources Code.

CHAPTER 1090

An act to amend Section 25535 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 25535 of the Public Resources Code is amended to read:

25535. Such reasonable and direct costs as the applicant incurs to comply with the provisions of this chapter shall be allowed for ratemaking purposes.

CHAPTER 1091

An act to add and repeal Article 3 (commencing with Section 9120) to Part 1 of Division 3 of the Unemployment Insurance Code, and to add and repeal Section 25406 to the Public Resources Code, relating to job training for low-income individuals.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Article 3 (commencing with Section 9120) is added to Part 1 of Division 3 of the Unemployment Insurance Code, to read:

Article 3. Training for Energy-Related Jobs

9120. The purpose of this article is to foster conditions which fulfill the needs of employers in the energy sector for trained personnel and to maximize the career opportunities of low-income, economically disadvantaged persons in energy-related employment.

9121. The Legislature hereby finds and declares:

(a) That the rapid implementation of energy conservation and timely development of domestic energy sources is essential to the maintenance of a healthy economy in California.

(b) That the Legislature has devised and adopted certain measures to encourage energy conservation and the use of renewable energy sources in California homes and businesses, which will encourage the expansion of new energy industries in California.

(c) That there is a need to ensure that new or expanding energy industries and small businesses in California are provided with a labor force which is adequately prepared and trained for employment in these industries and small businesses.

(d) That there is significant potential for the creation of expanded employment opportunities in the energy sector, and that it is the intent of the Legislature that employment in the energy industry be encouraged by the effective use of industry expertise and participation in providing energy skills training and vocational education.

(e) That there is presently a lack of access to employment opportunities in the energy sector for low-income and economically disadvantaged persons, and that it is the intent of the Legislature to concentrate existing employment training and vocational education resources to achieve greater access for low-income and economically disadvantaged persons for employment opportunities in the energy sector.

9122. The Employment Development Department shall:

(a) Compile, to the extent possible within existing resources, a listing and description of training programs for energy-related jobs and comment on the effectiveness of these programs, including the extent to which economically disadvantaged persons are served.

(b) Review and utilize, to the extent possible, data provided by the Energy Resources Conservation and Development Commission on energy trends in power generation, energy conservation, and use of alternative technologies. The department shall further review available estimates of direct labor requirements expected due to energy trends in power generation, energy conservation, and use of alternative technologies.

(c) Develop information on the job skills in energy related industries currently in demand and expected to be in demand in 1980, 1981, and 1982. The information developed shall, to the extent

possible, identify the skills in demand by energy source and labor market area. The information shall be developed to the extent possible within existing resources and available data, including data prescribed by Section 25406 of the Public Resources Code, except that if federal funds become available and are necessary to complete this task, such funds may be utilized.

9123. The Employment Development Department shall report to the Legislature by November 30, 1979, the findings from the tasks required pursuant to subdivisions (a) and (c) of Section 9122. The Employment Development Department shall forward two copies of these reports to the regional office of the United States Department of Labor and request such office to disseminate the same to local prime sponsors, public and private nonprofit agencies, and other agencies which it deems appropriate.

9124. The Employment Development Department shall utilize the information derived from the requirements of Section 9122 to assist in the assessment and planning of training programs the department funds for energy-related jobs. The information shall be available to the maximum extent feasible to applicants for employment services, to operators of employment and training programs, and to other persons who are deemed to benefit from such information.

9125. This article shall remain in effect only until July 31, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1980, deletes or extends such date.

SEC. 2. Section 25406 is added to the Public Resources Code, to read:

25406. The Energy Resources Conservation and Development Commission shall cooperate, to the extent possible, with the Employment Development Department and provide that department with information on energy trends in power generation, energy conservation, and use of alternative technologies, as well as provide available estimates of labor requirements on these trends.

This section shall remain in effect only until July 31, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1980, deletes or extends such date.

CHAPTER 1092

An act to amend and renumber Sections 52049 and 52049.5 of, to add Section 54167 to, the Education Code, relating to school programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 52049 of the Education Code is amended and renumbered to read:

52046. From funds appropriated for purposes of this article the superintendent shall make allowances to districts as follows:

(a) For schools with approved planning applications, planning grants in the amount of thirty dollars ($30) per unit of average daily attendance;

(b) For schools with approved school improvement plans, implementation grants in the amount of:

(1) One hundred forty-eight dollars ($148) per unit of average daily attendance in kindergarten and grades 1, 2, and 3, or their equivalent, exclusive of average daily attendance in summer school. For the 1977–78 and the 1978–79 fiscal years, an additional amount up to the level authorized by former Section 52014 and actually expended in the 1976–77 fiscal year may also be allowed.

(2) Ninety dollars ($90) per unit of average daily attendance in grades 4 to 8, inclusive, or their equivalent, exclusive of the average daily attendance of summer school, regional occupational centers and programs, and adult classes by regular high school pupils.

(3) Sixty-five dollars ($65) per unit of average daily attendance in grades 9 to 12, inclusive or their equivalent, exclusive of the average daily attendance of summer school, regional occupational centers and programs, and adult classes by regular high school pupils.

Implementation grants shall be spent pursuant to the approved school improvement plan as documented in the plan pursuant to subdivision (f) of Section 52015.

Allowances provided in any fiscal year but not expended in that year may be expended in subsequent fiscal years.

SEC. 2. Section 52049.5 of the Education Code is amended and renumbered to read:

52047. Expenditures pursuant to subdivision (b) of Section 52046 shall be considered to be categorical program expenditures within the meaning of Section 52167 and therefore subject to the requirements of the Chacon-Moscone Bilingual-Bicultural Education Act of 1976 (Article 3 (commencing with Section 52160) of Chapter 7 of this part).

SEC. 3. Section 54167 is added to the Education Code, to read:

54167. Any school district which receives allowances for programs authorized pursuant to this article may utilize such allowances in grades 4, 5, and 6 or in kindergarten and grades 1, 2, and 3, for the purposes of, and in the manner set forth in, this article.

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 funds allocated for specialist teachers in reading in grades 1, 2, and 3 may be utilized as early as possible in the 1978–79

fiscal year for specialist teachers in reading in kindergarten, and grades 4, 5, and 6 as well and thereby improve the educational offering of our public elementary schools, at the earliest possible time, it is essential that this act take effect immediately.

CHAPTER 1093

An act to amend Section 21080 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 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 thermal 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 conditional sale or purchase of equipment, fuel, water (except ground water), steam, or power for such a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which

will be 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; provided that such environmental impact report, negative declaration or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(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. 2. 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 thermal 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 conditional sale or purchase of equipment, fuel, water (except ground water), steam, or power for such a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be 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; provided that such environmental impact report, negative declaration or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(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. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 2003 are both chaptered and become effective January 1, 1979, both bills amend Section 21080 of the Public Resources Code, and this bill is chaptered after Senate Bill No. 2003, that the amendments to Section 21080 proposed by both bills be given effect and incorporated in Section 21080 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. 2003 are both chaptered and become effective January 1, 1979, both amend Section 21080, and this bill is chaptered after Senate Bill No. 2003, in which case Section 1 of this act shall not become operative.

CHAPTER 1094

An act to amend Sections 66637, 66638, and 66641 of, to add Sections 66643 and 66647 to, and to repeal Section 66606.5 of, the Government Code, relating to the San Francisco Bay Conservation and Development Commission.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 66606.5 of the Government Code is repealed.

SEC. 1.5. Section 66637 of the Government Code is amended to read:

66637. (a) When the executive director determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) may require a permit from the commission without securing a permit; or (2) may be inconsistent with any permit previously issued by the commission, he may issue an order directing such person or governmental agency to cease and desist.

(b) Any cease and desist order issued by the executive director may be subject to such terms and conditions as the executive director may determine are necessary to ensure compliance with the provisions of this title, including the immediate removal of any fill or

other material where such removal is necessary to avoid irreparable injury to any area within the jurisdiction of the commission pending action by the commission under Section 66638.

(c) Any cease and desist order issued by the executive director shall become null and void 30 days after issuance.

(d) A cease and desist order issued by the executive director shall be effective upon the issuance thereof, and copies shall be served forthwith by certified mail upon the person or governmental agency being charged with the actual or threatened violation of this title.

SEC. 2. Section 66638 of the Government Code is amended to read:

66638. (a) When the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing a permit, or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order requiring such person or governmental agency to cease and desist.

(b) Any cease and desist order issued by the commission may be subject to such terms and conditions as the commission may determine are necessary to insure compliance with the provisions of this title, including immediate removal of any fill or other material or the setting of a schedule within which steps must be taken to obtain a permit pursuant to this title.

(c) Notice of the public hearing on a proposed cease and desist order shall be given to all affected persons and agencies and such orders shall be effective and final as to the commission upon issuance thereof. Copies shall be served forthwith by certified mail upon the person or governmental agency being charged with the actual or threatened violation of this title and upon other affected persons and agencies who appeared at the hearing and requested a copy.

SEC. 3. Section 66641 of the Government Code is amended to read:

66641. (a) Any person or governmental agency who intentionally or negligently violates any cease and desist order issued, reissued, or amended by the commission or the executive director may be liable civilly in a sum of not to exceed six thousand dollars ($6,000) for each day in which such violation persists.

(b) The Attorney General, upon request of the commission, shall petition the superior court to impose, assess and recover such sums. In determining such amount, the court shall take into consideration all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, taken by the person or governmental agency charged.

(c) The provisions of Section 66640 shall apply to proceedings to impose, assess and recover an amount pursuant to this article.

(d) Remedies under this section are in addition to, and do not

supersede or limit, any and all other remedies, civil or criminal.

SEC. 4. Section 66643 is added to the Government Code, to read:

66643. The commission may hold any hearings and conduct any investigations in any part of the state necessary to carry out the powers vested in it, and for such purposes shall have the same power to conduct investigations and hearings as those conferred upon the heads of state departments by Article 2 (commencing with Section 11180) of Chapter 2 of Division 3 of Title 2.

Upon authorization of the commission, any member of the commission or its designated representative may conduct a hearing or investigation of the commission. Any final action of the commission shall only be taken by a majority of all the members of the commission, at a meeting duly called and held.

All hearings held by the commission or by any designated representative of the commission shall be open and public.

SEC. 4.5. Section 66647 is added to the Government Code, to read:

66647. The commission may establish and administer a Bay Fill Clean-up and Abatement Fund. All moneys from the following sources are to be paid into the account:

(a) All moneys appropriated by the Legislature for the account.

(b) All moneys contributed to the account by any person and accepted by the commission.

(c) One-half of all moneys collected by way of criminal penalty and all moneys collected civilly under any proceeding brought pursuant to any provision of this chapter.

All moneys paid into the account are available without regard to fiscal years, for expenditure by the commission or executive director for the purposes of removing fill or performing any other remedial clean-up or abatement actions in the San Francisco Bay as required in accordance with this title.

CHAPTER 1095

An act to amend Section 3 of and to add Sections 8.5 and 18 to Chapter 1086 of the Statutes of 1970, relating to tide and submerged lands, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. The Legislature finds and declares that certain tide and submerged lands in Humboldt Bay have been granted in trust to the City of Eureka by Chapter 82 of the Statutes of 1857, Chapter 438 of the Statutes of 1915, Chapter 187 of the Statutes of 1927,

Chapter 225 of the Statutes of 1945, and Chapter 1086 of the Statutes of 1970.

The Legislature further finds and declares that the City of Eureka has, commensurate with its duties and responsibilities as trustee, conscientiously and vigorously defended the public interest in such granted tide and submerged lands in ongoing litigation involving the title to, and boundaries of, a major part of the downtown waterfront of the city and that the burden of the city in such litigation has been particularly difficult due to the absence of positive responses to the city's detailed settlement overtures and the complexity of the legal and factual issues involved.

The Legislature further finds and declares that the action of the City of Eureka in clearing and confirming title to the waterfront and in effecting its planned development is of statewide significance in that precedental issues, which may affect the public ownership and administration of tide and submerged lands throughout the state, are involved and is in the best interest of the state and will benefit the people of the state generally by virtue of the creation of physical and visual public access to Humboldt Bay and the waterfront thereof and by the establishment of facilities for recreational, boating, beach and park, fishing, commercial, and other uses authorized by such statutes. Further, as the state will share in the revenues derived from the lands granted to the city, and as the credit and funding provided in this act is needed by the city in order to enable it financially to continue its defense of the public interest in and around Humboldt Bay, the Legislature finds and declares that providing credit and funding to the city is justified as being in the statewide public interest.

SEC. 2. Section 3 of Chapter 1086 of the Statutes of 1970 is amended to read:

Sec. 3. The city shall establish the Humboldt Bay Fund in such manner as may be approved by the State Lands Commission, and the city shall deposit therein all moneys received directly from, or indirectly attributable to, the tide and submerged lands granted to the city. An annual statement of financial condition and operations, to conform with such requirements as the State Lands Commission may prescribe, shall be submitted to the State Lands Commission by the city on or before September 30th of each year for the preceding fiscal year. In furtherance of its management and administration over granted tide and submerged lands, the State Lands Commission shall audit, or cause to be audited, the operations and all books and records of the city. Further, the city shall prepare and submit to the State Lands Commission, for its review and approval, an annual budget with respect to all revenues and expenditures regarding tide and submerged lands granted to the city. All moneys received from the State Controller pursuant to Section 18 of this act shall be deposited in the Humboldt Bay Fund and may be used by the city for the purposes for which revenues accruing from or out of the use of the granted tidelands may be used pursuant to the provisions of

this act.

Prior to June 30, 1979, and prior to June 30 of each succeeding year, the city shall pay to the State Controller a sum that is not less than 15 percent of the amount of the money deposited by the city into the Humboldt Bay Fund during the preceding fiscal year, after deducting from the fund the principal and interest payments required by the currently outstanding 1973 Municipal Harbor Improvement Revenue Bond issue. Moneys received from the State Controller pursuant to Section 18 of this act shall not be included in the calculation of the amount deposited into the Humboldt Bay Fund. Payments made to the State Controller pursuant to this section shall be in lieu of all obligations incurred by the city pursuant to this section as amended by Section 2 of Chapter 1252 of the Statutes of 1971 and prior to the amendment of this section during the 1977–78 Regular Session of the Legislature.

In the event the city fails to make any payment required to be made hereby for any reason whatsoever, the State Board of Equalization, upon the order of the State Controller, shall deduct the amount of that payment from the sales and use taxes to be paid to the city thereafter pursuant to Section 7204 of the Revenue and Taxation Code and shall pay the same to the State Controller.

All payments made by the city and the State Board of Equalization shall be considered as oil revenues and dry gas revenues payable to the state pursuant to Chapter 138 of the Statutes of 1964, First Extraordinary Session, during the year they are received.

For the purposes of Section 7 of this act, such amounts paid to the State Controller by the city shall be considered as current and accrued operating costs and expenditures directly related to the operation and maintenance of tideland trust activities.

SEC. 3. Section 8.5 is added to Chapter 1086 of the Statutes of 1970, to read:

Sec. 8.5. No lease or permit in excess of one year in duration for the use of granted tide and submerged lands entered into or issued by the City of Eureka shall be valid without the prior approval of the State Lands Commission. The commission shall have 60 days after submittal of a proposed lease or permit in which to approve any such lease or permit. If the commission takes no action within 60 days, the lease or permit shall be deemed approved. For purposes of this section, a lease or permit shall be deemed submitted for approval when all documents required by the commission have been received.

SEC. 4. Section 18 is added to Chapter 1086 of the Statutes of 1970, to read:

Sec. 18. The sum of seven hundred fifty thousand dollars ($750,000), or so much thereof as may be necessary, is hereby appropriated to the General Fund from the oil and dry gas revenues payable to the state under Chapter 138 of the Statutes of 1964, First Extraordinary Session, pursuant to Section 6217 of the Public Resources Code during the 1978–79 fiscal year, and shall be

transferred by the State Controller to the General Fund during the 1978–79 fiscal year immediately prior to making the allocation to the California Water Fund pursuant to subdivision (b) of Section 6217 and after making the allocations pursuant to subdivision (a) of Section 6217. The sum thus transferred to the General Fund is hereby appropriated to the State Controller, who shall pay that sum to the Humboldt Bay Fund as follows: in the 1978–79 fiscal year and each fiscal year thereafter, a sum equal to 50 percent of the sum expended by the City of Eureka during each fiscal year in the prosecution or defense of any action or proceeding involving the title to, or the boundaries of, tidelands or submerged lands granted to the City of Eureka by the Legislature along the Humboldt Bay waterfront; and during the 1978–79 fiscal year, the additional sum of two hundred fifty thousand dollars ($250,000) from the seven hundred fifty thousand dollars ($750,000) appropriated by this section.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

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 litigation concerning the tide and submerged lands in the City of Eureka may be conducted properly, it is necessary that this act take effect immediately.

CHAPTER 1096

An act to amend Section 1024 of the Probate Code, to amend Sections 14143 and 14306 of, and to add Section 14213 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 1024 of the Probate Code is amended to read:

1024. Before any decree of distribution is made, all personal property taxes due and payable by the estate shall be paid, and all inheritance taxes due and payable by the estate shall be paid or evidence of a written agreement for the payment of the inheritance taxes, executed between the State Controller and the executor,

administrator, trustee, or other persons liable for the payment of the tax, shall be filed with the court; provided, however, that where a transferee has filed with the court a written election pursuant to the provisions of Section 14213 of the Revenue and Taxation Code, the estate may be distributed notwithstanding the fact that the tax imposed upon the transferee filing the written election has not been paid in full.

SEC. 2. Section 14143 of the Revenue and Taxation Code is amended to read:

14143. No executor, administrator, or trustee liable for the payment of any tax imposed by this part is entitled to credits in his accounts or to a discharge from liability for payment, nor shall the estate of the person who made the transfer on which the tax is imposed be distributed, unless a receipt countersigned and sealed by the Controller pursuant to this article, or a copy of such a receipt certified by the Controller, is filed with the superior court having jurisdiction; provided, however, that where a transferee has filed with the court a written election pursuant to the provisions of Section 14213, the estate may be distributed notwithstanding the fact that the tax imposed upon the transferee filing the written election has not been paid in full.

SEC. 3. Section 14213 is added to the Revenue and Taxation Code, to read:

14213. The transferee of a dwelling which was owned and occupied by the decedent at the date of death may elect to pay, in five annual installments, that portion of tax imposed by this part which is attributable to such dwelling if:

(1) The clear market value of the dwelling equals 75 percent or more of the clear market value of all transfers from the decedent subject to the tax imposed by this part;

(2) The clear market value of all transfers from the decedent is less than five hundred thousand dollars ($500,000);

(3) The portion of tax imposed by this part which is attributable to such dwelling exceeds one-half of the value of cash, securities listed on a stock exchange or sold in over the counter transactions and other assets converted to cash or such securities during the period of probate which is transferred to the transferee from the decedent, after deducting the entire costs of administration of the decedent's estate, including, but not limited to attorney's and administration fees, estate taxes, and the decedent's unsecured debts; and

(4) The dwelling is transferred by any transfer subject to this part to a person who was a bona fide resident of such dwelling at the date of death and who intends to maintain the dwelling as the person's principal place of residence.

If such transferee elects to make such payments in five annual installments, such payments shall be made under the following conditions and limitations:

(a) The transferee shall file a written election to pay the tax

pursuant to the provisions of this section with the Controller and court having jurisdiction, or with the Controller alone in those cases where the tax is determined pursuant to the provisions of Article 3.5 (commencing with Section 14560) of Chapter 11 of this part. Such election shall include a declaration signed under penalty of perjury that the transferee intends to maintain the dwelling as the transferee's principal place of residence for one year from the date of such declaration and that the transferee understands that if the dwelling is sold, or if the transferee no longer maintains the dwelling as the transferee's principal place of residence, the total inheritance tax due which is attributable to such dwelling plus accrued interest shall be due and payable and the interest on the unpaid balance shall be increased to the rate specified in Section 14211. A similar declaration shall be filed annually with the Controller in a manner and on a form prescribed by the Controller.

(b) In the case of a probate proceeding, the election shall be filed more than 30 days prior to the date the petition for final distribution is filed with the court, but in no event shall the election be filed after the date which is one year after the date the tax becomes delinquent, and the court shall incorporate the agreement in the final decree of distribution. In all other cases, the election shall be filed with the Controller on or before the date which is one year after the date on which the tax becomes delinquent. Upon filing of the election with the Controller, the Controller shall record the election with the county recorder in the county in which such real property is located.

(c) Notwithstanding the provisions of Section 14211, the tax attributable to the dwelling, which is imposed by this part upon a transferee who has filed an election pursuant to this section shall bear interest at the rate of 7 percent per annum from the date it becomes delinquent until it is paid, or until the provisions of subdivision (e) become applicable, or until the date which is five years after the date upon which the tax attributable to such dwelling becomes delinquent, whichever is first.

(d) The tax attributable to the dwelling which is imposed upon a transferee who elects to pay such tax pursuant to the provisions of this section shall be paid in five annual installments. The amount of the tax attributable to the dwelling shall be that portion of the total inheritance tax due from the transferee who received the dwelling which bears the same ratio to such total tax as the clear market value of the dwelling bears to the clear market value of all transfers subject to this part transferred to such transferee. The first installment shall be in an amount of not less than 20 percent of the tax imposed upon the transferee, which is applicable to such dwelling, and shall be paid, together with any interest then due, on or before the date which is one year from the date the tax becomes delinquent. Each subsequent installment shall be in an amount of not less than 20 percent of the tax imposed which is attributable to such dwelling, and shall be paid, together with accrued interest on the unpaid balance, on or before the anniversary date of the first installment. If the payment of any

installment is delinquent, the interest for that year shall accrue at the rate of 12 percent per year.

(e) (1) The interest on the unpaid balance then owed shall be increased to the rate specified in Section 14211 from and after 60 days following the occurrence of any of the following:

(A) The dwelling is sold;

(B) The transferee no longer maintains the dwelling as the transferee's principal place of residence.

(2) The provisions of paragraph (1) shall not apply with respect to the death of the transferee and such event shall not result in the increase in such rate of interest.

(f) In any event in which the tax attributable to such dwelling, together with accrued interest, is not paid in full on or before the date which is five years from the date the tax becomes delinquent, the unpaid balance shall thereafter bear interest at the rate specified in Section 14211.

(g) The amount of the tax not attributable to the dwelling is due and payable as provided in Sections 14102 and 14103 and shall bear interest as provided in Section 14211.

SEC. 4. Section 14306 of the Revenue and Taxation Code is amended to read:

14306. (a) Upon the approval of a bond for the deferment of payment of the tax imposed on a transfer subject to a contingency or condition upon the occurrence of which the right, interest, or estate of the transferee may, in whole or in part, be created, defeated, extended, or abridged, the lien upon the property included in the transfer ceases.

(b) Upon entry of a decree of distribution incorporating the consent of the Controller pursuant to Section 14105, an agreement entered into pursuant to Section 14143.5, or an election pursuant to Section 14213, which consent, agreement, or election provides for the deferment of the tax imposed by this part, the lien upon property not subject to such consent, agreement, or election ceases.

SEC. 5. This act shall become operative on July 1, 1979.

CHAPTER 1097

An act to amend Section 16430 of the Government Code, relating to student loans.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys

shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(c) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(d) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(e) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(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.

(g) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(h) The portion of bank loans and obligations guaranteed by the

United States Small Business Administration or the United States Farmers Home Administration.

(i) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. 1087-2).

SEC. 1.1. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be.

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(c) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(d) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(e) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651

of a market value at least 10 percent in excess of the amount of the state's investment.

(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.

(g) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(h) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(i) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U S.C. 1087-2).

(j) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

SEC. 1.2. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National

Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) 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.

(h) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. 1087-2).

SEC. 1.3. Section 16430 of the Government Code is amended to read:

16430. Eligible securities for the investment of surplus moneys shall be:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the State of California municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under said act, obligations of the Federal Home Loan Mortgage Corporation, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended.

(f) Commercial paper of "prime" quality as defined by a nationally recognized organization which rates such securities. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States; (2) having total assets in excess of five hundred million dollars ($500,000,000); and (3) approved by the Pooled Money Investment Board. Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, such investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) 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.

(h) Negotiable certificates of deposits purchased from a nationally or state-chartered bank or savings and loan association. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code.

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration

(j) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S C. 1001, et seq.) and eligible for resale to the Student Loan Marketing Association established pursuant to

Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. 1087-2).

(k) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the Government Development Bank of Puerto Rico.

SEC. 2. It is the intent of the Legislature that if this bill and Senate Bill No. 1330 or Assembly Bill No. 2099, or both, are chaptered and become effective January 1, 1979, each of the bills amend Section 16430 of the Government Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Senate Bill No. 1330 are both chaptered and become effective January 1, 1979, both bills amend Section 16430 of the Government Code, but Assembly Bill No. 2099 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1330, the amendments proposed by both bills shall be given effect and incorporated in Section 16430 in the form set forth in Section 1.1 of this act. Therefore, if this bill and Senate Bill No. 1330 are both chaptered and become effective January 1, 1979, both bills amend Section 16430, this bill is chaptered after Senate Bill No. 1330, and Assembly Bill No. 2099 is not chaptered or as chaptered does not amend that section, Section 1.1 of this act shall be operative and Sections 1, 1.2, and 1.3 of this act shall not become operative.

(2) If this bill and Assembly Bill No. 2099 are both chaptered and become effective January 1, 1979, both bills amend Section 16430 of the Government Code, but Senate Bill No. 1330 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill No. 2099, the amendments proposed by both bills shall be given effect and incorporated in Section 16430 in the form set forth in Section 1.2 of this act. Therefore, if this bill and Assembly Bill No. 2099 are both chaptered and become effective January 1, 1979, both bills amend Section 16430, this bill is chaptered after Assembly Bill No. 2099, and Senate Bill No. 1330 is not chaptered or as chaptered does not amend that section, Section 1.2 shall be operative and Sections 1, 1.1, and 1.3 of this act shall not become operative.

(3) If this bill and Senate Bill No. 1330 and Assembly Bill No. 2099 are all chaptered and become effective January 1, 1979, all three bills amend Section 16430 of the Government Code, and this bill is chaptered after Senate Bill No. 1330 and Assembly Bill No. 2099, the amendments proposed by all three bills shall be given effect and incorporated in Section 16430 in the form set forth in Section 1.3 of this act. Therefore, if this bill and Senate Bill No. 1330 and Assembly Bill No. 2099 are all chaptered and become effective January 1, 1979, all three bills amend Section 16430 of the Government Code, and this bill is chaptered after Senate Bill No. 1330 and Assembly Bill No. 2099, Section 1.3 of this act shall be operative and Sections 1, 1 1, and 1.2

of this act shall not become operative.

CHAPTER 1098

An act to add Section 54126 to the Education Code, relating to specialist reading teachers, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 54126 is added to the Education Code, to read:

54126. The governing board of any school district maintaining kindergarten and grades 1 through 6, inclusive, may, in writing, appoint an elementary school teacher holding a credential issued pursuant to Section 44265 and having a minimum of three years teaching experience in kindergarten through the sixth grade, inclusive, to a specialist teacher position.

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 be effective for the commencement of the 1978–79 school year, and thereby improve the educational offerings of school districts as soon as possible by providing greater flexibility in the hiring of specialist reading teachers, it is necessary that this act take effect immediately.

CHAPTER 1099

An act to add Sections 72255 and 89757 to, to add Article 5 (commencing with Section 92150) to Chapter 2 of Part 57 of, the Education Code, and to add Section 11015 to the Government Code, relating to public funds.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1 Section 72255 is added to the Education Code, to read

72255 No funds under the control of a community college district shall ever be used for membership or for any participation involving

a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. This section does not apply to any public funds which have been paid to an individual officer or employee of the district as salary, or to any funds which are used directly or indirectly for the benefit of student organizations.

SEC. 2. Section 89757 is added to the Education Code, to read:

89757. None of the funds enumerated in Section 89756, nor any of the funds of an auxiliary organization, shall ever be used by any university or college for membership or for any participation involving a financial payment or contribution, on behalf of the institution, or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. This section does not apply to any public funds which have been paid to an individual employee or officer as salary, or to any funds which are used directly or indirectly for the benefit of student organizations.

SEC. 3. Article 5 (commencing with Section 92150) is added to Chapter 2 of Part 57 of the Education Code, to read:

Article 5. Public Funds for Private Organizations

92150. No state funds under the control of an officer or employee of the University of California shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the university, or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. This section does not apply to any public funds which have been paid to an individual employee or officer of the university as salary, or to any funds which are used directly or indirectly for the benefit of student organizations.

SEC. 4. Section 11015 is added to the Government Code, to read:

11015. No state funds under the control of an officer or employee of the state, or of any agency thereof, shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the state agency, or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. This section does not apply to any public funds which have been paid to an individual employee or officer as salary.

CHAPTER 1100

An act to add Chapter 8 (commencing with Section 2851) to Part 2 of Division 1 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Chapter 8 (commencing with Section 2851) is added to Part 2 of Division 1 of the Public Utilities Code, to read:

CHAPTER 8. SOLAR ENERGY SYSTEMS

2851. (a) The commission shall investigate the feasibility of alternative methods of providing low-interest, long-term financing of solar energy systems for utility customers, including, but not limited to, direct financing by investor-owned utilities and conventional financing through banks, savings and loan associations, or other sources.

(b) In conducting its investigation, the commission shall consider the economic and financial impact of each alternative on the investor-owned utilities, the relative costs and benefits of each alternative to all utility customers, and the extent to which each alternative would facilitate the implementation of cost-effective solar energy systems.

(c) The commission shall report its findings and recommendations to the Legislature on or before January 1, 1980.

CHAPTER 1101

An act to add Section 31052 to the Water Code, relating to county water districts.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 31052 is added to the Water Code, to read:

31052. The North Marin County Water District may purchase devices for generation of energy from solar radiation and may resell such devices for use within the district. Resales shall be on reasonable terms and conditions, which may include warranties and guarantees by the district of payment of purchase loans.

SEC. 2. The Legislature hereby finds and declares that a special law is necessary with respect to the North Marin County 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.

CHAPTER 1102

An act to add Section 2775.5 to the Public Utilities Code, relating to solar energy systems.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. The Legislature finds and declares that it is in the best interest of the state to ensure competition in the solar energy industry because of the innovation, price competition, aggressive marketing, and freedom of entry which characterize competitive industries, and that the solar energy industry, because of the decentralized nature of its generation and distribution system, has the potential to be a truly competitive energy industry.

The Legislature further finds and declares that the current uncertainty with regard to the role of electrical and gas public utilities with regard to solar energy development hinders the full-scale development of the solar energy industry, and therefore requires legislative clarification.

The Legislature further finds and declares that there may be an inherent conflict for a public utility which furnishes gas and electricity on the one hand and develops solar energy on the other hand, and that it would be detrimental to the solar energy industry and to the state if privately owned public utilities used their status as monopolies to dominate the solar energy industry or exercise unfair market power.

The Legislature further finds and declares that the basis for regulation of public utilities extends to their participation in solar energy development as well as in the production and delivery of energy from conventional sources.

It is, therefore, the intent of the Legislature that the Public Utilities Commission be given a clear and explicit mandate to regulate the involvement of privately owned public utilities in solar energy development, and to ensure that the solar energy industry develops in a manner which is competitive and free from the potential dominance of regulated electrical and gas corporations.

SEC. 2. Section 2775.5 is added to the Public Utilities Code, to read:

2775.5. (a) In the event that an electrical or gas corporation or any subsidiary thereof desires to manufacture, lease, sell, or otherwise own or control any solar energy system, it shall first obtain

from the commission the authorization to do so as provided in this section. No such authorization shall be required for any solar energy system which is owned or controlled for experimental or demonstration purposes. As used in this subdivision, "experimental or demonstration purposes" means a limited program of installation, use, or development the sole purpose of which is to investigate the technical viability or economic cost-effectiveness of a solar application.

(b) In applying for authorization pursuant to this section, the corporation shall submit to the commission in such form as the commission may specify a description of the proposed program of solar energy development for which it seeks approval. The commission shall grant the authorization sought if it finds that the proposed program will not restrict competition nor restrict growth in the solar energy industry nor unfairly employ in a manner which would restrict competition in the market for solar energy systems any financial, marketing, distributing, or generating advantage which the corporation may exercise as a result of its authority to operate as a public utility. Before granting any such authorization, the commission shall find in addition that the program of solar energy development proposed by the corporation will accelerate the development and use of solar energy systems in this state for the duration of the program.

(c) The commission shall suspend or terminate any authorization granted pursuant to this section whenever it finds and determines that the program of solar energy development no longer meets the requirements of subdivision (b).

(d) As used in this section, "solar energy system" means equipment which uses solar energy to heat or cool or produce electricity and which has a useful life of at least three years. "Solar energy system" shall not include an electric plant as defined by Section 217.

CHAPTER 1103

An act to amend Sections 4036, 4036.2, 4047.5, and 4048 of the Business and Professions Code and to amend Sections 11164 and 26662 of the Health and Safety Code, relating to drugs.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 4036 of the Business and Professions Code is amended to read:

4036. (a) "Prescription" means an oral order given individually for the person for whom prescribed, directly from the prescriber to

the furnisher, or indirectly by means of a written order, signed by the prescriber, and shall bear the name and address of the patient, the name and quantity of the drug or device prescribed, directions for use, and the date of issue, and either rubber stamped, typed, or printed by hand or typeset the name, address, and telephone number of the prescriber, his license classification, and his federal registry number, if a controlled substance is prescribed. No person other than 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, shall prescribe or write a prescription.

Nothing in the amendments made to this section at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right which a chiropractor, while acting within the scope of his license, may have to prescribe a device.

(b) Notwithstanding subdivision (a) of this section, a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance that is a narcotic drug, which contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph (3) of subdivision (b) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist so long as any additional information required by subdivision (a) of this section is readily retrievable in the pharmacy.

(c) Except as provided in Section 4036.1, an oral prescription shall as soon as practicable be reduced to writing by the pharmacist and shall be filed by, or under the direction of, the pharmacist. The pharmacist need not reduce to writing the address, telephone number, license classification, federal registry number of the prescriber or the address of the patient if such information is readily retrievable in the pharmacy.

SEC. 2. Section 4036.2 of the Business and Professions Code is amended to read:

4036.2. Notwithstanding any other provision of law, a prescriber may authorize his employee on his behalf to orally transmit a prescription to the furnisher. The furnisher shall record the name of the employee of the prescriber who transmits the order.

This section shall not apply to orders for narcotics as defined in Division 10 of the Health and Safety Code.

SEC. 3. Section 4047.5 of the Business and Professions Code is amended to read:

4047.5. A pharmacist shall not dispense any prescription except in

a container correctly labeled with the following:

(a) Except where the prescriber orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(b) The directions for the use of the drug.

(c) The name of the patient.

(d) The name of the prescriber.

(e) The date of issue.

(f) The name and address of the furnisher, and prescription number or other means of identifying the prescription.

(g) The strength of the drug or drugs dispensed.

(h) The quantity of the drug or drugs dispensed.

(i) The expiration date of the effectiveness of the drug dispensed if such information is required on the original label of the manufacturer of the drug.

If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

SEC. 4. Section 4048 of the Business and Professions Code is amended to read:

4048. The label on any drugs furnished to a patient under the provisions of Section 4051 of this chapter, shall, in addition to any other information required to be stated thereon, contain the expiration date of the effectiveness of the drug if such information is required on the original label of the manufacturer of the drugs.

SEC. 5. Section 11164 of the Health and Safety Code is amended to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II which is a narcotic drug shall be wholly written in ink or indelible pencil in the handwriting of the prescriber upon the official prescription form issued by the Department of Justice. Such prescriptions shall be prepared in triplicate, signed and dated by the prescriber, and shall contain the name and address of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, directions for use, and the address, category of professional licensure, and the federal controlled substance registration of the prescriber. The original and one copy of such a prescription shall be delivered to the pharmacist filling the

prescription. The original shall be retained by the pharmacist and the copy, properly endorsed by him, shall be transmitted to the Department of Justice at the end of the month in which the prescription was filled.

(b) Each prescription for a controlled substance classified in Schedule II which is not a narcotic drug or for a controlled substance classified in Schedule III, IV, or V, except as authorized by subdivision (c), shall be subject to the following requirements:

(1) The prescription shall be signed and dated by the prescriber and shall contain the name of the person for whom the controlled substance is prescribed, the name and quantity of controlled substance prescribed, and directions for use. With respect to prescriptions for controlled substances classified in Schedule II which are not narcotic drugs, and any controlled substance classified in Schedule III, the signature, date, and information required by this paragraph shall be wholly written in ink or indelible pencil in the handwriting of the prescriber.

(2) In addition, the prescription shall contain the name, address, telephone number, category of professional licensure, and federal controlled substance registration number of the prescriber. The information required by this paragraph shall be either preprinted upon the prescription blank, typewritten, rubber stamped, or printed by hand. Notwithstanding any provision in this section, the prescriber's address, telephone number, category of professional licensure, or federal controlled substances registration number need not appear on the prescription if such information is readily retrievable in the pharmacy.

(3) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify such address on the prescription, the pharmacist filling the prescription or an employee acting under his direction shall write or type the address on the prescription or maintain such information in a readily retrievable form in the pharmacy.

(c) Any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral prescription, which shall be reduced to writing by the pharmacist filling the prescription or by such other person as is expressly authorized by provisions of the Business and Professions Code. The date of issue of the prescription and all the information required for a written prescription by subdivision (b) shall be included in such written record of the prescription. The pharmacist need not reduce to writing the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient if such information is readily retrievable in the pharmacy. Pursuant to authorization of the prescriber, any employee of the prescriber on his behalf may orally transmit a prescription for a controlled substance classified in Schedule IV or V, if in such cases the written record of the prescription required by this subdivision specifies the name of the employee of the prescriber transmitting the prescription.

SEC. 5.5. Section 26662 of the Health and Safety Code is amended to read:

26662. Any drug or device sold by filling or refilling a written or oral prescription of a practitioner licensed to prescribe such drug or device shall be exempt from the labeling requirements of Sections 26631, 26632, 26634, 26635, 26636, 26637, 26638, 26639, 26640, 26642, 26646, and 26647, if the drug or device bears a label displaying all the following:

(a) Except where the prescriber orders otherwise, either the manufacturer's trade name of the drug, or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(b) The directions for the use of the drug or device.

(c) The name of the patient.

(d) The name of the prescriber.

(e) The date of issue.

(f) The name, address of the furnisher, and prescription number or other means of identifying the prescription.

(g) The strength of the drug or drugs dispensed.

(h) The quantity of the drug or drugs dispensed.

(i) The expiration date of the effectiveness of the drug or device if such information is included on the original label of the manufacturer of the drug or device.

If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

The exemption shall not apply to any drug or device dispensed in the course of the conduct of a business of dispensing drugs or devices pursuant to diagnosis by mail, or to a drug or device dispensed in violation of Section 26660.

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 1104

An act to amend Section 423 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 423 of the Revenue and Taxation Code is amended to read:

423. Except as provided in Section 423.7, when valuing enforceably restricted open-space land, other than land use for the production of timber for commercial purposes, the board for purposes of surveys required by Section 1815 of this code and the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall value such lands by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available the income shall be the fair rent which can be imputed to the land being valued based upon rent actually received for the land by the owner and upon typical rentals received in the area for similar land in similar use, where the owner pays the property tax. When the land being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which the land would be expected to rent were the rental payment to be renegotiated in the light of current conditions including applicable provisions under which the land is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted. There shall be a rebuttable presumption that "prudent management" does not include use of the land for a recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to such use.

(3) Notwithstanding any other provision herein, if the parties to an instrument which enforceably restricts the land stipulate therein an amount which constitutes the minimum annual income per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For the purposes of this section income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's

worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period, not to exceed six years including the tax year and the next succeeding five years. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, not to exceed six years including the tax year and the next succeeding five years. Proceeds from the sale of the land being valued shall not be included in the revenue from the land.

Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing such revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income. When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment and operating assets other than the land, to amortize depreciable property, and to fairly compensate the owner-operator for his operating and managing services.

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and which was the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, rounded to the nearest one-quarter percent;

(2) A risk component which shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject;

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio; and

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b).

(d) The ratio prescribed in Section 401 shall be applied to the value of the land determined in subdivision (c) to obtain its assessed value.

(e) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the valuation resulting from the capitalization of income method described in this section shall not exceed the valuation that would have resulted by the consideration of sales of otherwise comparable lands.

CHAPTER 1105

An act to amend Section 66499 of the Government Code, relating to improvement subdivisions.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 66499 of the Government Code is amended to read:

66499. (a) Whenever this division or a local ordinance authorizes or requires the furnishing of security in connection with the performance of any act or agreement, such security shall be one of the following at the option of and subject to the approval of the local agency:

(1) Bond or bonds by one or more duly authorized corporate sureties.

(2) A deposit, either with the local agency or a responsible escrow agent or trust company, at the option of the local agency, of money or negotiable bonds of the kind approved for securing deposits of public moneys.

(3) An instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment.

(4) A lien upon the property to be divided, created by contract between the owner and the local agency, if the local agency finds that it would not be in the public interest to require the installation of the required improvement sooner than two years after the recordation of the map.

(5) Any form of security, including security interests in real property, which is acceptable to the local agency and specified by ordinance thereof.

(b) Any written contract or security interest in real property entered into as security for performance pursuant to subdivision (a)

shall be recorded with the county recorder of the county in which the subject real property is located. From the time of recordation of the written contract or document creating a security interest, a lien shall attach to the real property particularly described therein and shall have the priority of a judgment lien in an amount necessary to complete the agreed to improvements. The recorded contract or security document shall be indexed in the Grantor Index to the names of all record owners of the real property as specified on the map and in the Grantee Index to the local agency approving the map.

The local agency may at any time release all or any portion of the property subject to any lien or security interest created by this subdivision or subordinate the lien or security interest to other liens or encumbrances if it determines that security for performance is sufficiently secured by a lien on other property or that the release or subordination of the lien will not jeopardize the completion of agreed upon improvements.

CHAPTER 1106

An act to add Article 12 (commencing with Section 850) to Chapter 1 of Division 2 of the Business and Professions Code, and to add Section 1276.1 to the Health and Safety Code, relating to standards for licensure or certification.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Article 12 (commencing with Section 850) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 12. Standards for Licensure or Certification

850. No healing arts licensing board or examining committee under the Department of Consumer Affairs shall by regulation require an applicant for licensure or certification to be a member of, to be certified by, to be eligible to be certified or registered by, or otherwise meet the standards of a specified private voluntary association or professional society except as provided for in this article.

851. A healing arts licensure board or examining committee may by regulation require an applicant for licensure or certification to meet the standards of a specified private voluntary association or professional society when either of the following conditions is met:

(a) There is direct statutory authority or requirement that the

board or examining committee utilize the standards of the specified private voluntary association or professional society; or

(b) The board or examining committee specifies in the regulation the amount of education, training, experience, examinations, or other requirements of the private voluntary association or professional society, which standards shall be consistent with the provisions of law regulating such licensees, and the board or examining committee adopts such standards in public hearing. The board or examining committee may, by regulation, require an applicant to successfully complete an examination conducted by or created by a relevant national certification association, testing firm, private voluntary association, or professional society.

Nothing in this section authorizes the Board of Medical Quality Assurance to limit the licensure of physicians and surgeons by specialty.

SEC. 2. Section 1276.1 is added to the Health and Safety Code, to read:

1276.1. In setting personnel standards for licensed health facilities pursuant to Section 1276, the department may set such standards itself or may adopt them by reference to named standard-setting organizations. If the department adopts standards for a category of health personnel by reference to a specified organization, the department shall either:

(a) List in the regulation the education, training, experience, examinations, or other requirements set by the specified organization; or

(b) Retain on file and available for public inspection a listing of the education, training, experience, examinations, or other requirements set by the specified organization; or

(c) Have direct statutory authority or requirement to use the standards of the specified organization.

SEC. 3. The provisions of Section 1 of this act shall only be applicable to regulations adopted on or after the effective date of this act.

SEC. 4. The provisions of Section 2 of this act shall be operative on and after January 1, 1981.

CHAPTER 1107

An act to amend Sections 40821, 40824, 40825, 41704, and 42351.5 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 40821 of the Health and Safety Code is amended to read:

40821. A hearing board, with not less than four members being present, may, in its discretion, within 30 days, rehear any matter which was decided by three members or less.

SEC. 2. Section 40824 of the Health and Safety Code is amended to read:

40824. In case of a hearing to consider an application for an interim variance, as authorized under Section 42351:

(a) The hearing board shall serve reasonable notice of the time and place of the hearing upon the district air pollution control officer and upon the applicant.

(b) Subdivision (b) of Section 40823 shall not apply.

(c) In districts with a population of less than 500,000 the chairman of the hearing board, or any other member of the hearing board designated by the board, may hear an application for an interim variance. If any member of the public contests a decision made by a single member of the hearing board, the application shall be reheard by the full hearing board within 10 days of the decision.

SEC. 3. Section 40825 of the Health and Safety Code is amended to read:

40825. In case of a hearing to consider an application for a variance, or a series of variances, to be in effect for a period of not more than 90 days, or an application for modification of a schedule of increments of progress:

(a) The hearing board shall serve a notice of the time and place of a hearing to grant such a variance or modification upon the air pollution control officer, all other districts within the air basin, the state board, the Environmental Protection Agency, and upon the applicant or permittee, not less than 10 days prior to such hearing.

(b) Subdivision (b) of Section 40823 shall not apply.

(c) In districts with a population of less than 500,000 the chairman of the hearing board, or any other member of the hearing board designated by the board, may hear such an application. If any member of the public contests a decision made by a single member of the hearing board, the application shall be reheard by the full hearing board within 10 days of the decision.

SEC. 4. Section 41704 of the Health and Safety Code is amended to read:

41704. Section 41701 shall not apply to:

(a) Fires set pursuant to Section 41801.

(b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).

(c) Fires set or permitted by any public officer in the performance of his official duty for the improvement of watershed, range, or pasture.

(d) Use of any aircraft to distribute seed, fertilizer, insecticides, or

other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.

(e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.

(f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.

(g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.

(h) The use of other equipment in agricultural operations necessary for the growing of crops or raising of fowl or animals.

(i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where such facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall such emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision shall not apply to any such rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to the effective date of this act, or (4) undergo a change of ownership after January 1, 1977.

(j) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions shall not be applicable to such equipment.

SEC. 4.5. Section 41704 of the Health and Safety Code, as amended by Section 1 of Senate Bill No. 2198, is amended to read:

41704. Section 41701 shall not apply to:

(a) Fires set pursuant to Section 41801.

(b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).

(c) Fires set or permitted by any public officer in the performance of his official duty for the improvement of watershed, range, or pasture.

(d) Use of any aircraft to distribute seed, fertilizer, insecticides, or other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.

(e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.

(f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.

(g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.

(h) The use of other equipment in agricultural operations necessary for the growing of crops or raising of fowl or animals.

(i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where such facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall such emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision shall not apply to any such rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to the effective date of this act, or (4) undergo a change of ownership after January 1, 1977.

(j) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards.

(k) Emissions from vessels using steam boilers during cold boiler light-off operations and while drying wet or green refractory to the extent that such emissions, excluding uncombined water vapor, are not as dark or darker in shade than that designed as Number 2 on the Ringelmann chart or of an opacity equal to, or greater than, 40 percent for periods aggregating more than 15 minutes in any one hour. This subdivision shall remain in effect only until January 1, 1984, and shall be of no force and effect on and after such date.

(*l*) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions shall not be applicable to such equipment.

SEC. 5. Section 42351.5 of the Health and Safety Code is amended to read:

42351.5. If a person granted a variance with a schedule of increments of progress files an application for modification of the schedule and is unable to notify the hearing board sufficiently in advance to allow the hearing board to schedule a public hearing on the application, the hearing board may grant no more than one interim authorization valid for not more than 30 days, to that person to continue operation pending the decision of the hearing board on the application. In districts with a population of less than 500,000, the chairman of the hearing board or any other member designated by the board may hear such application. If any member of the public contests such a decision made by a single member of the hearing board, the application shall be reheard by the full hearing board within 10 days of the decision. The interim authorization shall not be granted for a requested extension of a final compliance date or where the original variance expressly required advance application for the modification of an increment of progress.

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill No. 2198 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 41704 of the Health and Safety Code, and this bill is chaptered after Senate Bill No 2198, that Section 41704 of the Health and Safety Code, as amended by Section 1 of Senate Bill No. 2198 be further amended on the operative date of this act in the form set forth in Section 4.5 of this act to incorporate the changes in Section 41704 proposed by this bill. Therefore, Section 4.5 of this act shall become operative only if this bill and Senate Bill No. 2198 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 41704, and this bill is chaptered after Senate Bill No. 2198, in which case Section 4.5 of this act shall become operative on the operative date of this act and Section 4 of this act shall not become operative.

CHAPTER 1108

An act to amend Sections 50911 and 51440 of, and to add Sections 50902, 50903, and 53042.5 to, the Water Code, relating to reclamation districts.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 50902 is added to the Water Code, to read:

50902. In addition to its other powers, a district may, by resolution of the board, fix and collect charges and fees, including minimum and standby charges, for the provision of benefits and services. The board, in fixing such charges and fees, may establish the dates of delinquency and may impose penalties for delinquency not exceeding 10 percent of the amount of the charge or fee and may, in addition, collect interest at the rate of 8 percent per annum from the date of delinquency on all delinquent charges and fees. The district may sue for the recovery of unpaid charges and fees or such unpaid charges or fees may be added to the operation and maintenance assessment in the same manner as unpaid water charges pursuant to Section 51440. The revenue obtained from charges and fees may be in lieu of, or supplemental to, revenue obtained in any other manner and may be used for any district purpose and the payment of any district obligation.

SEC. 2. Section 50903 is added to the Water Code, to read.

50903. A district may, by resolution of the board, provide a procedure for and collect charges and fees, by way of the tax bills of the county or counties in which such district is located Such charges and fees shall appear as a separate item on the tax bill, shall be collected at the same time and in the same manner as county ad

valorem property taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. The district shall, on or before August 1st of each year, certify to the county auditor the charges and fees to be collected The county may deduct from the revenue so collected for the district an appropriate amount for the billing and collection services rendered to the district.

SEC. 3. Section 50911 of the Water Code is amended to read:

50911 When a district has adopted plans for the irrigation of district lands it may:

(a) Adopt rules and regulations for the distribution of water.

(b) Adopt a schedule of rates to be charged by the district for furnishing water for the irrigation of district lands. The schedule of rates may include standby charges to holders of title to land to which water may be made available, whether the water is actually used or not. The standby charge shall not exceed twenty dollars ($20) per year for each acre of land or for a parcel less than one acre.

(c) Collect the charges from the persons to or for whom the water was furnished and from the holders of title to land to which water has been made available, whether used or not.

(d) Sue for the recovery of the unpaid charges.

SEC. 4 Section 51440 of the Water Code is amended to read·

51440. When the district has obtained an irrigation system pursuant to Section 50910, and the charges for furnishing water and making water available have been fixed pursuant to Section 50911, which remain unpaid at the time the board orders an operation and maintenance assessment, the board may order that such charges be included as a part of the operation and maintenance assessment levied upon the parcels to which water has been furnished and when so levied, shall be a lien against the land.

SEC. 5. Section 53042.5 is added to the Water Code, to read·

53042.5. Time warrants may be issued for more than the amount set forth in Section 53042 and with a maturity longer than five years, provided that a special election is held pursuant to Chapter 3 (commencing with Section 50800) of Part 4 of this division, at which election the principal amount and maturity of such warrants and the purpose for which they are issued are approved by a majority of the votes cast

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CHAPTER 1109

An act to amend Sections 41760.5, 42238, and 84730.5 of the Education Code, to amend Sections 27423 and 51117 of the Government Code, and to amend Sections 434.5, 38202, 38303, 38904, 38905, and 38906 of the Revenue and Taxation Code, relating to timber taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 41760.5 of the Education Code is amended to read:

41760.5. (a) The assessed valuation used for apportionments wherein the formulas require a distribution of state aid based on the assessed valuation of the school district shall be determined by adding: (1) the taxable assessed valuation of each district, including the assessed valuation of timber in the district which is assessed as such, (2) the sum of assessed valuation equivalents of timber yield tax revenues, as provided in subdivision (b) or (c), and (3) the homeowners' and business inventory exemptions pursuant to Sections 218 and 219 of the Revenue and Taxation Code.

(b) For fiscal year 1977–78, the assessed valuation equivalents for revenue amounts certified pursuant to 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 secured tax rate for the prior year.

(c) On or before November 15, 1978, and each December 1 thereafter, for fiscal years 1978–79 and thereafter, the sum of the following amounts for each school district shall be converted into assessed valuation equivalents by multiplying the sum of such amounts by a factor of 100 and dividing the product by the secured tax rate of the school district:

(1) The "average annual property tax revenue attributable to timber" as determined for the current fiscal year pursuant to Section 27423 of the Government Code, provided, that for purposes of this section, a school district which levied an areawide tax rate in one or more of fiscal years 1972–73 to 1974–75, inclusive, shall not use the amount provided for in the third paragraph of subdivision (b) of Section 27423, but rather an amount equal to the product of the areawide tax rate per $100 of assessed value and the annual assessed value attributable to timber, for each such year, and

(2) The allocation made to the school district in the prior calendar year from the State Timber Tax Reserve Fund, as provided in Section 38906 of the Revenue and Taxation Code.

(d) For purposes of this section, "secured tax rate" shall be the average of the secured tax rates levied by the school district in each of fiscal years 1972–73 to 1974–75, inclusive, for which the school district levied a secured tax rate.

(e) Each county auditor on or before November 15th shall report the assessed valuations to the Superintendent of Public Instruction on forms provided by him. The Superintendent of Public Instruction shall require the assessed valuations to be reported in such an order that the appropriate assessed valuations may be modified pursuant to Section 41201.

(f) For the purposes of Chapter 8 (commencing with Section 42400) of Part 24, of Title 2, the portion of the timber yield tax revenues equal to the amount of the areawide aid computed from the assessed valuation equivalents prescribed in subdivision (b) or (c) shall be considered as part of the money received from the areawide tax.

SEC. 2. Section 42238 of the Education Code is amended to read:

42238. For the 1974–75 fiscal year and each fiscal year thereafter, (a) the maximum general purpose tax rate for each elementary, high, and unified school district in the county shall be computed pursuant to this section by the county superintendent of schools.

(b) The revenue limit per foundation program unit of average daily attendance for the district for the prior fiscal year shall be divided into the appropriate foundation program amount per unit of average daily attendance for the prior year. If the quotient is greater than one, it shall be deemed to be one.

(c) The foundation program amount per unit of average daily attendance used as the dividend in subdivision (b) shall be determined by the Superintendent of Public Instruction pursuant to this subdivision. For elementary school districts, it shall be the foundation program for districts which have an average daily attendance of 901 or more. For high school districts it shall be the foundation program for districts with an average daily attendance of 301 or more. For unified districts, it shall be the sum of (1) the foundation program of elementary districts which have an average daily attendance of 901 or more multiplied by the elementary foundation program units of average daily attendance of unified districts in the second principal apportionment, plus (2) the foundation program for high school districts with an average daily attendance of 301 or more multiplied by the high school foundation program units of average daily attendance of unified districts in the second principal apportionment divided by the sum of the elementary and high school units of average daily attendance of unified districts in the second principal apportionment.

(d) The inflation adjustment shall be based on the increase in the foundation program amount per unit of average daily attendance for the budget year compared with the preceding year.

(e) The amount determined pursuant to subdivision (d) shall be multiplied by the quotient determined pursuant to subdivision (b). The resultant amount shall constitute the revenue limit inflation adjustment of the district per unit of average daily attendance.

(f) The revenue limit inflation adjustment shall be added to the prior year revenue limit per foundation program unit of average daily attendance of the district and the sum multiplied by the estimated foundation program average daily attendance of the budget year The product shall be the revenue limit of the district for the budget year.

(g) Any district which has a revenue limit computed pursuant to subdivision (f) which is equal to or less than the foundation program

computed for the district pursuant to Article 1 (commencing with Section 41700) of Chapter 5 of this part, excluding Section 41716, Article 2 (commencing with Section 41730) of Chapter 5 of this part, and subdivision (a) of Section 41840 as adjusted pursuant to subdivision (e) of Section 14002 may increase its revenue limit computed pursuant to subdivision (f) to the lesser of the foundation program level of the district or the prior year revenue limit increased by 15 percent.

For the 1974–75 and 1975–76 fiscal years only, notwithstanding subdivision (g) if, due to changes in federal legislation or administrative policy, the entitlement under Public Law 81-874 is reduced or discontinued and is not replaced by other federal funding, and if a district experiencing such loss has a revenue limit less than the foundation program, it shall be allowed to increase the revenue limit by an amount equal to the difference between the Public Law 81-874 income per foundation program average daily attendance of the prior year and the estimated Public Law 81-874 income per unit of foundation program average daily attendance of the budget year, if any, multiplied by the estimated foundation program average daily attendance of the budget year. Such increased revenue limit shall not exceed the foundation program of the budget year.

(h) From the amount computed pursuant to subdivision (f) or (g), there shall be subtracted the basic state aid and state equalization aid to be received for the budget year, areawide aid to be received for the budget year, the amount of income to be received from the equalization offset tax pursuant to Section 41203, and the amount of yield tax revenues, if any, not previously considered as areawide aid pursuant to subdivision (c) of Section 41760.5.

(i) The amount determined pursuant to subdivision (h) shall be (1) adjusted as provided in subdivision (d) of Section 46605 and (2) adjusted sufficiently to allow for the mandated increases for district contributions for the State Teachers' Retirement System as required by Section 23400. Such adjustment, together with any rate levied in any prior year pursuant to Section 23401, shall not exceed the revenue derived by the tax rate provided in Section 23401. The adjusted amount shall be the local revenue limit of the district for the budget year.

(j) From the amount computed pursuant to subdivision (i), there shall be subtracted the amount of money collected or to be collected as taxes on property on the unsecured roll of the budget year, excluding the amounts collected through the levy of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312, but no greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code, and (2) the

income from the prior year's taxes.

(k) From the amount computed pursuant to subdivision (j) there shall be subtracted the amount of money collected or to be collected as timber yield tax receipts pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(*l*) For the purposes of this subdivision, the assessed valuation used in computing the maximum tax rate is defined as the total actual assessed valuation, including business inventory and homeowners' exemption and exclusive of the assessed valuation increment used to allocate tax receipts to 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.

The amount determined pursuant to subdivision (k) shall be divided by the amount of actual assessed valuation of the district on the secured roll after due allowance for delinquencies, pursuant to Section 14203. The quotient multiplied by 100 shall be the tax rate on each one hundred dollars ($100) of such assessed valuation and shall be the maximum general purpose tax rate which may be levied in the district, during the 1973–74 fiscal year exclusive of taxes provided in Section 4147, 8329, 15250, 15742, 16090, 16196, 16204, 16205, 16214, 16302, 39229, 39230, 39308, 39311, 42200, 42402, 49502, or 56811 of the Education Code, Section 52317 of the Education Code for the purposes prescribed in Section 52312 of the Education Code, but no greater than five cents ($0.05) per one hundred dollars ($100) of assessed valuation, and Section 5302.5 of the Streets and Highways Code. The revenue limit in subdivision (g) notwithstanding, in no case for districts receiving equalization aid, shall the tax rate be reduced below one dollar ($1) on the elementary level or eighty cents ($0.80) on the high school level or one dollar and eighty cents ($1.80) for a unified school district, except that when the district has levied upon it an areawide tax, such areawide tax rate levied shall be considered first as part of the minimum tax rate limit.

SEC. 3. Section 84730.5 of the Education Code is amended to read:

84730.5. (a) The assessed valuation used for apportionments wherein the formulas require a distribution of state aid based on the assessed valuation of the community college district shall be determined by adding: (1) the taxable assessed valuation of each district, including the assessed valuation of timber in the district which is assessed as such, (2) the sum of assessed valuation equivalents of timber yield tax revenues, as provided in subdivision (b) or (c), and (3) the homeowners' and business inventory exemptions pursuant to Sections 218 and 219 of the Revenue and Taxation Code.

(b) For fiscal year 1977–78, the assessed valuation equivalents for revenue amounts certified pursuant to 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 secured tax rate for the prior year.

(c) On or before November 15, 1978, and each December 1 thereafter, for fiscal years 1978–79 and thereafter, each community college district's share of both the county's annual yield tax revenue guarantee for the current fiscal year (as provided in Section 27423 of the Government Code) and the allocation made in the prior calendar year from the State Timber Tax Reserve Fund (as provided in Section 38906 of the Revenue and Taxation Code), shall be converted into assessed valuation equivalents by multiplying such amounts by a factor of 100 and dividing the product by the secured tax rate.

(d) Each county auditor, on or before November 15 of each calendar year, shall report the assessed valuations to the Chancellor of the California Community Colleges on forms provided by such chancellor. The Chancellor of the California Community Colleges shall require the assessed valuations to be reported in such an order that the appropriate assessed valuations may be modified pursuant to Section 84201.

(e) For purposes of this section, "secured tax rate" shall be the average of the secured tax rates levied by the community college in each of fiscal years 1972–73 to 1974–75, inclusive, for which the community college levied a secured tax rate.

SEC. 4. Section 27423 of the Government Code is amended to read:

27423. (a) On or before May 1, 1977, the assessor of each county for the local roll and the State Board of Equalization for the board roll shall determine the annual assessed value attributable to timber, as defined in subdivision (a) of Section 431 of the Revenue and Taxation Code, of each tax rate area for the 1972–73 to 1974–75 fiscal years, inclusive. Such values shall be from the corrected, equalized assessment roll for each such year, including escape assessments subsequently added to the roll. Escape assessments determined subsequent to June 30, 1975, for any of the three fiscal years specified shall be reported to the county auditor who shall certify to the Controller a revision in the amounts of average annual property tax revenue attributable to timber for each affected taxing jurisdiction on or before July 15, 1977, and July 15 of each year thereafter.

(b) Using the assessed values determined pursuant to subdivision (a), on or before June 1, 1977, the auditor of each county shall determine the average annual property tax revenues attributable to timber of each taxing agency for the 1972–73 to 1974–75 fiscal years, inclusive, provided, that if a taxing agency was in existence for less than the entire period, the average for such agency shall be determined by dividing the appropriate amount of property tax revenues by either one year or two years, whichever figure corresponds most nearly to the duration of existence of the agency within such period.

If the average value of the secured roll of a community college district which is attributable to timber over the period of fiscal years

1972–73 to 1974–75, inclusive, meets or exceeds 20 percent, then the auditor shall use a rate which when multiplied by that district's average annual assessed value attributable to timber will produce an amount equivalent to the total amount of property taxes raised by that district in the 1976–77 fiscal year.

For purposes of this section, "average annual property tax revenue attributable to timber" of each school district which levied an areawide tax rate in one or more of fiscal years 1972–73 to 1974–75, inclusive, shall be the product of (1) the amount of money the district received as its reallocation from the areawide fund (not the amount of its own contribution raised from its actual areawide tax rate) for each such fiscal year, and (2) a factor produced by the amount of annual assessed value attributable to timber divided by the amount of all assessed value, within the school district, for each such fiscal year.

Each county auditor shall certify to the State Controller a list of this amount for each taxing agency in the county and the total of all such amounts for the county. The auditor shall keep such records for each tax rate area as necessary to make distribution of funds pursuant to Section 38906 of the Revenue and Taxation Code.

(c) The State Controller may require that all information pertinent to subdivisions (a) and (b) be retained and may inspect all calculations of the county assessor and county auditor. The Controller or the board may adjust and correct any calculation deemed to be inaccurate. The sum of each county's calculations as adopted by the Controller shall be known as that county's "annual yield tax revenue guarantee", and shall be certified to the county auditor on or before August 15, 1977.

(d) On or before July 15, 1977, and July 15 of each year thereafter, the auditor shall certify to the Controller the new or revised amount of property tax revenue attributable to timber for each taxing agency which, effective after July 1 of the preceding calendar year and on or before July 1 of the current calendar year, either (1) underwent "governmental reorganization," as described in Section 2295 of the Revenue and Taxation Code, or (2) underwent "functional consolidation," as described in Section 2305 of the Revenue and Taxation Code, or (3) gained approval from its voters to levy an additional property tax rate, effective with the next succeeding fiscal year.

For purposes of this subdivision, the average annual property tax revenue attributable to timber for a taxing agency formed subsequent to June 30, 1975, shall be calculated as follows:

(1) The average annual assessed value attributable to timber shall be the sum of the values of the tax rate areas, as determined by the assessor or the board pursuant to subdivision (a), which correspond to the new agency's boundaries, as if that agency had actually existed during fiscal years 1972–73 to 1974–75, inclusive, and this sum shall be multiplied by

(2) A tax rate represented by 80 percent of the maximum tax rate

the new taxing agency was authorized by the voters to levy in its first full year of operation.

For purposes of this subdivision, the average annual property tax revenue attributable to timber for a taxing agency formed prior to June 30, 1975, which annexes territory subsequent to that date, shall have added to it the sum of the values of the tax rate areas, as determined by the assessor or the board pursuant to subdivision (a) which corresponds to the territory which was annexed, multiplied by the average total tax rate levied during fiscal years 1972–73 to 1974–75, inclusive, by the taxing agency which annexed the territory.

For purposes of this subdivision, the average annual property tax revenue attributable to timber for a taxing agency which subsequent to June 30, 1975, has transferred to it by functional consolidation the responsibility of levying a property tax rate to pay the cost of a new service or program shall have added to it the sum of the average annual assessed value attributable to timber for that agency multiplied by the additional property tax rate to be incurred in the first year pursuant to the functional consolidation. For a taxing agency which subsequent to June 30, 1975, has transferred from it the responsibility of levying a property tax rate for a service or program, the average annual property tax revenue attributable to timber shall be reduced by the sum of the annual assessed value attributable to timber for that agency multiplied by the average tax rate levied by the taxing agency during fiscal years 1972–73 to 1974–75, inclusive, for the support of such service or program.

For purposes of this subdivision, when an additional property tax rate is approved by the voters of a taxing agency in the preceding fiscal year, such agency shall have its average annual property tax revenue attributable to timber revised in the same manner as for a functional consolidation in which responsibility for the funding of a new service or program is added; provided, that such revision will extend only for the same period of time as that authorized by the voters for the existence of the additional voted property tax rate.

(e) On or before August 15, 1977, and August 15 of each year thereafter, the Controller shall certify to each county auditor the revisions certified by the auditor pursuant to subdivision (a) or (d) in the average annual property tax revenue attributable to timber for one or more taxing agencies, to take effect in the current fiscal year. The Controller shall adjust and correct any calculation deemed to be inaccurate, prior to such certification The amount added to or deducted from a county's previous annual yield tax revenue guarantee will be the property tax revenue attributable to timber, as certified to the Controller by the county auditor pursuant to subdivision (d) The revised annual yield tax revenue guarantee shall take effect for payments made to the county pursuant to subdivision (a) of Section 38905 and subdivision (a) of Section 38906 of the Revenue and Taxation Code in the current fiscal year, and shall remain in effect until subsequent revision under this subdivision.

(f) Upon receipt of the amount certified by the Controller

pursuant to subdivision (c) or (e), the county auditor shall within 10 days certify to each taxing agency its share of this amount, and shall deliver to the county treasurer a schedule of these amounts for all taxing agencies in the county, to govern distribution of moneys pursuant to subdivision (a) of Section 38905 and subdivision (a) of Section 38906 of the Revenue and Taxation Code.

(g) For the purposes of this section, in the case of a change in the boundaries of a tax rate area, the assessor or the board shall determine the base year timber value by parcel in each tax rate area affected by the boundary change and the auditor shall apportion the property tax revenue attributable to timber according to this determination.

(h) For the purposes of this section "tax rate area" means a geographical area in which there is a unique combination of tax levies.

(i) For purposes of this section, a taxing agency is deemed to be in existence in any year in which the agency levies a property tax rate. Any taxing agency which was operational prior to June 30, 1975, but levied no property tax rate, may subsequent to that date establish an average annual property tax revenue attributable to timber pursuant to subdivision (d), as a governmental reorganization, in the year next succeeding the year in which it first levies a property tax rate

(j) For purposes of this section, when computing the property tax revenues attributable to timber for a school district which levied an areawide tax rate during one or more of fiscal years 1972–73 to 1974–75, inclusive, the county auditor shall in his computations of the revenues produced by such a rate use the revenues actually apportioned to the district from the county's areawide fund, and not the revenues raised from the levy of the areawide rate and contributed to the county's areawide fund by said district.

SEC. 5 Section 51117 of the Government Code is amended to read·

51117. When land is zoned as timberland preserve or subsequently rezoned from a timberland preserve zone and after exhaustion of appeals, a notice of timberland preserve zone status, together with a map and assessor's parcel numbers describing such land, shall be filed for record by the city or county in the recorder's office The notice and map shall become a part of the official records of the county recorder upon its acceptance by him for filing. The filing for record of a notice of timberland preserve, together with a map and assessor's parcel numbers describing such land, shall impart constructive notice thereof.

SEC. 6. Section 434 5 of the Revenue and Taxation Code is amended to read.

434.5 (a) On March 1, 1977, for the 1977–78 fiscal year, 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.

(b) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, the "full cash value" of timberland for fiscal year 1978–79 means the value of timberland as determined pursuant to subdivision (a) of this section increased by 2 percent, and for fiscal years 1979–80 and thereafter, the value of timberland shall be determined pursuant to subdivision (c) or (d) of this section.

(c) When timberland, or a portion thereof, has not been purchased, or when a change in ownership has not occurred since the preceding lien date, the full cash value of such timberland shall reflect the percentage change in the 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.

(d) When timberland, or a portion thereof, has been purchased, or when a change in ownership has occurred since the preceding lien date:

(1) After March 1, 1978, and before March 1, 1979, the full cash value of such timberland shall reflect the percentage change in the 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.

(2) After March 1, 1979, the full cash value of such timberland shall be determined according to the triennially updated schedules of timberland values prepared pursuant to subdivisions (e) to (*l*). The most recent schedule of values shall be applicable. Such value shall be enrolled on the lien date next succeeding the date when the timberland, or a portion thereof, is purchased, or when a change in ownership has occurred.

(e) 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.

(f) Commencing January 1, 1977, the board shall collect such data

as may be necessary to accurately value timberland pursuant to subdivision (b).

(g) In promulgating regulations pursuant to subdivision (e) 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.

(h) 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).

(i) 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.

(j) 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.

(k) For the purposes of this section, the term "value" (and its derivatives) means "full value" as defined in Section 110.5.

(*l*) 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 Article XIII of the Constitution.

SEC. 7 Section 38202 of the Revenue and Taxation Code is amended to read:

38202. During December, 1978, and December of each subsequent year, after public hearings, the board shall adjust the yield tax rate to the nearest one-tenth of 1 percent in the same proportion that the average rate of general property taxation in the rate adjustment counties in the current tax year differs from the average rate of general property taxation in the rate adjustment counties in the preceding tax year. The board shall compute the average rate of general property taxation in the rate adjustment counties 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 rate adjustment counties, exclusive of the homeowners' and business inventory exemptions, as shown by the county tax rolls for the same year.

"Total assessed valuation," as used in this section, does not include the assessment of property which is subject to a uniform statewide tax rate.

"Special assessment" as used in this section, means any amount levied solely against land or land and improvements.

SEC. 8. Section 38303 of the Revenue and Taxation Code is amended to read·

38303. During December 1978 and each December thereafter, to and including December 1981, the board, after public hearings, shall establish a timber reserve fund tax rate for the 12-month period beginning on the next following January 1. In establishing this rate the board shall estimate the amount of timber which will be harvested during the year for which the rate is to be established and the immediate harvest value of that timber and shall establish a rate which it estimates will produce an amount equal to the amount certified by the Controller pursuant to Section 38907, plus an amount equal to the board's estimate of any shortfall in annual yield tax revenue guarantee payments to taxing agencies which the board estimates may occur in the subsequent calendar year, less the amounts reimbursed pursuant to paragraph (2) of subdivision (a) or paragraph (2) of subdivision (b) of Section 38904 in the current calendar year. The board shall certify the rate established under this section to the Director of Finance and the Legislature.

SEC. 9. Section 38904 of the Revenue and Taxation Code is amended to read:

38904. The money in the Timber Tax Fund is appropriated as follows:

(a) To reimburse the General Fund for funds advanced for costs incurred by the board in administration of this part as follows:

(1) Four hundred sixty-seven thousand nine hundred thirty dollars ($467,930) for fiscal years 1975–76 and 1976–77.

(2) Amounts identified and approved in subsequent fiscal years as approved in the Budget Bill. One-half of this amount shall be reimbursed to the General Fund on November 30, and the

remaining one-half on May 31. In the event that not all funds approved in the Budget Bill are actually expended by the board, then in the succeeding fiscal year, the amount to be reimbursed to the General Fund on November 30 shall be reduced by an amount equal to the unexpended appropriation of the preceding fiscal year.

(b) To reimburse the General Fund for funds advanced for costs incurred by the State Forester in administration of Section 4582.8 of the Public Resources Code as follows:

(1) Thirteen thousand five hundred dollars ($13,500) for fiscal years 1975–76 and 1976–77.

(2) Amounts identified and approved in subsequent fiscal years as approved in the Budget Bill.

(c) To the Controller to allocate pursuant to Section 38905.

(d) To pay refunds authorized by this part of taxes imposed pursuant to Section 38115 and interest, penalties, and other amounts paid or collected pursuant to this part and deposited in the Timber Tax Fund.

SEC. 10. Section 38905 of the Revenue and Taxation Code is amended to read:

38905. (a) For the 1977–78 fiscal year, the Controller shall transmit to the county treasurer 100 percent of the annual yield tax revenue guarantee certified pursuant to either subdivision (c) or (e) of Section 27423 of the Government Code for the 1977–78 fiscal year and each fiscal year thereafter, less the county's proportional share of the annual costs incurred under subdivisions (a) and (b) of Section 38904. Such proportional share shall be the ratio of each county's share, determined pursuant to subdivision (c) or (e) of Section 27423 of the Government Code, to the total of such shares in the state.

For the 1978–79 fiscal year and each fiscal year thereafter, the Controller shall transmit to the county treasurer 100 percent of the annual yield tax revenue guarantee certified pursuant to either subdivision (c) or (e) of Section 27423 of the Government Code. These amounts shall be distributed on the following dates of the fiscal year for which they are made: 50 percent on November 30, and 50 percent on May 31. The county auditor shall allocate moneys received under this subdivision among taxing agencies in the proportions accorded the respective agencies in the county's annual yield tax revenue guarantee as certified pursuant to either subdivision (c) or (e) of Section 27423 of the Government Code.

(b) The Controller shall transmit to the Timber Tax Reserve Fund the balance of any money in excess of two hundred fifty thousand dollars ($250,000) in the Timber Tax Fund on June 1, 1978, and on June 1 of each year thereafter following allocation pursuant to subdivision (a); provided, that if the balance in the Timber Tax Reserve Fund, following such transmittal, is eight million dollars ($8,000,000) or more, the amount above seven million dollars ($7,000,000) shall be distributed by the Controller as provided in subdivision (a) of Section 38906, and county auditors shall then distribute receipts as provided in subdivision (b) of Section 38906.

(c) In the event that the balance in the Timber Tax Fund is insufficient to make an allocation provided for in this section, the Controller shall transfer sufficient money to the fund from the Timber Tax Reserve Fund to make the allocation. In the event that there are insufficient funds in the Timber Tax Reserve Fund required to make the allocations provided in this section, each county's share shall be reduced pro rata, but any such reduction shall be restored in subsequent allocations.

SEC. 11. Section 38906 of the Revenue and Taxation Code is amended to read:

38906. (a) On August 1, 1978, and on August 1 of each year thereafter, the Controller shall transmit the balance of any money in the Timber Tax Reserve Fund in accordance with subdivision (b) of Section 38905 to the treasurer of each county in the proportion that the total taxes collected under this part in all previous quarters in that county bears to the total taxes collected in the state for the same period; provided that for all quarters beginning on or after October 1, 1982, such computation shall be made with respect to the previous 20 quarters. The transmittal to a county shall be accompanied by a tabulation showing the tax collections arising in each of the county's tax code areas, to govern distribution of moneys.

(b) Upon receipt of funds pursuant to subdivision (a), the county auditor shall within 10 days distribute the funds among the agencies levying taxes or ad valorem special assessments in each tax code area, in the proportion that each taxing agency's harvest factor calculated pursuant to subdivision (c) bears to the sum of the harvest factors for all taxing agencies in the county.

(c) On or before August 1, 1978, and each August 1, thereafter, the county auditor shall compute, and shall provide such to the State Controller, a schedule setting forth for each taxing agency or portion thereof lying within such county:

(1) The average of the aggregate value of all timber harvested within such district in each of the immediately preceding four quarters for 1978, eight quarters for 1979, and 12 quarters for 1980, and to a maximum of 20 quarters thereafter, as determined from the yield tax returns filed with the board;

(2) The aggregate dollar rate calculated pursuant to Section 2151 and actually utilized the immediately preceding October in extending real property taxes upon the tax rolls;

(3) A "harvest factor" which is the product of such quarterly average and such dollar rate; and

(4) The proportion that each taxing agency's harvest factor bears to the sum of the harvest factors for all taxing agencies in the county.

(d) In determining the harvest factor in subdivision (c), the auditor shall adjust for boundary changes as of the last lien date, and may require from the county information on boundary changes necessary to make such alterations. In establishing the harvest factor for a new district, an auditor shall assume that yield taxes have been collected within boundaries of the new district for the previous 12

quarters.

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:

At its 1975–76 Regular Session, the Legislature enacted Assembly Bill No. 1258 as Chapter 176 of the Statutes of 1976 to provide for an entirely new system for the taxation of timber and timberlands. This bill would correct errors in Assembly Bill No. 1258 which have resulted in school financing problems for school districts with a heavy dependence on timber-derived revenues, and would make corrective changes in the administration of the timber yield tax and the valuation of timberland necessitated by the passage of Proposition 13 on the June 6, 1978, ballot.

CHAPTER 1110

An act to amend Sections 73951 and 73952 of the Government Code, relating to courts.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 73951 of the Government Code is amended to read:

73951. There shall be seven judges, provided, that there shall be eight judges at such time as the San Diego County Board of Supervisors finds there are sufficient funds to provide for an eighth judge and adopts a resolution to that effect.

SEC. 2. Section 73952 of the Government Code is amended to read:

73952. There shall be one clerk-administrative officer, who shall be appointed by the judges of the court and who shall receive a biweekly salary at a rate specified in Range No. 57.46 of the salary schedule incorporated by Section 74343.1. In no event shall the salary of the clerk-administrative officer be less than 30 percent higher than that specified for the position of assistant clerk-administrative officer. Appointment to such position shall be at step C of the salary schedule unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 74350.

SEC. 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 this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1111

An act to amend Section 69595 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 69595 of the Government Code is amended to read:

69595. In the county of San Diego there shall be 40 judges of the Superior Court.

SEC. 2. The sum of three hundred thousand dollars ($300,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to San Diego County as payment for the annual cost of judgeships created pursuant to this act

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CHAPTER 1112

An act to amend Sections 33327, 33328.4, and 33457 of the Health and Safety Code, to amend Sections 155.14, 211, 214, 221, 251, 254, 255, 325, 531.6, 619, 1605, 1819, 11319, 11354, and 38104 of, and to amend and renumber the heading of Article 4 (commencing with Section 866) of Chapter 4 of Part 2 of Division 1 of, to repeal Sections 254.6 and 259.6 of, and to repeal Article 7 (commencing with Section 891) of Chapter 4 of Part 2 of Division 1 of, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 33327 of the Health and Safety Code, as amended by Chapter 246 of the Statutes of 1977, is amended to read:

33327. After receipt of any preliminary redevelopment plan pursuant to Section 33325, the agency shall transmit to the auditor, assessor, and tax collector of the county in which the proposed project is located, or to the officer or officers performing the functions of the auditor or assessor for any taxing agencies which, in levying or collecting its taxes, do not use the county assessment roll or do not collect its taxes through the county, to the legislative or governing bodies of such taxing agencies, and to the State Board of Equalization:

(1) A description of the boundaries of the project area and the property outside the project area specified in subdivision (g) of

Section 33328.

(2) A statement that a plan for the redevelopment of the area is being prepared.

(3) A map indicating the boundaries of the project area and the property outside the project area specified in subdivision (g) of Section 33328.

Thereafter, if the boundaries of the proposed project are changed to increase the land within the project area, the agency shall notify such taxing officials and the State Board of Equalization within 30 days by transmitting a description and map indicating each such boundary change made. The State Board of Equalization shall prescribe the format of the description of boundaries and statements, and the form, size, contents, and number of copies of the map required to be transmitted pursuant to this section

SEC. 2. Section 33328.4 of the Health and Safety Code is amended to read:

33328.4. The State Board of Equalization shall establish a schedule of fees for filing and processing the statements and maps which are required to be filed with the State Board of Equalization pursuant to Section 33327, 33328.3, 33375, or 33457. Such schedule shall not include any fee which exceeds the reasonably anticipated cost to the State Board of Equalization of performing the work to which the fee relates. The agency forwarding the statement and map pursuant to Section 33327, 33328.3, 33375, or 33457 shall accompany the statement and map with the necessary fee.

SEC. 3. Section 33457 of the Health and Safety Code is amended to read.

33457. After the amendment of a redevelopment plan to add the provision permitted by Section 33670, or to increase or reduce the size of the project area, the clerk of the community shall transmit a copy of the ordinance amending the plan, a description of the annexed or detached land within the project area and a map or plat indicating the amendments to the redevelopment plan, to the following parties:

(1) The auditor and assessor of the county in which the project is located;

(2) The officer or officers performing the functions of the auditor or assessor for any taxing agencies which, in levying or collecting taxes, do not use the county assessment roll or do not collect taxes through the county;

(3) The governing body of each of the taxing agencies which levies taxes upon any property in the project area; and

(4) The State Board of Equalization.

Such documents shall be transmitted within 30 days following the adoption of the amended redevelopment plan. The legal effect of such transmittal shall be as set forth in Section 33674.

SEC. 4. Section 155.14 of the Revenue and Taxation Code is amended to read:

155.14. Notwithstanding any provision of law to the contrary, the

board of supervisors may, by ordinance, provide that every person who at 12:01 a.m. on March 1 had a possessory interest in land owned by the state or federal government or who acquired such interest after such date and is liable for the taxes thereon for the fiscal year commencing immediately following July 1 and the permit or other right to enter upon the land has been suspended without his fault, because of a misfortune or calamity; may apply for reassessment of such property by delivering to the assessor a written application showing the condition and value, if any, of the possessory interest immediately before and after the suspension. The damage to the interest must be shown in the application to be in excess of five thousand dollars ($5,000). The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

Upon receiving a proper application, the assessor shall verify the amounts claimed on the application in the before and after condition. The assessor shall then compute a percentage relationship of loss and reduce the current assessed value by that percentage. The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the value of the suspended permit shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the suspension.

If the amount of damage, as verified by the assessor, is not at least five thousand dollars ($5,000), no adjustment shall be made to said roll and no taxes shall be canceled or refunded. The reassessments resulting from those reductions, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, said reassessments shall not be subject to review except by a court of competent jurisdiction.

If no such application is made and the assessor determines that a possessory interest has suffered damage caused by misfortune or calamity, which may qualify the assessee for relief under this section, the assessor shall provide the last known assessee of the property with an application for reassessment. The assessee shall file the completed application within 30 days of notification by the assessor. Upon receipt of a properly completed, timely filed application, the assessor shall proceed to reassess property in the same manner as required above.

The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of its original assessment shall be

applied to the amount of the reassessment determined in accordance with this section. In the event that the resulting figure is less than the tax theretofore computed, the tax shall be determined as follows:

(a) With respect to property on the secured roll a prorated portion of the tax due on the property as originally assessed at the rate established for property on the secured roll for the current fiscal year, such proration to be determined on the basis of the number of months in the year during which the property was in an undamaged condition plus a proration of the tax due on the property as reassessed in its damaged or destroyed condition at the rate established for property on the secured roll for the balance of the fiscal year.

(b) With respect to property on the unsecured roll, he shall be liable for a prorated portion of the tax computed on the original assessment of the property and a prorated portion of the tax computed on the reassessment of the property as determined in the preceding paragraph.

Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9 of this division, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

The assessment of the property, in its damaged condition, as determined by this section, shall be reviewed at the lien date next following the date of the misfortune or calamity and shall be assessed in the same manner as prescribed by law for any other assessable property.

As used in this section, "damage" means a possessory interest in land owned by the state or federal government wherein the permit or other right to use the land has been suspended because of a misfortune or calamity such as the drought condition in California.

This section applies to all counties, whether operating under a charter or under the general laws of this state.

This section shall not be operative in any county unless Section 155.13 of this code is operative in such county.

SEC. 5. Section 211 of the Revenue and Taxation Code is amended to read:

211. The exemption of fruit- and nut-bearing trees until four years after the season in which they were planted in orchard form and grapevines until three years after the season in which they were planted in vineyard form is as specified in subdivision (i) of Section 3 of Article XIII of the Constitution. The exemption of timber is as specified in subdivision (j) of Section 3 of Article XIII of the Constitution and Section 436.

SEC. 6. Section 214 of the Revenue and Taxation Code is amended to read.

214. Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from

taxation if:

(1) The owner is not organized or operated for profit; provided, that in the case of hospitals, such organization shall not be deemed to be organized or operated for profit, if during the immediate preceding fiscal year the excess of operating revenues, exclusive of gifts, endowments and grants-in-aid, over operating expenses shall not have exceeded a sum equivalent to 10 percent of such operating expenses. As used herein, operating expenses shall include depreciation based on cost of replacement and amortization of, and interest on, indebtedness;

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual;

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose;

(4) The property is not used or operated by the owner or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor, or bondholder of the owner or operator, or any other person, through the distribution of profits, payment of excessive charges or compensations or the more advantageous pursuit of their business or profession;

(5) The property is not used by the owner or members thereof for fraternal or lodge purposes, or for social club purposes except where such use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose;

(6) The property is irrevocably dedicated to religious, charitable, scientific, or hospital purposes and upon the liquidation, dissolution or abandonment of the owner will not inure to the benefit of any private person except a fund, foundation or corporation organized and operated for religious, hospital, scientific, or charitable purposes;

(7) The property, if used exclusively for scientific purposes, is used by a foundation or institution which, in addition to complying with the foregoing requirements for the exemption of charitable organization in general, has been chartered by the Congress of the United States (except that this requirement shall not apply when the scientific purposes are medical research), and whose objects are the encouragement or conduct of scientific investigation, research and discovery for the benefit of the community at large.

The exemption provided for herein shall be known as the "welfare exemption." This exemption shall be in addition to any other exemption now provided by law. This section shall not be construed to enlarge the college exemption. Property used exclusively for school purposes of less than collegiate grade and owned and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all of the requirements of this section, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section

Property used exclusively for nursery school purposes and owned and operated by religious, hospital or charitable funds, foundations or corporations, which property and funds, foundations or corporations meet all the requirements of this section, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

Property used exclusively for a noncommercial educational FM broadcast station or an educational television station and owned and operated by religious, hospital, scientific or charitable funds, foundations or corporations meeting all of the requirements of this section, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

Property used exclusively for housing and related facilities for elderly or handicapped families and financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. 1701q), as amended, or Section 236 of Public Law 90-448 (12 U.S.C. 1715z), and owned and operated by religious, hospital, scientific or charitable funds, foundations or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the Constitution of the State of California and this section.

SEC. 7. Section 221 of the Revenue and Taxation Code is amended to read:

221. For the purposes of Section 214 a nursery school is any group facility for minors which has obtained a written license or permit to operate as such from the State Department of Social Services or from an inspection service approved or accredited by the State Department of Social Services, and which is owned and operated for one or more of the following purposes:

(a) The facility is owned and operated to provide day care for minors whose parent or parents are unable to supervise such minors due to the hours of employment of the parent or parents.

(b) The facility is owned and operated to provide training and education for minors of preschool age.

(c) The facility is owned and operated to provide instruction to parents on the subject of raising minors and to provide training and education for minors.

SEC. 8. Section 251 of the Revenue and Taxation Code, as amended by Chapter 246 of the Statutes of 1977, is amended to read:

251. The board shall prescribe all procedures and forms required to carry into effect the veterans', veterans' organization, church, cemetery, college, exhibition, welfare, free public libraries, free museums, public schools, homeowners' and transshipment property tax exemption.

SEC. 8.5. Section 251 of the Revenue and Taxation Code, as amended by Chapter 1183 of the Statutes of 1977, is amended to read:

251. The board shall prescribe all procedures and forms required to carry into effect the veterans', veterans' organization, church, cemetery, college, exhibition, welfare, free public libraries, free museums, public school, homeowners', residential rehabilitation, and transshipment property tax exemption.

SEC. 9. Section 254 of the Revenue and Taxation Code is amended to read:

254. Any person claiming the church, cemetery, college, exhibition, welfare, veterans' organization, free public libraries, free museums, or public schools property tax exemption and anyone claiming the classification of a vessel as a documented vessel eligible for assessment under Section 227, shall submit to the assessor annually an affidavit, giving any information required by the board.

SEC. 10. Section 254.6 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 255 of the Revenue and Taxation Code is amended to read:

255. (a) Affidavits required for exemptions named in this article, except the church exemption, the veterans' exemption, the homeowners' exemption, and the transshipment exemption under Section 225, shall be filed with the assessor between the lien date and 5 p.m. on March 15. Affidavits for the veterans' exemption shall be filed with the assessor between the lien date and 5 p.m. on April 15.

(b) Affidavits for the homeowners' exemption except as otherwise provided in Sections 255.1, 255.2, and 275, shall be filed with assessor any time after the claimant becomes eligible but no later than 5 p.m. on April 15.

(c) Affidavits required for classification of vessels as documented vessels eligible for assessment under Section 227 shall be filed with the assessor between the lien date and 5 p.m. on April 1.

(d) Affidavits for the church exemption shall be filed with the assessor between the lien date and 5 p.m. on March 31.

(e) Affidavits required for the transshipment exemption shall be filed with the assessor at the same time the property statement is required to be filed pursuant to Section 441, unless the person claiming the exemption is not required to file a property statement, in which case the affidavit shall be filed with the assessor between the lien date and 5 p.m. on the last Friday in May.

SEC. 12. Section 259.6 of the Revenue and Taxation Code is repealed.

SEC. 13. Section 325 of the Revenue and Taxation Code is amended to read:

325. When a map has been adopted as an official map under Division 3 (commencing with Section 66499.50) of Title 7 of the Government Code, land may be described by numbers or letters as shown on the official map.

SEC. 14. Section 531.6 of the Revenue and Taxation Code is amended to read:

531.6. The taxpayer who has filed a claim for the homeowners'

exemption which has not been denied by the assessor is responsible for notifying the assessor when the property is no longer eligible for the exemption.

Upon any indication that a homeowners' exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the homeowners' exemption. If the assessor determines that the property is no longer eligible for the exemption, he shall immediately cancel the exemption on the property.

If a homeowners' exemption has been incorrectly allowed, an escape assessment as allowed by Section 531.1 in the amount of the exemption with interest as provided in Section 506 shall be made, except that where the exemption was allowed as the result of an assessor's error, the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that such information was erroneous or incomplete or because the claimant failed to notify the assessor in a timely manner that the property was no longer eligible for the exemption, the penalty provided in Section 504 shall be added to the assessment.

SEC. 14.5. Section 531.6 of the Revenue and Taxation Code is amended to read:

531.6. The taxpayer who has filed a claim for the homeowners' exemption which has not been denied by the assessor is responsible for notifying the assessor when the property is no longer eligible for the exemption.

Upon any indication that a homeowners' exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the homeowners' exemption. If the assessor determines that the property is no longer eligible for the exemption, he shall immediately cancel the exemption on the property.

If a homeowners' exemption has been incorrectly allowed, an escape assessment as allowed by Section 531.1 in the amount of the exemption with interest as provided in Section 506 shall be made, except that where the exemption was allowed as the result of an assessor's error, the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that such information was erroneous or incomplete or because the claimant failed to notify the assessor in a timely manner that the property was no longer eligible for the exemption, the penalty provided in Section 504 shall be added to the assessment. If the property subject to this paragraph has been transferred or conveyed to a bona fide purchaser for value during the period commencing with the lien date and ending July 1 of the fiscal year for which such exemption was incorrectly allowed, and the claimant is not the purchaser, any amount of penalty provided by Section 504 or any amount of interest provided by Section 506 imposed pursuant to the escape assessment due to such incorrect homeowners' exemption shall be forgiven.

SEC. 15. Section 619 of the Revenue and Taxation Code is

amended to read:

619. The assessor shall, upon or prior to completion of the local roll, either:

(a) Inform each assessee of real property on the local secured roll whose property's full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(b) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his real property or of both his real and his personal property as it shall appear on the completed local roll.

The information given by the assessor to the assessee pursuant to subdivision (a) or (b) shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure.

The information shall also include the assessment ratio for the county as provided in Section 401 and the full value of the property.

The information shall be furnished by the assessor to the assessee by regular United States mail directed to him at his latest address known to the assessor.

Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

SEC. 15.1. The heading of Article 4 (commencing with Section 866) of Chapter 4 of Part 2 of Division 1 of the Revenue and Taxation Code is amended and renumbered to read:

Article 6. State Assessed Property Escaping Assessment

SEC. 15.2. Article 7 (commencing with Section 891) of Chapter 4 of Part 2 of Division 1 of the Revenue and Taxation Code is repealed.

SEC. 15.5. Section 619 of the Revenue and Taxation Code is amended to read:

619. The assessor shall, upon or prior to completion of the local roll, either:

(a) Inform each assessee of real property on the local secured roll whose property's full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(b) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his real property or of both his real and his personal property as it shall appear on the completed local roll.

The information given by the assessor to the assessee pursuant to

subdivision (a) or (b) shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1607 and the manner in which the assessee may request use of this procedure.

The information shall also include the full value of the property.

The information shall be furnished by the assessor to the assessee by regular United States mail directed to him at his latest address known to the assessor.

Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(c) This section does not apply to increases in assessed value caused solely by changes in the assessment ratio provided for in Section 401.

SEC. 16. Section 1605 of the Revenue and Taxation Code is amended to read:

1605. (a) An assessment made outside of the regular assessment period is not effective for any purpose, including its review, equalization and adjustment by the county board, until the assessee has been notified thereof personally or by United States mail at his address as contained in the official records of the county assessor. Receipt by the assessee of a tax bill based on said assessment shall suffice as such notice.

(b) Upon application for reduction pursuant to subdivision (a) of Section 1603, such assessment shall be subject to review, equalization and adjustment by the county board. The application must be filed with the clerk no later than 60 days after the date on which the assessee was notified.

(c) In counties where assessment appeals boards have not been created and are not in existence, at any regular meeting, the board of supervisors, on the request of the assessor or any taxpayer, shall sit as the county board to equalize any assessments made by the assessor outside the regular assessment period for such assessments. Notwithstanding any other provision of law to the contrary, in any county in which assessment appeals boards have been created and are in existence, the time for equalization of assessments made outside the regular assessment period for such assessments, including assessments made pursuant to Sections 501, 503, 504, 531, and 531.1 shall be prescribed by rules adopted by the board of supervisors.

SEC. 16.5. Section 1605 of the Revenue and Taxation Code is amended to read:

1605. (a) An assessment made outside of the regular assessment period is not effective for any purpose, including its review, equalization and adjustment by the county board, until the assessee has been notified thereof personally or by United States mail at his address as contained in the official records of the county assessor.

Receipt by the assessee of a tax bill based on said assessment shall suffice as such notice.

(b) Upon application for reduction pursuant to subdivision (a) of Section 1603, such assessment shall be subject to review, equalization and adjustment by the county board. The application must be filed with the clerk no later than 60 days after the date on which the assessee was notified.

(c) In counties where assessment appeals boards have not been created and are not in existence, at any regular meeting, the board of supervisors, on the request of the assessor or any taxpayer, shall sit as the county board to equalize any assessments made by the assessor outside the regular assessment period for such assessments. Notwithstanding any other provision of law to the contrary, in any county in which assessment appeals boards have been created and are in existence, the time for equalization of assessments made outside the regular assessment period for such assessments, including assessments made pursuant to Sections 501, 503, 504, 531, and 531.1 shall be prescribed by rules adopted by the board of supervisors.

(d) If an audit of the books and records of any profession, trade, or business pursuant to Section 469 of this code discloses property subject to an escaped assessment for any year, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those instances when such property had previously been equalized for the year in question by the county board of equalization or assessment appeals board. The application must be filed with the clerk no later than 60 days after the mailing of the tax bill on such assessment to the assessee.

SEC. 17. Section 1819 of the Revenue and Taxation Code is amended to read:

1819. (a) As soon as tabulations have been made pursuant to Section 1818, the board shall give the assessor of each county a reasonable opportunity to examine that portion of the tabulations affecting property in this county. The assessor may, prior to August 1st, petition the board for reconsideration of the tabulations for his county and, if he has so requested in his petition, shall be granted an oral hearing by the board itself. After making any adjustment it deems appropriate, but not later than August 23rd, the board shall make available for public inspection all such tabulations and shall publish the ratio of assessed to full value of all locally assessable property for each county and for the state. "Tabulations" do not include appraisal data relating to individual properties.

(b) On or before May 15 of the following calendar year, the board shall publish a corrected ratio of assessed value to full value of all locally assessable property for each county and for the state.

This corrected ratio shall reflect changes in the total assessed value on the roll for the current fiscal year made by the assessor, auditor,

county board of supervisors, and county board of equalization.

This corrected ratio shall be used to calculate a corrected factor pursuant to Sections 41201 and 84200 of the Education Code, and such corrected factor shall be certified to the Superintendent of Public Instruction on or before May 20. The superintendent shall use this factor in computing or recomputing the amount of school aid to which each school district in the state is entitled.

The corrections needed in the amount of state aid to school districts as a result of the recomputations shall be made in the apportionment not later than the following fiscal year.

The corrected ratio shall not be used for the purposes of Section 1605.

In computing the ratio of assessed value to the full value for any county, pursuant to Section 1817 and subdivision (a) of this section, the board shall not consider in any way the reduction of assessed value as a result of equalization for the previous assessment year.

SEC. 18. Section 11319 of the Revenue and Taxation Code is amended to read:

11319. If any assessment made pursuant to this article results in a tax that is paid after December 10 of the year to which the assessment relates, the tax shall bear interest of 1 percent per month for the period it remains unpaid from such date to the date of payment.

SEC. 19. Section 11354 of the Revenue and Taxation Code is amended to read:

11354. A jeopardy assessment is delinquent at the time it becomes final, and if unpaid at this time, a penalty of 10 percent of the tax shall be added thereto, plus interest on the amount of tax at the rate of 1 percent per month or fraction thereof, from the date on which the tax becomes due and payable until the date of payment.

SEC. 20. Section 38104 of the Revenue and Taxation Code is amended to read:

38104. "Timber owner" means any person who owns timber immediately prior to felling or the first person who acquires either the legal title or beneficial title to timber after it has been felled from land owned by a federal agency or any other person or agency or entity exempt from property taxation under the Constitution or laws of the United States or under the Constitution or laws of the State of California. "Timber owner" includes any person who owns or acquires legal title or beneficial title to downed timber in this state.

SEC. 21. 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. 22. Section 8.5 of this act shall become operative only if Senate Constitutional Amendment No. 29 of the 1977–78 Regular Session is approved by the voters and, in such case, Section 251 of the Revenue and Taxation Code, as amended by Section 8 of this act shall not become operative.

SEC. 23. It is the intent of the Legislature, if this bill and Assembly Bill No. 2411 are both chaptered and become effective January 1, 1979, both bills amend Section 531.6 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2411, that the amendments to Section 531.6 proposed by both bills be given effect and incorporated in Section 531.6 in the form set forth in Section 14.5 of this act. Therefore, Section 14.5 of this act shall become operative only if this bill and Assembly Bill No. 2411 are both chaptered and become effective January 1, 1979, both amend Section 531.6, and this bill is chaptered after Assembly Bill No. 2411, in which case Section 14 of this act shall not become operative.

SEC. 24. It is the intent of the Legislature that if this bill and Senate Bill No. 1464 or Senate Bill No. 1656, or both, are chaptered and become effective January 1, 1979, the bills amend Section 619 of the Revenue and Taxation Code, and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Senate Bill No. 1464 are both chaptered and become effective January 1, 1979, both bills amend Section 619 of the Revenue and Taxation Code, but Senate Bill No. 1656 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1464, that Section 619 of the Revenue and Taxation Code, as amended by Section 15 of this act shall remain operative only until the operative date of Senate Bill No. 1464, and that on the operative date of Senate Bill No. 1464 Section 619 of the Revenue and Taxation Code as amended by Section 15 of this act be further amended in the form set forth in Section 15.5 of this act to incorporate the changes in Section 619 proposed by Senate Bill No. 1464. Therefore, Section 15.5 of this act shall become operative only if this bill and Senate Bill No. 1464 are both chaptered and become effective January 1, 1979, both bills amend Section 619, this bill is chaptered after Senate No. 1464, and Senate Bill No. 1656 is not chaptered or as chaptered does not amend that section, in which case Section 15.5 of this act shall become operative on the operative date of Senate Bill No. 1464.

(2) If this bill and Senate Bill No. 1656 are both chaptered and become effective January 1, 1979, both bills amend Section 619 of the Revenue and Taxation Code, but Senate Bill No. 1464 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 1656, that Section 619 of the Revenue and Taxation Code, as amended by Section 15 of this act shall remain operative only until the operative date of Senate Bill No. 1656, and that on the operative date of Senate Bill No. 1656 Section 619 of the Revenue and Taxation Code as amended by Section 15 of this act be further amended in the form set forth in Section 15.5 of this act to incorporate the changes in Section 619 proposed by Senate Bill No. 1656. Therefore, Section 15.5 of this act shall become operative only if this bill and Senate Bill No. 1656 are both chaptered and become effective January 1, 1979, both bills amend Section 619,

this bill is chaptered after Senate Bill No. 1656, and Senate Bill No. 1464 is not chaptered or as chaptered does not amend that section, in which case Section 15.5 of this act shall become operative on the operative date of Senate Bill No. 1656.

(3) If this bill and Senate Bill No. 1464 and Senate Bill No. 1656 are all chaptered and become effective January 1, 1979, all three bills amend Section 619 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1464 and Senate Bill No. 1656, that Section 619 of the Revenue and Taxation Code, as amended by Section 15 of this act shall remain operative only until the operative date of Senate Bill No. 1464 and Senate Bill No. 1656, and that on the operative date of Senate Bill No. 1464 and Senate Bill No. 1656 Section 619 of the Revenue and Taxation Code as amended by Section 15 of this act be further amended in the form set forth in Section 15.5 of this act to incorporate the changes in Section 619 proposed by Senate Bill No. 1464 and Senate Bill No. 1656. Therefore, Section 15.5 of this act shall become operative only if this bill and Senate Bill No. 1464 and Senate Bill No. 1656 are all chaptered and become effective January 1, 1979, all three bills amend Section 619 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1464 and Senate Bill No. 1656, in which case Section 15.5 of this act shall become operative on the operative date of Senate Bill No. 1464 and Senate Bill No. 1656.

SEC. 25. It is the intent of the Legislature, if this bill and Senate Bill No. 1752 are both chaptered and become effective January 1, 1979, both bills amend Section 1605 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1752, that the amendments to Section 1605 proposed by both bills be given effect and incorporated in Section 1605 in the form set forth in Section 16.5 of this act. Therefore, Section 16.5 of this act shall become operative only if this bill and Senate Bill No. 1752 are both chaptered and become effective January 1, 1979, both amend Section 1605, and this bill is chaptered after Senate Bill No. 1752, in which case Section 16 of this act shall not become operative.

CHAPTER 1113

An act to amend Sections 65922, 65924, 65927, 65928, 65930, 65941, 65944, 65950, 65955, 65956, and 65957 of, and to add Section 65957.1 to, the Government Code, and to amend Sections 21080.3, 21080.4, and 21151.5 of the Public Resources Code, relating to projects, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 65922 of the Government Code is amended to read:

65922. The provisions of this chapter shall not apply to the following:

(a) Activities of the State Energy Resources Development and Conservation Commission established pursuant to Division 15 (commencing with Section 25000) of the Public Resources Code.

(b) Administrative appeals within a state or local agency or to a state or local agency.

(c) Approval or disapproval of a final subdivision map pursuant to the provisions of the Subdivision Map Act (commencing with Section 66410); provided however, that the approval or disapproval of a final subdivision map shall occur within one year from the date on which the final map is filed for approval.

SEC. 2. Section 65924 of the Government Code is amended to read:

65924. With respect to any development project an application for which has been accepted as complete prior to January 1, 1978, the deadlines specified in Sections 65950 and 65952 shall be measured from January 1, 1978. With respect to such application received prior to January 1, 1978, but not determined to be complete as of that date, a determination that the application is complete or incomplete shall be made not later than 60 days after the effective date of the act amending this section in 1978.

SEC. 3. Section 65927 of the Government Code is amended to read:

65927. "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density of intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code)

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Nothing in this section shall be construed to subject the approval or disapproval of final subdivision maps to the provisions of this chapter.

"Development" does not mean a "change of organization", as defined in Section 56028, a "change of organization of a city", as defined in Section 35027, a "reorganization", as defined in Section 56068, or a "municipal reorganization", as defined in Section 35042.

SEC. 4. Section 65928 of the Government Code is amended to read:

65928. "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate. "Development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

SEC. 4.3. Section 65930 of the Government Code is amended to read:

65930. "Local agency" means any public agency other than a state agency. For purposes of this chapter, a redevelopment agency is a local agency and is not a state agency.

SEC. 4.5. Section 65941 of the Government Code is amended to read:

65941. The information compiled pursuant to Section 65940 shall also indicate the criteria which such agency will apply in order to determine the completeness of any application submitted to it for a development project.

In the event that a public agency is a lead agency for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code, such criteria shall not require the applicant to submit the informational equivalent of an environmental impact report as part of a complete application; provided, however, that such criteria may require sufficient information to permit the agency to make the determination required by Section 21080.1 of the Public Resources Code.

SEC. 5. Section 65944 of the Government Code is amended to read:

65944. (a) After a public agency accepts an application as complete, such agency shall not subsequently request of an applicant any new or additional information which, with respect to a state agency, was not specified in the list prepared pursuant to Section 65940, or, with respect to a local agency, was not required as part of the application. Such agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.

(b) The provisions of subdivision (a) shall not be construed as requiring an applicant to submit with his initial application the entirety of the information which a public agency may require in order to take final action on such application Prior to accepting an application, each state agency shall inform the applicant of any

information included in the list prepared pursuant to Section 65940 which will subsequently be required from the applicant in order to complete final action on such application. Similarly, each local agency, prior to accepting an application, shall inform the applicant of any information which will subsequently be required from the applicant in order to complete final action on such application.

(c) This section shall not be construed as limiting the ability of a public agency to request and obtain information which may be needed in order to comply with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 5.5. Section 65950 of the Government Code is amended to read:

65950. Any public agency which is the lead agency for a development project shall approve or disapprove such project within one year from the date on which an application requesting approval of such project has been received and accepted as complete by such agency. As specified in Sections 21100.2 and 21151.5 of the Public Resources Code, the period specified in such sections shall also begin on such date.

SEC. 6. Section 65955 of the Government Code is amended to read:

65955. The time limits established by this article shall not apply to applications to appropriate water where such applications have been protested pursuant to Chapter 4 (commencing with Section 1330) of Part 2 of Division 2 of the Water Code, or to petitions for changes pursuant to Chapter 10 (commencing with Section 1700) of Part 2 of Division 2 of the Water Code.

SEC. 7. Section 65956 of the Government Code is amended to read:

65956. (a) In the event that a lead agency or a responsible agency fails to act to approve or to disapprove a development project within the time limits required by this article, such failure to act shall be deemed approval of the development project.

(b) Failure of an applicant to submit complete or adequate information may constitute grounds for disapproving a development project.

SEC. 8. Section 65957 of the Government Code is amended to read:

65957. The time limits established by Sections 65950 and 65952 may be extended once for a period not to exceed 90 days upon consent of the public agency and the applicant.

SEC 8.1. Section 65957.1 is added to the Government Code, to read:

65957.1. In the event that a development project requires more than one approval by a public agency, such agency may establish time limits (1) for submitting the information required in connection with each separate request for approval and (2) for acting upon each such request; provided, however, that the time period for acting on all such requests shall not, in aggregate, exceed those limits specified in Sections 65950 and 65952

SEC. 8.2. Section 21080.3 of the Public Resources Code is amended to read:

21080.3. (a) Prior to determining whether a negative declaration or environmental impact report is required for a project, the lead agency shall consult with all responsible agencies and with any other public agency which has jurisdiction by law over natural resources affected by the project which are held in trust for the people of the State of California.

(b) In order to expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist such lead agency in determining the various responsible agencies for a proposed project. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant.

SEC. 8.3. Section 21080.4 of the Public Resources Code is amended to read:

21080.4. (a) In the event that a lead agency determines that an environmental impact report is required for a project, such lead agency shall immediately send notice of such determination by certified mail or an equivalent procedure to each responsible agency and to those public agencies having jurisdiction by law over natural resources affected by the project which are held in trust for the people of the State of California. Upon receipt of such notice, each responsible agency shall specify to the lead agency the scope and content of the environmental information which is germane to such responsible agency's statutory responsibilities in connection with the proposed project and which, pursuant to the requirements of this division, shall be included in the environmental impact report. Such information shall be specified in writing and shall be communicated to the lead agency by certified mail or equivalent procedure not later than 45 days after receipt of the notice of the lead agency's determination. The lead agency shall request similar guidance from appropriate federal agencies.

(b) In order to expedite the requirements of subdivision (a), the lead agency or any responsible agency or public agency having jurisdiction by law over natural resources affected by the project which are held in trust for the people of the State of California may request one or more meetings between representatives of such agencies for the purpose of assisting the lead agency to determine the scope and content of the environmental information such responsible agency may require. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant. Such meetings shall be convened by the lead agency as soon as possible, but no later than 30 days, after they have been requested.

(c) In order to expedite the requirements of subdivision (a), the Office of Planning and Research, upon request of a lead agency, shall assist such lead agency in determining the various responsible agencies and any federal agencies which have responsibility for

carrying out or approving a proposed project. In the case of a project described in subdivision (c) of Section 21065, such a request may also be made by the project applicant.

(d) In the event that a state agency is a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project which are held in trust for the people of the State of California, subject to the requirements of subdivision (a), the Office of Planning and Research shall ensure that the information required by subdivision (a) is transmitted to the lead agency within the required time period.

SEC. 8.5. Section 21151.5 of the Public Resources Code is amended to read:

21151.5. Each local agency shall establish, by ordinance or resolution, time limits, not to exceed one year for completing and certifying environmental impact reports, and 105 days for completing negative declarations, for projects described in subdivision (c) of Section 21065. Such time limits shall apply only to those circumstances in which such local agency is the lead agency for a project. Such ordinances or resolutions may establish different time limits for different types or classes of projects, but all such limits shall be measured from the date on which an application requesting approval of such project is received and accepted as complete by the local agency. The ordinances or resolutions required by this section may provide for a reasonable extension of such time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

SEC. 9. The Legislature hereby finds and declares that the amendment made to Section 65922 of the Government Code by Section 1 of this act, by the addition of subdivision (b) to Section 65922, is intended to clarify provisions of existing law which may be subject to ambiguous interpretation and that such amendment declares and restates existing law.

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 eliminate the possibility of ambiguity and uncertainty in the implementation and administration of the provisions of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, it is necessary that this act go into effect immediately

CHAPTER 1114

An act to amend Sections 94320 and 94336 of, and to add Article 8 (commencing with Section 32370) to Chapter 3 of Part 19 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Article 8 (commencing with Section 32370) is added to Chapter 3 of Part 19 of the Education Code, to read:

Article 8. Prohibited Activities

32370. As used in this article:

(a) "Person" means any individual, partnership, corporation, association, firm, or public board, agency, or entity.

(b) "Prepare" means to put into condition for intended use.

(c) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study or is an honorary title conferred for recognition of some meritorious achievement.

(d) "Diploma" means any diploma, certificate, transcript, document, or other writing in any language other than a degree representing that an individual has completed any course of study.

32371. Any person who prepares, manufactures, or prints, or who offers to prepare, manufacture, or print, for a fee or other compensation, any document purporting to be a degree or diploma without written authorization to do so from the school authority shall be guilty of a misdemeanor. As used in this section, "school authority" means any of the following:

(a) A governing board of a school district that issued or reissued the degree or diploma, as the case may be.

(b) A private school that issued or reissued the degree or diploma, as the case may be.

(c) Any public or private college, university, or other institution of higher learning that issued or reissued the degree or diploma, as the case may be.

Nothing in this section shall prohibit a person from reproducing, or having reproduced, for his personal use a degree or diploma issued to him by a school authority.

32372. No person shall:

(a) Sell, barter, offer to sell or barter, or conspire to sell or barter, any diploma or degree as defined in this article.

(b) Buy, obtain by barter, attempt to buy or obtain by barter, or conspire to obtain by barter or buy, any diploma or degree.

(c) Use in connection with any business, trade, profession, or occupation, or attempt to use in connection with any business, trade, profession or occupation, or conspire to use in connection with any business, trade, profession or occupation, any degree or diploma, which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered, or found.

(d) Use in connection with a business, trade, profession, or occupation, or give or receive, any degree or diploma which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered, or found.

(e) Attempt to use in connection with a business, trade, profession, or occupation, or attempt to give or receive, any degree or diploma, which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered, or found.

(f) Conspire to use in connection with a business, trade, profession, or occupation, or conspire to give or receive, any diploma or degree evidencing the undertaking or completion of any course of study or scholastic achievement attained if, in fact, such course of study has not been undertaken nor completed or if such scholastic achievement has not been attained.

32373. Any person willfully violating any provision of Section 32372 is guilty of a misdemeanor and is punishable by imprisonment in the county jail, or by a fine of not more than one thousand dollars ($1,000) or by both such fine and imprisonment.

32374. Any court of competent jurisdiction is hereby authorized to grant such relief as is necessary to enforce the provisions of this article, including the issuance of an injunction.

32375. Actions for injunction under the provisions of this article may be brought in the name of the people of the State of California upon their own complaint or upon the complaint of any person, or in the name of any authorized public or private school, college, university, or other authorized institution of learning, acting on its own behalf or the general public.

SEC. 2. Section 94320 of the Education Code is amended to read:

94320. No institution, or representative of such institution, shall:

(a) Operate in this state a postsecondary educational institution not exempted from the provisions of this chapter, unless said institution has a currently valid authorization to operate issued pursuant to the provisions of this chapter.

(b) Offer, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, an institution not exempted from the provisions of this chapter, whether such institution is within or outside this state, unless such agent is a natural

person and has a currently valid agent's permit issued pursuant to the provisions of this chapter, nor accept contracts or enrollment applications from an agent who does not have a current permit as required by this chapter; provided, however, that the superintendent may promulgate rules and regulations to permit the rendering of legitimate public information services without such permit.

(c) Instruct or educate, or offer to instruct or educate, including soliciting for such purposes, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, in this state, whether such person, agent, group, or entity is located within or without this state, unless such person, agent, group, or entity observes and is in compliance with the minimum standards set forth in Section 94312, the criteria established by the superintendent and reviewed by the council pursuant to paragraph (4) of subdivision (f) of Section 94304, and the rules and regulations adopted by the superintendent pursuant to subdivision (b) of Section 94305.

(d) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on any diploma.

SEC. 3. Section 94336 of the Education Code is amended to read:

94336. Any person, firm, association, partnership, or corporation willfully violating subdivision (d) of Section 94320 is guilty of a felony and is punishable by imprisonment in the state prison, or by a fine of not less than one thousand dollars ($1,000) or by both such fine and imprisonment.

Any person, firm, association, partnership, or corporation which willfully violates any other provision of this article, is punishable, for a first offense, by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding five hundred dollars ($500), or both; and any second or subsequent offense shall be a felony punishable by imprisonment in the state prison, or by a fine not less than one thousand dollars ($1,000) or by both such fine and 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.

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

In order that the preparation of degrees and diplomas in California may be done in a more reasonable manner at the earliest possible

time, to insure the integrity of the educational offerings of this state, it is essential that this act take effect immediately.

CHAPTER 1115

An act to amend Section 11011.1 of, and to add Section 11011.9 to, the Government Code, relating to housing.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 11011.1 of the Government Code is amended to read:

11011.1. (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), and (d), transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value.

(b) Where such land is to be used for park and recreation purposes and operated for such purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding any provision in Section 11011, transfer the land to local governmental agencies at less than the fair market value of the land, if such transfer is in the public interest, under the following conditions:

(i) The local public agency has submitted a general development plan for the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which general development plan has been approved by the Director of Parks and Recreation.

(ii) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years. The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period so determined by the state.

(iii) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(c) Where such land is to be used for open-space purposes, as defined herein, and operated by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may transfer the land to local governmental agencies at fair market value of the land or at any lesser value of the land under the following conditions:

(i) The local public agency has submitted a plan for the use of the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which plan has been approved by the Director of Parks and Recreation.

(ii) The land shall be used according to plan within a time period determined by the state but not to exceed 10 years.

(iii) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with open-space purposes during the period of 25 years following the sale.

(iv) For the purpose of this subdivision, "open-space purpose" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Where such land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may offer the land to local agencies within whose jurisdiction the land is located. Provided, however, where such land is not used for the purposes for which it was acquired, and such land is declared surplus land and is not needed by any other state agency pursuant to the provisions of Section 11011, the state shall extend to the individual from whom the land was acquired an offer to purchase such land at current fair market value. Such offer shall extend for 60 days and if not exercised within such period shall be irrevocably terminated. This provision shall not apply to surplus land to which the state has held title for more than seven years. Such land may be transferred at a reasonable cost which will enable the provision of housing for persons and families of low or moderate income. Such cost may be less than fair market value. The Department of Housing and Community Development shall recommend to the Department of General Services a cost which will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to the following conditions:

(1) The local agency has made all of the following findings:

(A) There is a need for such housing in the community.

(B) The land is suitable for development of such housing.

(2) The local agency develops a plan for such housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project. Such plan shall be approved by the Department of Housing and Community Development.

(3) After transfer of such property from the state to the local agency, the property shall be developed as housing for persons and families of low or moderate income. The local agency may lease such

property to any nonprofit corporation, housing corporation, limited dividend housing corporation, or private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income. In authorizing such private development, the local agency shall impose reasonable terms and conditions as will further the purposes of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or moderate income. A lessee of land pursuant to this subdivision shall agree to limitations on profit in the operation of such property which will benefit the public and assure that the housing provided thereon is within the means of persons and families of low or moderate income. Such agreement shall be binding upon successors in interest of the original lessee and shall inure to the benefit of, and be enforceable by, the state.

(4) The local agency shall assure that the land will be used for the purpose of providing low or moderate income housing and shall not permit the use of the dwelling accommodations of the project for any other purpose, except as provided in this section.

In the event a local agency does not comply with the land use requirements prescribed in this section, as determined by the Department of General Services, the Department of General Services may require that the local agency pay the state the difference between the actual price paid by the local agency for the property and the fair market value of such property, at the time of the department's determination of noncompliance, plus 6 percent interest on such amount for the period of time the land has been held by the local agency.

If the local agency, with the approval of the Department of General Services, and in consultation with the Department of Housing and Community Development, determines that there is no longer a need for low or moderate income housing within the jurisdiction of the local agency and another valid public purpose could be achieved by utilizing the land in an alternative manner, the local agency shall not be required to make any payment to the state for the difference between purchase price and fair market value or interest charges for the period of time the land has been held by the local agency.

(5) Failure to comply with the provisions of this section shall not invalidate the transfer, sale, or conveyance of the real property to a bona fide purchaser or encumbrancer for value.

(6) The project shall be commenced within 24 months of the original transfer to the local agency. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may for justifiable cause extend the time for commencement of development for an additional 36 months. The aggregate time for commencing development shall not exceed 60 months. If development has not commenced within such time, the land shall revert to the Department of General Services for

disposal pursuant to Section 11011.1 of the Government Code or as otherwise authorized by law.

(7) As used in this subdivision, "local agency" means and includes any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more such agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7 of this code.

(e) The Department of Housing and Community Development, in consultation with the Department of General Services and the Office of Planning and Research, shall make a report to the Legislature on or before January 1, 1981, with respect to effectiveness of the program and shall recommend any necessary legislative changes to the provisions of subdivision (d).

(f) Where such land is to be used for public purposes other than specifically set forth in this section, is to be operated by the local agency at no expense to the state, and the use and enjoyment of the public purpose contemplated will be of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the local agency, the Director of General Services, with the approval of the State Public Works Board, may transfer the land to local governmental agencies at a sales price not less than 50 percent of fair market value. Any such transfer shall provide that if the land is not used for the contemplated purpose during the period of 25 years following the sale, the land shall revert to the state. The Director of General Services may provide additional terms and conditions as he determines to be in the best interest of the state.

(g) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and offer the land accordingly.

(h) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer such lands for housing pursuant to subdivision (d).

(i) Transfer of state surplus lands under subdivision (d) shall be at a cost which will enable provision of economically feasible housing for persons and families of low or moderate income.

(j) The provisions of this section shall not be applicable to the disposal by a state agency of surplus residential property, as defined in subdivision (h) of Section 54221 of the Government Code, as amended by Senate Bill No. 1885 of the 1977–78 Regular Session, if Senate Bill No. 1885 is chaptered and becomes effective January 1, 1979, and adds Section 54226.5 to the Government Code.

SEC. 1.5. Section 11011.1 of the Government Code is amended to read:

11011.1. (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), and (e), transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value.

(b) Where such land is to be used for park and recreation purposes and operated for such purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding any provision in Section 11011, transfer the land to local governmental agencies at less than the fair market value of the land, if such transfer is in the public interest, under the following conditions:

(i) The local public agency has submitted a general development plan for the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which general development plan has been approved by the Director of Parks and Recreation.

(ii) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years. The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period so determined by the state.

(iii) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(c) Where such land is to be used for open-space purposes, as defined herein, and operated by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may transfer the land to local governmental agencies at fair market value of the land or at any lesser value of the land under the following conditions:

(i) The local public agency has submitted a plan for the use of the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which plan has been approved by the Director of Parks and Recreation.

(ii) The land shall be used according to plan with a time period determined by the state but not to exceed 10 years.

(iii) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with open-space purposes during the period of 25 years following the sale.

(iv) For the purpose of this subdivision, "open-space purpose" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Any transfer of land pursuant to this section shall be subject to the applicable provisions regarding mineral reservations found in Chapter 5 (commencing with Section 6401) of Part 1 of Division 6 of the Public Resources Code.

(e) Where such land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may offer the land to local agencies within whose jurisdiction the land is located. Provided, however, where such land is not used for the purposes for which it was acquired, and such land is declared surplus land and is not needed by any other state agency pursuant to the provisions of Section 11011, the state shall extend to the individual from whom the land was acquired an offer to purchase such land at current fair market value. Such offer shall extend for 60 days and if not exercised within such period shall be irrevocably terminated. This provision shall not apply to surplus land to which the state has held title for more than seven years. Such land may be transferred at a reasonable cost which will enable the provision of housing for persons and families of low or moderate income. Such cost may be less than fair market value. The Department of Housing and Community Development shall recommend to the Department of General Services a cost which will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to the following conditions:

(1) The local agency has made all of the following findings:

(A) There is a need for such housing in the community.

(B) The land is suitable for development of such housing.

(2) The local agency develops a plan for such housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project. Such plan shall be approved by the Department of Housing and Community Development.

(3) After transfer of such property from the state to the local agency, the property shall be developed as housing for persons and families of low or moderate income. The local agency may lease such property to any nonprofit corporation, housing corporation, limited

dividend housing corporation, or private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income. In authorizing such private development, the local agency shall impose reasonable terms and conditions as will further the purposes of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or moderate income. A lessee of land pursuant to this subdivision shall agree to limitations on profit in the operation of such property which will benefit the public and assure that the housing provided thereon is within the means of persons and families of low or moderate income. Such agreement shall be binding upon successors in interest of the original lessee and shall inure to the benefit of, and be enforceable by, the state.

(4) The local agency shall assure that the land will be used for the purpose of providing low or moderate income housing and shall not permit the use of the dwelling accommodations of the project for any other purpose, except as provided in this section.

In the event a local agency does not comply with the land use requirements prescribed in this section, as determined by the Department of General Services, the Department of General Services may require that the local agency pay the state the difference between the actual price paid by the local agency for the property and the fair market value of such property, at the time of the department's determination of noncompliance, plus 6 percent interest on such amount for the period of time the land has been held by the local agency.

If the local agency, with the approval of the Department of General Services, and in consultation with the Department of Housing and Community Development, determines that there is no longer a need for low or moderate income housing within the jurisdiction of the local agency and another valid public purpose could be achieved by utilizing the land in an alternative manner, the local agency shall not be required to make any payment to the state for the difference between purchase price and fair market value or interest charges for the period of time the land has been held by the local agency.

(5) Failure to comply with the provisions of this section shall not invalidate the transfer, sale, or conveyance of the real property to a bona fide purchaser or encumbrancer for value.

(6) The project shall be commenced within 24 months of the original transfer to the local agency. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may for justifiable cause extend the time for commencement of development for an additional 36 months. The aggregate time for commencing development shall not exceed 60 months. If development has not commenced within such time, the land shall revert to the Department of General Services for disposal pursuant to Section 11011.1 of the Government Code or as

otherwise authorized by law.

(7) As used in this subdivision, "local agency" means and includes any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more such agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7.

(f) The Department of Housing and Community Development, in consultation with the Department of General Services and the Office of Planning and Research, shall make a report to the Legislature on or before January 1, 1981, with respect to effectiveness of the program and shall recommend any necessary legislative changes to the provisions of subdivision (e).

(g) Where such land is to be used for public purposes other than specifically set forth in this section, is to be operated by the local agency at no expense to the state, and the use and enjoyment of the public purpose contemplated will be of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the local agency, the Director of General Services, with the approval of the State Public Works Board, may transfer the land to local governmental agencies at a sales price not less than 50 percent of fair market value. Any such transfer shall provide that if the land is not used for the contemplated purpose during the period of 25 years following the sale, the land shall revert to the state. The Director of General Services may provide additional terms and conditions as he determines to be in the best interest of the state.

(h) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and offer the land accordingly.

(i) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer such lands for housing pursuant to subdivision (e).

(j) Transfer of state surplus lands under subdivision (e) shall be

a a cost which will enable provision of economically feasible housing for persons and families of low or moderate income.

(k) The provisions of this section shall not be applicable to the disposal by a state agency of surplus residential property, as defined in subdivision (i) of Section 54221 of the Government Code, as amended by Senate Bill No. 1885 of the 1977–78 Regular Session, if Senate Bill No. 1885 is chaptered and becomes effective January 1, 1979 and adds Section 54226.5 to the Government Code.

SEC. 2. Section 11011.9 is added to the Government Code, to read.

11011.9. (a) The Legislature finds and declares that:

(1) Disposition of surplus property owned by public agencies should be utilized to further state policies.

(2) There exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low or moderate income can afford, and consequently there is a pressing and urgent need for the preservation and expansion of the supply of housing for such persons.

(3) The provision of decent housing for all Californians is a state goal of the highest priority. The disposal of surplus land is a direct and substantial public purpose of statewide concern and will serve an important public purpose, including mitigating the environmental effects of state activities. Therefore, it is the intent of the Legislature that priority be given in the disposal of surplus state land to housing for persons and families of low or moderate income, where such land is suitable for housing and there is a need for such housing in the community.

(4) There is an identifiable deficiency in the amount of recreational land available to the public for park, recreational, and open-space purposes, as well as for housing and general community development purposes in accord with state policies.

(b) It is the intent of the Legislature that state surplus property be disposed of in a manner which furthers state policies in the areas of parks, recreation, open space, and housing and community development.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 1723 are both chaptered and become effective January 1, 1979, both bills amend Section 11011.1 of the Government Code, and this bill is chaptered after Senate Bill No. 1723, that the amendments to Section 11011.1 proposed by both bills be given effect and incorporated in Section 11011.1 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill No. 1723 are both chaptered and become effective January 1, 1979, both amend Section 11011.1, and this bill is chaptered after Senate Bill No. 1723, in which case Section 1 of this act shall not become operative.

CHAPTER 1116

An act to add Section 14670.35 to the Government Code, relating to state property.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 14670.35 is added to the Government Code, to read:

14670.35. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Developmental Services, may let in the best interests of the state and at a price which will permit the development of affordable housing for persons eligible under this section, to any person, including but not limited to any corporation or partnership, real property not exceeding 60 acres located within the grounds of Fairview State Hospital, for the purpose of developing affordable housing, which may include manufactured housing, for the employees of Fairview State Hospital, and for a period not to exceed 55 years. The lease authorized by this section shall be nonassignable and shall be subject to review every five years by the Director of General Services, to assure the state that the original purposes of the lease are being carried out.

In the event of default by the lessee under the terms of the lease, the state shall take all necessary steps to cure such default but in no event shall state general funds, except funds collected pursuant to Section 15863, be expended to operate the property.

The housing developed pursuant to this section shall be available for the employees of Fairview State Hospital and to provide transitional housing for patient-clients of Fairview State Hospital returning to the community; provided that the housing available for transitional housing for patient-clients shall not be in excess of 10 percent of the units developed. In the event that vacancies occur in the units which cannot be filled by either employees of Fairview State Hospital or transitional patient-clients, then the units may be made available to persons employed within the City of Costa Mesa who are in need of affordable housing and whose incomes do not exceed 80 percent of the median income for Orange County as that income may be defined from time to time by the United States Department of Housing and Urban Development.

The Legislature finds and declares that the provision of decent and affordable housing for state employees and transitional patients, i.e. clients of state mental hospitals, is a public purpose of great statewide importance

CHAPTER 1117

An act to add Article 6 (commencing with Section 21660) to Chapter 9 of Division 8 of the Business and Professions Code, relating to swap meets.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Article 6 (commencing with Section 21660) is added to Chapter 9 of Division 8 of the Business and Professions Code, to read:

Article 6. Swap Meets

21660. It is the intent of the Legislature in enacting this article to require the statewide reporting of personal property exchanged, sold or offered for sale or exchange at "swap meets" in a uniform manner designed to permit the correlation of such reports with other reports of law enforcement agencies in order to assist in tracing and recovering stolen property and with the State Board of Equalization to detect possible sales tax evasion.

This article shall apply to swap meet operators and vendors, as defined herein, unless the personal property or the transaction is specifically exempt herein and shall not be superseded or supplanted by any provisions or ordinances or charters of any city, county, or city and county, nor supplemented by any such ordinances or charters or provisions. Nothing herein contained shall be deemed to affect the land use and zoning regulatory power of a local agency, nor be construed to require any local agency to permit swap meets where such local land use or zoning regulations prohibit such operations.

Any transaction which is regulated by this article shall not be subject to the provisions of Article 4 (commencing with Section 21625), regulating transactions in identifiable secondhand tangible personal property. No person, partnership, or corporation shall be considered a "secondhand dealer" within the meaning of Section 21661 because of activities regulated by this article.

21661. As used in this article:

(a) "Swap meet" means any event:

(1) At which two or more persons offer personal property for sale or exchange; and

(2) At which a fee is charged for the privilege of offering or displaying personal property for sale or exchange; or

(3) At which a fee is charged to prospective buyers for admission to the area where personal property is offered or displayed for sale or exchange; or

(4) Regardless of the number of persons offering or displaying

personal property or the absence of fees, at which used personal property is offered or displayed for sale or exchange if such event is held more than six times in any 12-month period.

(b) "Swap meet operator" means any person, partnership, organization or corporation which controls, manages, conducts or otherwise administers a swap meet.

(c) "Vendor" means any person, partnership, organization or corporation who exchanges, sells, or offers for sale or exchange any personal property at a swap meet.

(d) "Personal property" means:

(1) All serialized items of merchandise.

(2) All personal property commonly sold at swap meets which statistically is found through crime reports to the Attorney General to constitute a significant class of stolen goods. A list of such personal property shall be supplied by the Attorney General to all local law enforcement agencies. Such list shall be reviewed periodically by the Attorney General to insure that it addresses current problems with stolen goods.

21662. The provisions of this article shall not apply to:

(a) An event for the exclusive benefit of any community chest, fund, foundation, association or corporation organized and operated for religious, educational, hospital or charitable purposes, provided that no part of any admission fee charged vendors or prospective purchasers, or the gross receipts or net earnings from the sale or exchange of personal property, whether in the form of a percentage of such receipts or earnings, as salary, or otherwise, inures to the benefit of any private shareholder or person participating in the organization or conduct of the event.

(b) An event at which all of the personal property offered or displayed is new, and all persons selling, exchanging, or offering or displaying personal property for sale or exchange are manufacturers or licensed retail or wholesale merchants.

(c) Any vehicle or trailer.

(d) Any vehicle accessory or vehicle part exclusively for a motor vehicle eligible for vehicle registration under Section 5004 of the Vehicle Code.

21663. (a) Every vendor shall report all personal property offered or displayed for sale or exchange on a form, prescribed by the California Department of Justice, containing all the following information:

(1) The name and address of the vendor.

(2) A description of the personal property offered for sale or exchange, including serial numbers and personal identification marks, or where there is no serial number, other identification marks or symbols, if any.

(3) A certification by the vendor that to the vendor's knowledge and belief, the information contained on the form is true.

(4) The make, year, model, color and license number of the vehicle or vehicles in which the personal property is transported to

the swap meet.

(5) The California seller's permit number (State Board of Equalization sales tax number), if any, of the vendor.

(6) The vendor's motor vehicle driver's license number or California identification card numbers.

(7) If the vendor is an agent of an individual, company, partnership or corporation, the name and business address of the principal.

(b) The reporting form shall consist of not less than an original and two copies.

21664. (a) The swap meet operator shall obtain sufficient blank forms from the Department of Justice at a cost not to exceed the actual cost to the department for the use of vendors attending the swap meet, and shall distribute them to vendors as needed. The vendor shall submit the completed form to the operator who shall note on the vendor's copy that the vendor has submitted such form. The operator shall collect the original and one copy of the completed forms and, if the swap meet occurs within the territorial limits of an incorporated city, shall submit the original to the chief of police of that city within 24 hours or the first working day following the meet. If the swap meet occurs outside a city, the swap meet operator shall submit the original to the sheriff of the jurisdiction in which the meet occurs within 24 hours or the first working day following the meet. The chief of police or sheriff receiving such reports shall forward the original to the California Department of Justice when the California Department of Justice specifically requests the reports of a particular meet. After duplication or use, these original reports shall be returned to the chief of police or sheriff who forwarded the reports. The original shall also be available to the State Board of Equalization to permit them to detect possible sales tax evasion. Such reports shall not be utilized by a chief of police, a sheriff, the Department of Justice, or any other governmental agency for the purpose of providing a permanent record of property ownership, nor shall the information derived from these reports form the basis for any record other than reports which assist in tracing and recovering of stolen property or assist in detecting sales tax evasion.

(b) Every vendor shall submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 for each swap meet at which he is a vendor. Items described in reports previously submitted pursuant to paragraph (2) of subdivision (a) of Section 21663 may be omitted from the description on the forms submitted at subsequent swap meets if the vendor furnishes the swap meet operator of each subsequent swap meet with two copies of the report previously submitted, marked to indicate personal property currently being offered or displayed.

(c) A vendor who regularly offers or displays for sale or exchange any new or used personal property or merchandise shall be required to submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 only once

every 60 days. Such vendor shall, however, submit a new report at any swap meet at which he is a vendor and offers or displays for sale or exchange any personal property not included by generic classification in the previously submitted report. For purposes of this subdivision, a vendor shall be deemed to regularly offer or display for sale or exchange any items of merchandise if such vendor participates for five or more days in a month at a swap meet conducted at the same location. Any vendor claiming to be a regular seller of new or used merchandise under the provisions of this subdivision shall so indicate on the bimonthly report.

21665. (a) Swap meet operators shall retain a copy of the reports collected by them for one year and shall make such copies available for inspection, upon request, by a peace officer as defined in Section 830.1 or subdivision (a) of Section 830.3 of the Penal Code, or members of the California State Police as defined in subdivision (b) of Section 830.2 of the Penal Code, when the swap meet occurs on state property, properly identified representatives of the State Board of Equalization.

(b) Vendors shall have available for inspection during the swap meet a completed copy of the report form which was submitted to the swap meet operator describing the goods offered or displayed for sale or exchange at the swap meet.

21666. Upon request, a vendor shall provide the purchaser a written receipt disclosing the vendor's name and address when the items purchased have a selling price in excess of fifteen dollars ($15).

21667. A violation of any provision of this article is a misdemeanor and may be punishable by up to six months in county jail, a fine of twenty-five dollars ($25) for the first violation, fifty dollars ($50) for the second violation, and one hundred dollars ($100) for the third and subsequent violations.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as part of their normal operating procedures, and 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 1118

An act to amend Section 13009 of the Health and Safety Code, to amend and renumber the headings of Article 1 (commencing with Section 4475) and Article 2 (commencing with Section 4491) of Chapter 7 of Part 2 of Division 4 of, and to add Article 1 (commencing with Section 4461) to Chapter 7 of Part 2 of Division 4 of, the Public Resources Code, relating to fire protection, and making an appropriation therefor.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 13009 of the Health and Safety Code is amended to read:

13009. (a) Any person who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by him to escape onto any forest, range or nonresidential grass-covered land is liable for the expense of fighting the fire and such expense shall be a charge against that person. Such charge shall constitute a debt of such person, and is collectible by the person, or by the federal, state, county, public, or private agency, incurring such expenses in the same manner as in the case of an obligation under a contract, expressed or implied.

(b) Whenever the requirements of Article 1 (commencing with Section 4461) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code have been fully complied with in the conduct of prescribed burning operations pursuant to a permit issued pursuant to Article 3 (commencing with Section 4491) of such chapter, and the fire nonetheless escapes, firefighting and suppression costs incurred by any public agency shall not constitute a debt of the holder of the permit and shall not be collectible as provided in subdivision (a).

SEC. 2. Article 1 (commencing with Section 4461) is added to Chapter 7 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 1. Experimental Program for Wildland Fire Protection and Resources Management

4461. This article shall be known and may be cited as the Wildland Fire Protection and Resources Management Act of 1978.

4462. The Legislature hereby finds and declares as follows:

(a) There has been an increase in the number of wildfires in the wildlands of this state, resulting in destruction of valuable timber and grasslands, loss of recreational opportunities and wildlife habitat, erosion and damage to streamflow and watersheds, extremely adverse effects on water quality through sedimentation, destruction

of soil and loss of nutrients, invasions into burned areas of less desirable plant species, and an unacceptable level of hazards to public safety. Further, the increased cost of fire suppression implies the need for alternative methods of fire protection.

(b) The prevention of uncontrollable conflagrations of high-intensity wildfires may be achieved partly through the reduction of the volume and continuity of flammable vegetation in wildlands by a program of fuel management.

(c) Wildland and rangeland resources management planning and the provision of prescribed burn crews pursuant to this article serves a public purpose and will benefit all the citizens of the state.

4464. Unless the context clearly requires otherwise, the following definitions govern the construction of this article:

(a) "Wildlands" means any lands that are classified as state responsibility areas pursuant to Article 3 (commencing with Section 4125) of Chapter 1 of this part. "Wildlands" includes rangelands having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage.

(b) "Wildland fuel" means any timber, brush, grass, or other flammable vegetation, living or dead, standing or down.

(c) "Wildland fire" means any uncontrolled fire in wildlands.

(d) "Prescribed burning" means the planned application and confinement of fire to wildland fuels in wildlands selected in advance of such application in order to achieve any specific objective.

(e) "Prescribed burn crew" means departmental firefighting equipment and personnel that are prepared to contain and suppress escaped fire occurring during prescribed burning operations.

(f) "Person" means any natural person, firm, association, partnership, business trust, corporation, company, or combination thereof.

4465. The department shall conduct an experimental program of wildland resources management through prescribed burning and other methods in two areas of wildlands.

4466. (a) The department shall prepare two model plans for the initial development and implementation of a program for wildland resources management through prescribed burning and other methods, one of which is appropriate for an area of wildlands in northern California, and one, in southern California. All state agencies, including the Departments of Fish and Game and Conservation and the State Water Resources Control Board, shall cooperate with the department in the creation of the plans, to the end that administrative and environmental considerations are carefully and effectively considered and included in the program.

(b) Upon completion of each plan, the director shall submit the plan to the board for its review and approval as to its conformity with the requirements set forth in Section 4467.

(c) The department shall apply for funding from nonstate sources for the purpose of carrying out its planning responsibilities pursuant to this article. The department may not commence such planning

until such funding is available in an amount sufficient to meet the costs of one model plan.

(d) Neither plan may be implemented or used after January 1, 1983.

4467. (a) Each plan shall include, but shall not be limited to, elements regarding wildland fuel management and reduction, air and water quality, water conservation and watershed improvement, soil conservation, wildlife habitat improvement and protection, range and forage improvement, and timberland improvement and protection.

(b) The plan shall be prepared in accordance with the California Environmental Quality Act (commencing with Section 21000) and, when approved, shall constitute the environmental impact report for the implementation of the plan for each area of wildlands designated by the board.

(c) The department shall coordinate the development of each plan with the general plan of each county in which the experimental program is conducted and shall, to the maximum extent feasible, conform the plan to the land-use plans and objectives of state and local government.

(d) Copies of each plan shall be made available to each county, resource conservation district, and person owning land in the area in which the experimental program is conducted.

4468. During the prescribed burning season, the department shall maintain at least two prescribed burn crews, one each in northern and southern California, for the purpose of providing prescribed burn back-up in the event of an emergency during prescribed burning operations. The department shall prepare a schedule for each prescribed burning season so that the crews will be available to all persons or groups of persons participating in the program during that season. Crews may also be used for other firefighting operations engaged in by the department when not in use in connection with such prescribed burning operations.

4470. The department shall furnish a prescribed burn crew, and assume all costs thereof, to any person or group of persons who own or control land in a wildland area for which a plan has been approved pursuant to this article if such a person or group of persons obtains a brush-burning permit and agrees as a condition of issuance of the permit to comply with the plan in all aspects and to comply with the requirements of Article 3 (commencing with Section 4491) of this chapter, including the assumption of all liability for damage to the property of others.

4471. No person applying for a brush-burning permit pursuant to Article 3 (commencing with Section 4491) of this chapter, applying for a slash-burning permit pursuant to Section 4423, or conducting timber operations pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511) shall be required to comply with the provisions of this article as a condition to the issuance of a permit or other entitlement pursuant to such provisions.

4473. On or before January 1, 1982, the department shall submit to the board a report consisting of an analysis of the results obtained in the experimental program and recommendations for the further implementation and improvement of the program.

SEC. 3. The heading of Article 1 (commencing with Section 4475) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code is amended and renumbered to read:

Article 2. Department of Forestry Burning Contracts

SEC. 4. The heading of Article 2 (commencing with Section 4491) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code is amended and renumbered to read:

Article 3. Private Burning of Brush-Covered Lands Under Permit

SEC. 5. The sum of one hundred fifty-five thousand dollars ($155,000) is hereby appropriated from the General Fund to the Department of Forestry for expenditure, without regard to fiscal years, for the costs of prescribed burn crews furnished pursuant to Section 4470 of the Public Resources Code.

CHAPTER 1119

An act to add Section 25947 to the Health and Safety Code, relating to smoking.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 25947 is added to the Health and Safety Code, to read:

25947. (a) Except as provided in subdivision (b), no person shall smoke any tobacco product in any retail food production and marketing establishment, as defined in Section 28802, during such hours as the establishment is open to the public.

(b) The provisions of subdivision (a) shall not apply to that portion of an establishment subject to Section 25944 nor to an area of an establishment set aside for employee smoking and not open to the public.

CHAPTER 1120

An act to amend Sections 51201, 51231, 51232, 51233, 51238, 51238.5, 51244.5, 51251, 51282, and 51283.3 of, to add Sections 51205.1, 51248.5, 51281.1, 51283.1, and 51283.4 to, the Government Code, and to amend Section 423 of the Revenue and Taxation Code, relating to agricultural lands.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 51201 of the Government Code is amended to read:

51201. As used in this chapter, unless otherwise apparent from the context:

(a) "Agricultural commodity" means any and all plant and animal products produced in this state for commercial purposes.

(b) "Agricultural use" means use of land for the purpose of producing an agricultural commodity for commercial purposes.

(c) "Prime agricultural land" means any of the following:

(1) All land which qualifies for rating as class I or class II in the Soil Conservation Service land use capability classifications.

(2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

(3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

(4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200) per acre.

(5) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars ($200) per acre for three of the previous five years.

~~(d)~~ (d) "Agricultural preserve" means an area devoted to either agricultural use, as defined in subdivision (b), recreational use as defined in subdivision (n), or open space use as defined in subdivision (o), or any combination of such uses and which is established in accordance with the provisions of this chapter.

(e) "Compatible use" is any use determined by the county or city administering the preserve pursuant to Section 51231 or Section 51238 or by this act to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract "Compatible use" includes agricultural use, recreational use or open-space use unless the board or council finds

after notice and hearing that such use is not compatible with the agricultural, recreational or open space use to which the land is restricted by contract pursuant to this chapter.

(f) "Board" means the board of supervisors of a county which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(g) "Council" means the city council of a city which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.

(h) Except where it is otherwise apparent from the context, "county" or "city" means the county or city having jurisdiction over the land.

(i) A "scenic highway corridor" is an area adjacent to, and within view of, the right-of-way of:

(1) An existing or proposed state scenic highway in the state scenic highway system established by the Legislature pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which has been officially designated by the Department of Transportation as an official state scenic highway; or

(2) A county scenic highway established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if each of the following conditions have been met:

(A) The scenic highway is included in an adopted general plan of the county or city; and

(B) The scenic highway corridor is included in an adopted specific plan of the county or city; and

(C) Specific proposals for implementing the plan, including regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the county or city highway has been officially designated by the Department of Transportation as an official county scenic highway.

(j) A "wildlife habitat area" is a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of great importance for the protection or enhancement of the wildlife resources of the state.

(k) A "saltpond" is an area which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, has been used for the solar evaporation of sea water in the course of salt production for commercial purposes.

(*l*) A "managed wetland area" is an area, which may be an area diked off from the ocean or any bay, river or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to being placed within an agricultural

preserve pursuant to this chapter, was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes.

(m) A "submerged area" is any land determined by the board or council to be submerged or subject to tidal action and found by the board or council to be of great value to the state as open space.

(n) "Recreational use" is the use of land by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public.

(o) "Open-space use" is the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of sea water in the course of salt production for commercial purposes, if such land is within:

(1) A scenic highway corridor, as defined in subdivision (i).

(2) A wildlife habitat area, as defined in subdivision (j).

(3) A saltpond, as defined in subdivision (k).

(4) A managed wetland area, as defined in subdivision (*l*).

(5) A submerged area, as defined in subdivision (m).

SEC. 2. Section 51205.1 is added to the Government Code, to read:

51205.1. Notwithstanding any provisions of this chapter to the contrary, land within a scenic highway corridor, as defined in subdivision (i) of Section 51201, shall, upon the request of the owner, be included in an agricultural preserve pursuant to this chapter. When such land is included within an agricultural preserve, the city or county within which it is situated shall contract with the owner for the purpose of restricting the land to agricultural use as defined in subdivision (b), recreational use as defined in subdivision (n), open-space use as defined in subdivision (o), compatible use as defined in subdivision (e), or any combination of such uses.

SEC. 3. Section 51231 of the Government Code is amended to read:

51231. For the purposes of this chapter, the board or council, by resolution, shall adopt rules governing the administration of agricultural preserves, including procedures for initiating, filing, and processing requests to establish agricultural preserves. Such rules shall be applied uniformly throughout the preserve. The board or council may require the payment of a reasonable application fee. The same procedure that is required to establish an agricultural preserve shall be used to disestablish or to enlarge or diminish the size of an agricultural preserve. In adopting rules related to compatible uses, the board or council may enumerate those uses which are to be considered to be compatible uses on contracted lands

separately from those uses which are to be considered to be compatible uses on lands not under contract within the agricultural preserve.

SEC. 4. Section 51232 of the Government Code is amended to read:

51232. In the event any proposal to disestablish or to alter the boundary of an agricultural preserve will remove land under contract from such a preserve, notice of the proposed alteration or disestablishment and the date of the hearing shall be furnished by the board or council to the owner of the land by certified mail directed to him at his latest address known to the board or council. Such notice shall also be published pursuant to Section 6061 and shall be furnished by first-class mail to each owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land to be removed from the preserve.

SEC. 5. Section 51233 of the Government Code is amended to read:

51233. When a county proposes to establish, disestablish, or alter the boundary of an agricultural preserve it shall give written notice at least two weeks before the hearing to the local agency formation commission and to every city within the county within one mile of the exterior boundaries of the preserve.

SEC. 6. Section 51238 of the Government Code is amended to read:

51238. Notwithstanding any determination of compatible uses by the county or city pursuant to this article, unless the board or council after notice and hearing makes a finding to the contrary, the erection, construction, alteration, or maintenance of gas, electric, water, or communication facilities are hereby determined to be compatible uses within any agricultural preserve. No land occupied by gas, electric, water, or communication facilities shall be excluded from an agricultural preserve by reason of such use.

The board of supervisors may impose conditions on lands to be placed within preserves to permit and encourage compatible use of the land, particularly public outdoor recreational uses.

SEC. 7. Section 51238.5 of the Government Code is amended to read:

51238.5. If an owner of land agrees to permit the use of his land for free public recreation, the board or council may agree to indemnify such owner against all claims arising from such public use. The owner's agreement that his land be used for free, public recreation shall not be construed as an implied dedication to such use.

SEC. 8. Section 51244.5 of the Government Code is amended to read:

51244.5. Notwithstanding the provisions of Section 51244, if the initial term of the contract is for more than 10 years, the contract may provide that on the anniversary date of the contract or such other annual date as specified by the contract beginning with the

anniversary date on which the contract will have an unexpired term of nine years, a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in Section 51245.

SEC. 8.5. Section 51248.5 is added to the Government Code, to read:

51248.5. Whenever any city or county is required to record any contract by this chapter, it may file a fictitious contract. Thereafter, any of the provisions of such fictitious contract may be included by reference in any contract required to be filed by this chapter. The provisions of Section 2952 of the Civil Code relating to the filing, indexing, and force and effect of fictitious mortgages shall be applicable to such fictitious contracts.

SEC. 9. Section 51251 of the Government Code is amended to read:

51251. The county, city, or landowner may bring any action in court necessary to enforce any contract, including, but not limited to, an action to enforce the contract by specific performance or injunction. An owner of land may bring any action in court to enforce a contract on land whose exterior boundary is within one mile of his land. An owner of land under contract may bring any action in court to enforce a contract on land located within the same county or city.

SEC. 10. Section 51281.1 is added to the Government Code, to read:

51281.1. The board or council may require the payment of a reasonable application fee to be made at the time a petition for cancellation is filed.

SEC. 11. Section 51282 of the Government Code is amended to read:

51282. The landowner may petition the board or council for cancellation of any contract as to all or any part of the subject land. The board or council may approve the cancellation of a contract only if they find:

(a) That the cancellation is not inconsistent with the purposes of this chapter; and

(b) That cancellation is in the public interest.

The existence of an opportunity for another use of the land involved shall not be sufficient reason for the cancellation of a contract. A potential alternative use of the land may be considered only if there is no proximate, noncontracted land suitable for the use to which it is proposed the contracted land be put.

The uneconomic character of an existing agricultural use shall likewise not be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

The landowner's petition may be accompanied with a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed

alternative use.

SEC. 12. Section 51283.1 is added to the Government Code, to read:

51283.1. In addition to the fee provided for in Section 51283, the board or council shall require the payment of additional deferred taxes, determined in the following manner:

(a) The county assessor shall determine and certify the following values to the board or council; provided that such values shall not consider the existence of any mines, minerals, and quarries in or upon the land being valued, including, but not limited to, oil, gas, and other hydrocarbons:

(1) The unrestricted assessed value, which is 25 percent of the fair market value of the land as though it were free of the contractual restriction. This value shall be arrived at by considering other uses that may be made of the land after the contract is no longer in effect.

(2) The current restricted assessed value, which is the assessed value of the land as enforceably restricted by the contract.

(3) The base-year unrestricted assessed value determined in the following manner:

(A) For contracts in existence for 10 years or less, the assessed value for the last year in which the land was not enforceably restricted.

(B) For contracts in existence for more than 10 years, that value which results from a straight-line interpolation of the assessed value of the land for the last year in which the land was not enforceably restricted and the unrestricted assessed value, as determined in paragraph (1) of this subdivision, at a point on such line 10 years prior to the date of the application.

(4) The base-year restricted assessed value, determined in the following manner:

(A) For contracts in existence for 10 years or less, the assessed value for the first year in which the land was enforceably restricted.

(B) For contracts in existence for more than 10 years, that value which results from a straight-line interpolation of the assessed value of the land for the first year in which the land was enforceably restricted and the current restricted assessed value, as determined in paragraph (2) of this subdivision, at a point on such line 10 years prior to the date of the application.

(b) The assessed values determined in subdivision (a) shall be averaged by:

(1) Subtracting the current restricted assessed value from the unrestricted assessed value,

(2) Subtracting the base-year restricted assessed value from the base-year unrestricted assessed value, and

(3) Averaging the figures determined in paragraphs (1) and (2).

(c) The average assessed value determined in subdivision (b) shall be multiplied by the current tax rate. This tax rate shall be equal to that used in determining the value of the land as prescribed in paragraph (3) of subdivision (b) of Section 423 of the Revenue and

Taxation Code.

(d) The amount determined in subdivision (c) shall be multiplied by a factor from the following table:

Year	Factor
1	1.06000
2	2.18360
3	3.37462
4	4.63709
5	5.97332
6	7.39384
7	8.89747
8	10.49132
9	12.18080
10	13.97164

The multiple shall correspond to the number of years or fraction thereof, but in no event greater than 10, for which the land was under contract.

(e) From the amount computed in subdivision (d) there shall be subtracted the amount of the fee provided for in Section 51283, but in no event shall the result be less than zero.

If the board or council finds that it is in the public interest it may waive the payment of the additional deferred tax or any portion thereof.

The additional deferred taxes shall be collected in the same manner and at the same time as the cancellation fee provided for in Section 51283. The additional deferred taxes shall be distributed to the taxing agencies and revenue districts levying property taxes on the land during the current year in the same proportion as the current year tax rate bears to the total tax rate described in subdivision (c).

SEC. 13. Section 51283.3 of the Government Code is amended to read:

51283.3. (a) Upon tentative approval of a cancellation petition not accompanied with a proposal for a specified alternative use of the land, the clerk of the board or council shall record in the office of the county recorder of the county in which the land as to which the contract is canceled is located a certificate, which shall set forth the name of the owner of such land at the time the contract was canceled with the amount of the cancellation fee certified by the board or council as being due pursuant to this article, the contingency of any waiver or deferment of payments, and a legal description of the property. From the date of recording of such certificate, the contract shall be finally canceled and, to the extent the cancellation fee has not yet been paid, a lien shall be created and attach against the real property described therein and any other real property owned by the person named therein as the owner and located within the county. Such lien shall have the force, effect, and priority of a

judgment lien. Nothing in this section or Section 51283 shall preclude the board or council from requiring payment in full of the cancellation fee prior to the cancellation becoming effective.

(b) In no case shall the cancellation of a contract be final until the notice of cancellation is actually recorded as provided in this section. Notwithstanding any provision of the Revenue and Taxation Code, any payments required by Sections 51283 and 51283.1 of this code shall not create nor impose a lien or charge on the land as to which a contract is canceled except as herein provided.

(c) Upon the payment of the cancellation fee or any portion thereof the clerk of the board or council shall record with the county recorder a written certificate of the release in whole or in part of the lien.

SEC. 14. Section 51283.4 is added to the Government Code, to read:

51283.4. (a) Upon tentative approval of a petition accompanied by a proposal for a specified alternative use of the land, the clerk of the board or council shall record in the office of the county recorder of the county in which is located the land as to which the contract is applicable a certificate of tentative cancellation, which shall set forth the name of the landowner requesting the cancellation, the fact that a certificate of cancellation of contract will be issued and recorded at such time as specified conditions and contingencies are satisfied, a description of the conditions and contingencies which must be satisfied, and a legal description of the property. Conditions to be satisfied shall include payment in full of the amount of the fee computed under the provisions of Sections 51283 and 51283.1, together with a statement that unless a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, such fee shall be recomputed as of the date of notice described in subdivision (b). Any provisions related to the waiver of such fee or portion thereof shall be treated in the manner provided for in the certificate of tentative cancellation. Contingencies to be satisfied shall include a requirement that the landowner obtain all permits required by any governmental agency relative to the proposed alternative use of the land.

(b) The landowner shall notify the board or council when he has satisfied the conditions and contingencies enumerated in the certificate of tentative cancellation. Within 30 days of receipt of such notice, and upon a determination that the conditions and contingencies have been satisfied, the board or council shall execute a certificate of cancellation of contract and cause the same to be recorded.

(c) If the landowner has been unable to satisfy the conditions and contingencies enumerated in the certificate of tentative cancellation, the landowner shall notify the board or council of the particular conditions or contingencies he is unable to satisfy. Within 30 days of receipt of such notice, and upon a determination that the

landowner is unable to satisfy the conditions and contingencies listed, the board or council shall execute a certificate of withdrawal of tentative approval of a cancellation of contract and cause the same to be recorded.

SEC. 15. Section 423 of the Revenue and Taxation Code is amended to read:

423. Except as provided in Section 423.7, when valuing enforceably restricted open-space land, other than land used for the production of timber for commercial purposes, the board for purposes of surveys required by Section 1815 of this code and the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall value such lands by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available the income shall be the fair rent which can be imputed to the land being valued based upon rent actually received for the land by the owner and upon typical rentals received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which comparable lands have been rented, determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed.

(2) Where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted. There shall be a rebuttable presumption that "prudent management" does not include use of the land for a recreational use, as defined in subdivision (n) of Section 5120 of the Government Code, unless the land is actually devoted to such use.

(3) Notwithstanding any other provision herein, if the parties to an instrument which enforceably restricts the land stipulate therein an amount which constitutes the minimum annual income per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For the purposes of this section income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period as evidenced by historic cropping

patterns and agricultural commodities grown. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. Proceeds from the sale of the land being valued shall not be included in the revenue from the land.

Expenditures shall be any outlay or average annual allocation of money or money's worth that has been charged against the revenue received during the period used in computing such revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income. When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment in operating assets other than the land, to amortize depreciable property, and to fairly compensate the owner-operator for his operating and managing services.

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and which was the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, rounded to the nearest one-quarter (¼) percent.

(2) A risk component which shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject; and

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio. The estimated total tax rate shall be the cumulative rates used to compute the state's reimbursement of local governments for revenues lost on account of homeowners' property tax exemptions in the tax rate area in which the enforceably restricted land is situated.

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient for the income determined as provided in subdivision (a) divided by the

capitalization rate determined as provided in subdivision (b).

(d) The ratio prescribed in Section 401 shall be applied to the value of the land determined in subdivision (c) to obtain its assessed value.

(e) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the valuation resulting from the capitalization of income method described in this section shall not exceed the valuation that would have resulted by the consideration of sales of otherwise comparable lands.

(f) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the assessor shall assess those improvements which contribute to the income of land in the manner provided herein. As used in this subsection "improvements which contribute to the income of the land" shall include, but are not limited to, wells, pumps, pipelines, fences, and structures which are necessary or convenient to the use of the land within the enforceable restrictions imposed.

SEC. 16. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because self-financing authority is provided in this act to cover such costs.

CHAPTER 1121

An act relating to the Pacific Elementary School District, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. The Pacific Elementary School District is in the process of constructing facilities to replace buildings heretofore found not to be conforming with the structural standards of the so-called Field Act. Due to various circumstances, including drainage problems and related necessary soil testing, the actual cost for completion of the buildings has increased since the original estimated cost was made at the inception of the construction. There is hereby appropriated from the General Fund to the Pacific Elementary School District the sum of one hundred twenty-five thousand dollars ($125,000) for the 1978–79 fiscal year only for the purpose of meeting the increased construction costs of the Pacific Elementary School District. Any moneys of said appropriation not expended or encumbered before July 1, 1979, shall revert to the General Fund in the State Treasury.

SEC. 2. The allocation made pursuant to Section 1 of this act shall be repaid as follows:

For each of the fiscal years 1979–80 to 1988–89, inclusive, the State Controller shall deduct from the apportionment made to the Pacific Elementary School District from the State School Fund an amount equal to one-tenth of the amount actually allocated to the district pursuant to Section 1 of this act, together with amounts representing interest at a rate based on the most current investment rate of the Pooled Money Investment Account with reference to the fiscal year in which the repayment is to be withheld.

SEC. 3. Because of the unique circumstances concerning the construction of replacement school facilities for the Pacific Elementary School District, 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 the Pacific Elementary School District may complete the construction of replacement facilities by September 1979 and avoid interruption of the educational process and undue economic burdens upon such district, it is necessary that this act go into immediate effect.

CHAPTER 1122

An act to provide for the sale of a specified parcel of real property of the Department of the Youth Authority in the City of Norwalk by the Director of General Services, relating to state land, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. The Director of General Services, upon approval of the Department of the Youth Authority and the State Public Works Board, is authorized to sell to the City of Norwalk, for open space purposes, as defined in Section 11011.1 of the Government Code, for 50 percent of current market value the following real property: 10 acres of a parcel of approximately 13 acres currently a part of the Department of the Youth Authority Southern Reception Center Clinic in the City of Norwalk, fronting on Shoemaker Avenue and north of Foster Road. The remaining 3 acres of the parcel shall be used as a buffer zone between the Department of the Youth Authority Southern Reception Center Clinic and the property purchased by the City of Norwalk for open space purposes.

SEC. 2. The Director of General Services is authorized to make such sale described in Section 1 above, upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state. Any cost incurred in the sale may be reimbursed from the proceeds of such disposition.

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 continued and uninterrupted community access and use of the property, it is necessary that this act take effect immediately.

SEC. 4. As to any property sold pursuant to Section 1 of 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, below a depth of 500 feet, without surface rights of entry.

CHAPTER 1123

An act to add Article 7.5 (commencing with Section 65420) to Chapter 3 of Title 7 of Division 3 of the Government Code, relating to local government planning.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Article 7.5 (commencing with Section 65420) is added to Chapter 3 of Title 7 of Division 3 of the Government Code, to read:

Article 7.5. Model Integrated Local Planning Act

65420. This article shall be known and may be cited as the Model Integrated Local Planning Act.

65421. The Legislature finds that managing the growth, development, and redevelopment of California's counties and cities requires a more comprehensive framework than that provided by the existing state-mandated local planning process; that the existing local planning processes including general plan planning, budget planning, and planning for federal program activities such as community development should be related to and coordinated with each other; that there is a need to involve local elected officials and chief management officials more directly in the planning process and to link their allocation of resources to the adopted plans. The Legislature further finds that while the existing state-mandated local

planning process provides some guidance for physical development and environmental protection, it does not provide for integration of social and economic goals and policies and is therefore an incomplete guide to comprehensive community development; it does not facilitate integration of the various planning activities now undertaken by local government; it does not recognize that the capacity of California cities and counties to respond to state planning laws varies due to differences of population size and density, fiscal and administrative capabilities, the legal differences between cities and counties, both charter and general law and land use and development issues and human needs in communities within the state; and it does not link state goals, policies, and programs to local plans.

65422. In accordance with the findings in Section 65421, the Legislature declares that it is necessary to develop a new local planning process which will enhance the capacity of local elected officials and chief management officials to plan, manage, and budget for the physical, social, and economic development and redevelopment of their communities.

Among the purposes of such a process are the following:

(a) To promote integration of the physical, environmental, social, economic, and fiscal planning activities of local governments;

(b) To coordinate to the maximum extent possible the separate planning processes now required of local governments such as general plan planning, budget planning, and federal or state required functional planning, so that the process is more accessible to and understandable by the public;

(c) To strengthen the role of the legislative body and chief management official in the development and implementation of an integrated plan;

(d) To link public expenditures to implementation of an integrated general plan;

(e) To clarify differences in scope appropriate to the comprehensive planning activities of counties and cities and of cities of differing size;

(f) To encourage cooperation between and among cities and counties and to encourage and facilitate coordination of planning and development activities of cities and counties with the planning activities of special purpose districts, regional agencies, and state government; and

(g) To obtain the active involvement of the citizenry in the community development planning process.

65423. In order to accomplish the purposes enumerated in Section 65422, not more than three cities and not more than three counties shall be selected, upon their application therefor, to participate in a demonstration project to develop and test an alternative integrated local planning process. A city or county having a population of more than 2,000,000 may apply to the Office of Planning and Research to participate on a community plan level

rather than a citywide or countywide basis. The demonstration project shall be administered by the Office of Planning and Research. In this capacity, the office shall:

(a) Form a committee to advise on the conduct of the demonstration which includes representation of the Planning Advisory and Assistance Council established pursuant to subdivision (a) of Section 65040.6, state agencies and departments having responsibility for review and monitoring of local and regional plans, regional planning agencies, counties, cities, and such other public and private agencies and organizations as, in the judgment of the Director of the Office of Planning and Research, have an impact on the local planning process. The advisory committee shall serve for the duration of the demonstration project.

(b) In conjunction with the advisory committee, develop criteria for the selection of the demonstration sites which provide, to the extent possible, for a range of sizes, locations, and conditions in differing parts of the state, recognize and build on existing efforts to improve the local planning process, and give priority to those applications which have maximum potential for transferability of the new process to other jurisdictions in the state. The Director of the Office of Planning and Research shall select the demonstration counties and cities.

(c) Organize a technical assistance task force which includes representatives from other state agencies and departments dealing with transportation, economic development, housing and community development, air and water quality, and other appropriate fields, and the League of California Cities and the County Supervisors Association of California, to be available to the demonstration jurisdictions for consultation and advice. The Director of the Office of Planning and Research may, at his discretion, contract for such consultant services as he deems necessary.

(d) Develop procedures for the orderly evaluation of the demonstration project leading to specific recommendations to the Legislature for any needed changes in the state planning law. The report shall include, but not be limited to, a comparison of the demonstration integrated general plan with the existing general plan adopted pursuant to the provisions of Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code and shall also discuss other state and federal functional planning requirements that may prevent local agencies from integrating the general plan process. The office shall submit its evaluation report and legislative recommendations to the Legislature on or before January 1, 1983.

65424. (a) Each demonstration county and city shall prepare an integrated general plan which contains the following:

(1) Goals, policies, and programs for the physical, social, and economic development of the community;

(2) Documentation of the data and analysis upon which these

goals, policies, and programs are based;

(3) Assessment of the fiscal capacity of the county or city to implement the plan; and

(4) An implementation schedule which links the plan to the allocation of public resources, including capital expenditures, the annual budget, and federal and state funding for local programs.

(b) The planning process developed to prepare the integrated general plan shall include provision for:

(1) Integration, to the extent possible, of other required planning processes with the general plan process; including, in the case of counties, social services planning;

(2) To the extent feasible, integration of plans with required regional or county plans, plans and programs of special districts, and with statewide goals and policies;

(3) Assessment of the potential physical, environmental, social, and economic impacts of alternative plan proposals; and,

(4) Specific mechanisms for involvement of citizens in the planning process.

(c) The demonstration counties or cities shall record and analyze the cost of development, maintenance, and implementation of the alternative plan.

65425. Each demonstration county and city shall prepare a detailed work program which outlines an orderly sequence of planning activities leading to adoption and implementation of the integrated plan. The Office of Planning and Research shall review and approve the work program and monitor its implementation on a regular basis. The following activities shall be included in the planning cycle:

(a) Orientation of the local legislative body, appointed commissions, and citizen groups;

(b) Establishment of a process for maintaining the zoning ordinance and other planning requirements not subject to waiver such as conformance with the Environmental Quality Act;

(c) Collection and analysis of information describing the social, economic, environmental, and physical characteristics of the community and its population;

(d) Inventorying of the community's resources;

(e) Assessment of community need;

(f) Development and adoption, with full public input, of community goals and objectives;

(g) Preparation of specific plans;

(h) Allocation of resources consistent with the adopted plan;

(i) Evaluation of planning process and preparation of recommendations for legislative changes for submission to the Office of Planning and Research.

65426. For the demonstration cities and counties, the provisions of Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code shall be waived for the duration of the demonstration project. Such waiver shall continue for

a period of not more than two years following the termination of the demonstration project, during which time the integrated general plan shall be in effect. However, the existing general plan shall remain in effect and may be amended pursuant to existing law until such time as the integrated general plan has been adopted.

(a) Notwithstanding such waiver, applicable provisions of federal, state, and regional solid waste management, air, and water quality requirements, including all water quality plans and policies, standards, objectives, and beneficial uses established, and orders issued or actions taken pursuant to the provisions of Division 7 (commencing with Section 13000) of the Water Code, and regulations relating to such areas, as well as any requirements established pursuant to Division 20 (commencing with Section 30000) of the Public Resources Code, shall remain in effect.

(b) In reviewing the work program submitted by each demonstration county and city, the office shall assure that consideration is given to meeting existing state requirements and standards in those areas covered by Section 65302.

65427. Upon selection of the demonstration sites, the Director of the Office of Planning and Research shall notify state agencies empowered to plan for the development of physical facilities of the site locations and boundaries. Each state agency shall notify the legislative body of the demonstration county or city if it plans the acquisition, lease, rental, or construction of physical facilities within the jurisdiction of the demonstration county or city during the demonstration period, and, insofar as possible, shall coordinate its plans with those of the demonstration county or city.

65428. To the extent permitted under applicable federal laws, the governing body of a demonstration county or city may accept any federal grant funds available to the county or city for a purpose consistent with the purposes of this article from any federal grant which allows the expenditure therefrom of amounts sufficient to reimburse the Office of Planning and Research for costs incurred in the administration of a demonstration project utilizing the grant funds.

CHAPTER 1124

An act to amend Section 1463.11 of the Penal Code and to add Section 28766.5 to the Public Utilities Code, relating to San Francisco Bay Area Rapid Transit District.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 1463.11 of the Penal Code is amended to read:

1463.11. Notwithstanding the provisions of Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred first, once a month, to the San Francisco Bay Area Rapid Transit District an amount equal to 85 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeitures of bail from any person arrested or notified by a member of the police department of such district and charged with a violation of an ordinance, rule, or regulation of the district adopted pursuant to Section 28766.5 of the Public Utilities Code or a violation of parking or other traffic regulations adopted by or with the sanction of the district pursuant to Article 3 (commencing with Section 21100) of Chapter 1 of Division 11 of the Vehicle Code which are applicable to parking or any other regulation of traffic upon property within the county under the possession or control of the district, and an amount equal to the remaining 15 percent shall be transferred into the general fund of the county.

The San Francisco Bay Area Rapid Transit District and any county in which property is located which is under the possession or control of the distict may by mutual agreement adjust the percentages of fines and forfeitures to be received by the district and county respectively. In the absence of any such agreement, the percentages fixed by this section shall prevail.

SEC. 2. Section 28766.5 is added to the Public Utilities Code, to read:

28766.5. Violation of any ordinance, rule, or regulation enacted by the board relating to smoking in any transit facility owned or controlled by the district shall be an infraction punishable by a fine not exceeding fifty dollars ($50).

CHAPTER 1125

An act to amend Section 74001.5 of the Government Code, relating to courts.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1 Section 74001.5 of the Government Code is amended to read:

74001.5. The judges of the West Orange County Judicial District may appoint two court commissioners, who shall have the additional

powers and duties prescribed by Section 259a of the Code of Civil Procedure, insofar as they are applicable to the Municipal Court and the judges of the Orange County Harbor Judicial District may appoint one court commissioner.

Such an appointment of a second court commissioner by the judges of the West Orange County Judicial District, or of a court commissioner by the judges of the Orange County Harbor Judicial District, may only be made in lieu of appointing a traffic trial commissioner pursuant to Section 72450.

The commissioners shall possess the same qualifications as the law requires of a judge of the municipal court. The commissioners shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid a commissioner of the Los Angeles Municipal Court District. The commissioners shall be ex officio deputy clerks of the court and shall be members of any retirement system which includes the attachés of the court and shall receive the same fringe benefits as granted to such attachés. The commissioners shall not engage in the private practice of law.

SEC. 2. Section 74001.5 of the Government Code is amended to read:

74001.5. The judges of the West Orange County Judicial District may appoint two court commissioners, who shall have the additional powers and duties prescribed by Section 259a of the Code of Civil Procedure, insofar as they are applicable to the municipal court, and the judges of the South Orange County Judicial District and the Orange County Harbor Judicial District may appoint one court commissioner for each district.

Such an appointment of a second court commissioner by the judges of the West Orange County Judicial District, by the judges of the South Orange County Judicial District, or of a court commissioner by the judges of the Orange County Harbor Judicial District, may only be made in lieu of appointing a traffic trial commissioner pursuant to Section 72450. The commissioners shall possess the same qualifications as the law requires of a judge of the municipal court. The commissioners shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid a commissioner of the Los Angeles Municipal Court District. The commissioners shall be ex officio deputy clerks of the court and shall be members of any retirement system which includes the attachés of the court and shall receive the same fringe benefits as granted to such attachés. The commissioners shall not engage in the private practice of law.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 1405 are both chaptered and become effective January 1, 1979, both bills amend Section 74001.5 of the Government Code, and this bill is chaptered after Assembly Bill No. 1405, that the amendments to Section 74001.5 proposed by both bills be given effect and incorporated in Section 74001.5 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative

only if this bill and Assembly Bill No. 1405 are both chaptered and become effective January 1, 1979, both amend Section 74001.5, and this bill is chaptered after Assembly Bill No. 1405, in which case Section 1 of this act shall not become operative.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it pursuant to this act.

CHAPTER 1126

An act to amend Sections 29373.1 and 29375.1 of the Government Code, to amend Sections 531.6, 1651, 2610.5, 2611.4, 2821, and 3101 of, and to add Sections 3104.5 and 4986.8 to, the Revenue and Taxation Code, relating to fiscal procedures.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 29373.1 of the Government Code is amended to read:

29373.1. The cash difference fund when authorized by resolution of the board of supervisors may be used to increase the amount tendered to any county officer so as to equal the amount due the county, for any account when a difference in an amount of five dollars ($5) or less exists. A record of such use shall be maintained, containing sufficient information to identify the account, identify the person making the payment which was not equal to the amount due the county, and show the amount of the difference.

SEC. 2. Section 29375.1 of the Government Code is amended to read:

29375.1. When an amount paid to any county officer exceeds the amount due the county for any account, and such excess does not exceed five dollars ($5), the officer may deposit such excess in the overage fund in the county treasury. If such excess is not so deposited, it shall be refunded to the person making the payment.

SEC. 3. Section 531.6 of the Revenue and Taxation Code is amended to read:

531.6. The taxpayer who has filed a claim for the homeowners' exemption which has not been denied by the assessor is responsible for notifying the assessor when the property is no longer eligible for the exemption.

Upon any indication that a homeowners' exemption has been incorrectly allowed, the assessor shall make a redetermination of

eligibility for the homeowners' exemption. If the assessor determines that the property is no longer eligible for the exemption, he shall immediately cancel the exemption on the property.

If a homeowners' exemption has been incorrectly allowed, an escape assessment as allowed by Section 531.1 in the amount of the exemption with interest as provided in Section 506 shall be made, except that where the exemption was allowed as the result of an assessor's error, the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that such information was erroneous or incomplete or because the claimant failed to notify the assessor in a timely manner that the property was no longer eligible for the exemption, the penalty provided in Section 504 shall be added to the assessment. If the property subject to this paragraph has been transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value, the provisions of Section 531.2 shall apply.

SEC. 4. Section 1651 of the Revenue and Taxation Code is amended to read:

1651. Immediately upon completion of his duties under Section 1646, the auditor shall transmit the unsecured roll to the tax collector.

SEC. 5. 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 for all 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.

SEC. 5.1. 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 for any 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.

SEC. 5.5. Section 2611.4 of the Revenue and Taxation Code is amended to read:

2611.4. In addition to Sections 2611.1, 2611.2 and 2611.3 of this code, any county department, officer or employee may refrain from collecting any tax assessment, penalty or cost, license fees or money

owing to the county where the amount to be collected is five dollars ($5) or less. Nothing in this section shall be construed as releasing any person from the payment of any tax assessment, penalty or cost, license fee or any other money which is due and owing to the county.

SEC. 6. Section 2821 of the Revenue and Taxation Code is amended to read:

2821. Any person filing an affidavit of interest may apply to the tax collector to have any parcel separately valued on the current roll for the purpose of paying taxes. A county may, upon approval of the board of supervisors, require that the applicant notify the property owner.

The application shall be made during the current fiscal year, and shall set forth the fact that a duly executed and recorded deed, purchase contract, deed of trust, mortgage, or final decree of court describes the parcel sought to be separately valued. A county may, upon approval of the board of supervisors, prohibit such applications during the 10-day period preceding each tax installment delinquent date and during the 10-day period prior to June 30th of each year.

The application may request that the tax created by the assessment of personal property, or leasehold improvements, or possessory interests on the whole assessment be allowed to remain as a lien on the parcel sought to be separately valued.

If any lien not determined by the application of a tax rate on a valuation of property has been levied or placed on the whole assessment, the application may be accompanied by the certification of the taxing agency or revenue district authorized by law to levy or place the lien, setting forth the specific amount of that portion of the lien levied or placed on the whole assessment which is to continue to be levied or placed on the parcel sought to be separately valued.

The board of supervisors may provide that a parcel with a lien against it and other property, pursuant to the Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code, or the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code, will not be separately valued unless a request has been made to the agency levying the bond lien for a division of land and bond. A copy of the requested division of land and bond shall accompany the request for separate property tax valuation.

Any separations of property pursuant to this section are for valuing property for tax purposes only, and are not intended to create a legal building site or to supersede requirements pursuant to zoning, building, lot split or subdivision ordinances.

SEC. 7. Section 3101 of the Revenue and Taxation Code is amended to read:

3101. If any tax, interest, or penalty imposed under this part is not paid by the last day of the month succeeding the delinquency date, the official collecting taxes on the unsecured roll may file, no sooner than 10 days after the mailing of the notice required in subdivision (b), in the office of the county clerk, without fee, a certificate

specifying as follows:

(a) The fact that a notice of intent to file said certificate had been sent, by registered mail, to the assessee, at his last known address, not less than 10 days prior to the date of the certificate.

(b) The fact that the notice required in subdivision (a) set forth the following information:

(1) The name of the assessee.

(2) The description of the property assessed.

(3) The assessed value of the property.

(4) The fact that judgment will be sought in the amount of the tax, penalty, or interest that will remain unpaid at the time of the filing of the certificate.

(5) The fact that, upon the issuance and recordation of such judgment, additional penalties will continue to accrue at the rate prescribed by law, and that any bond premium posted or other costs to enforce the judgment shall be an added charge.

(6) The fact that a recording fee of six dollars ($6) will be required to be paid for the purpose of the recordation of any release of the judgment lien.

(c) The name of the assessee.

(d) The amount for which judgment is to be entered.

(e) The fact that the county has complied with all provisions of this part in the computation and the levy of the tax, penalty, or interest.

(f) The fact that a request is therein made for the issuance and entry of judgment against the assessee.

SEC. 8. Section 3104.5 is added to the Revenue and Taxation Code, to read:

3104.5. In addition to any penalty or fee imposed pursuant to this part, a penalty equal to the amount of any bond premium posted, or other costs incurred to enforce the judgment entered pursuant to this chapter shall be imposed.

SEC. 9. Section 4986.8 is added to the Revenue and Taxation Code, to read:

4986.8. (a) On recommendation of the tax collector, the auditor may cancel any tax assessment, special district tax or special assessment if the amount is so small as not to justify the cost of collection.

(b) The amount of any tax which may be canceled pursuant to this section shall not exceed ten dollars ($10).

(c) Any penalties, costs or fees that are the result of nonpayment of any tax which is canceled pursuant to this section may also be canceled.

SEC. 10. It is the intent of the Legislature, if this bill and Assembly Bill No. 2085 are both chaptered and become effective January 1, 1979, both bills amend Section 2610.5 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2085, that the amendments to Section 2610.5 proposed by both bills be given effect and incorporated in Section 2610.5 in the form set forth

in Section 5.1 of this act. Therefore, Section 5.1 of this act shall become operative only if this bill and Assembly Bill No. 2085 are both chaptered and become effective January 1, 1979, both amend Section 2610.5, and this bill is chaptered after Assembly Bill No. 2085, in which case Section 5 of this act shall not become operative.

CHAPTER 1127

An act to add Section 29034.5 to the Public Utilities Code, relating to transit districts.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 29034.5 is added to the Public Utilities Code, to read:

29034.5. The district may approve annexation of areas to the district pursuant to Chapter 9 (commencing with Section 29500) or other forms of affiliation; however, it shall meet its service commitments within the boundaries of the district as they existed on January 1, 1971, before it may expend any district funds for the purpose of extending services and facilities outside of such boundaries.

This section does not, however, preclude (1) rail line extensions to other areas that may be annexed to, or in some other way are affiliated with, the district, if other than district funds are used to finance the construction and operation of such extensions or (2) improvements to existing district stations and yards.

As used in this section, "service commitments" means the extension of district services and facilities to the Cities of Antioch, Pittsburg, Pleasanton, Livermore, and Fremont and to the northwest section of the City and County of San Francisco.

SEC. 2. It is the intent of the Legislature that the San Francisco Bay Area Rapid Transit District begin to focus its attention on providing direct service to the eastern portion of Contra Costa County, whose residents have been paying the district's one-half of 1 percent transactions and use tax since April 1, 1970.

CHAPTER 1128

An act to add Section 71040 to the Education Code, relating to community colleges.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 71040 is added to the Education Code, to read:

71040. The board of governors may allow actual and necessary traveling expenses to community college students who serve on study teams, task forces, or similar groups formed by the board of governors or by the chancellor's office and who, as official student representatives, attend meetings of any association, organization, or agency which has as its principal purpose the study of matters pertinent to education or to a particular field or fields of education relevant to community colleges.

The board of governors shall not allow traveling expenses to student lobbyists or for student travel out of the state.

SEC. 2. The sum of seven thousand five hundred dollars ($7,500) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for the 1978–79 fiscal year for the purposes of Section 71040 of the Education Code.

CHAPTER 1129

An act to amend Sections 33262 and 33263 of, and to repeal and add Section 39461 to, the Food and Agricultural Code, relating to milk and manufactured products.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 33262 of the Food and Agricultural Code is amended to read:

33262. Any distributor or 10 percent of the producers within any approved inspection or established inspection area may file with the director a written protest as to the reasonableness of any inspection fee which is levied and collected from the producer or distributor pursuant to Section 33252.

SEC. 2. Section 33263 of the Food and Agricultural Code is amended to read:

33263. The director shall, after 30 days' public notice of the hearing, and after five days' written notice to any approved milk inspection service which is concerned, hold a hearing on the protest. The director may deny, postpone, or consolidate hearings for good cause. The director shall provide in writing the reasons for the denial, postponement, or consolidation of hearings.

SEC. 3. Section 39461 of the Food and Agricultural Code is repealed.

SEC. 4. Section 39461 is added to the Food and Agricultural Code, to read:

39461. Colored oleomargarine or colored margarine shall not be served to any patron in any restaurant or any other place where food is served to the public for consumption on the premises of sale unless the words "oleomargarine served here," "margarine served here," or "substitutes for butter served here," are printed on:

(a) Individual menus furnished to patrons in the legible type which is at least the size of type used to describe other food items on the menu. Such words shall appear on the menu where other food items are described, or, if no individual menus are furnished,

(b) A wall menu or next to a wall menu in legible type which is at least the size of type used to describe other food items on the menu.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1130

An act to add Section 1374.10 to the Health and Safety Code, to amend Section 10176 of, and to add Sections 10123.10 and 11512.20 to, the Insurance Code, relating to health.

[Approved by Governor September 25, 1978. Filed with Secretary of State September 26, 1978]

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

SECTION 1. Section 1374.10 is added to the Health and Safety Code, to read:

1374.10. (a) Every health care service plan that covers hospital, medical or surgical expenses and which is not qualified as a health maintenance organization under Title XIII of the federal Public Health Service Act (42 U.S.C. Sec. 300e, et seq.) shall make available and offer to include in every group contract entered into on or after January 1, 1979, benefits for home health care as set forth in this section provided by a licensed home health agency subject to the right of the subscriber group to reject the benefits or to select any alternative level of benefits as may be offered by the health care service plan.

In rural areas where there are no licensed home health agencies or in which the supply of home health agency services does not meet the needs of the community, the services of visiting nurses, if available, shall be offered under the health care service plan subject to the terms and conditions set forth in subdivision (b).

(b) As used in this section:

(1) "Home health care" means the continued care and treatment of a covered person who is under the direct care and supervision of a physician but only if (i) continued hospitalization would have been required if home health care were not provided, (ii) the home health

treatment plan is established and approved by a physician within 14 days after an inpatient hospital confinement has ended and such treatment plan is for the same or related condition for which the covered person was hospitalized, and (iii) home health care commences within 14 days after the hospital confinement has ended. "Home health services" consist of, but shall not be limited to, the following: (i) part-time or intermittent skilled nursing services provided by a registered nurse or licensed vocational nurse; (ii) part-time or intermittent home health aide services which provide supportive services in the home under the supervision of a registered nurse or a physical, speech or occupational therapist; (iii) physical, occupational or speech therapy; and (iv) medical supplies, drugs and medicines prescribed by a physician and related pharmaceutical services, and laboratory services to the extent such charges or costs would have been covered under the plan if the covered person had remained in the hospital.

(2) "Home health agency" means a public or private agency or organization licensed by the State Department of Health Services in accordance with the provisions of Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

(c) The plan may contain a limitation on the number of home health visits for which benefits are payable, but the number of such visits shall not be less than 100 in any calendar year or in any continuous 12-month period for each person covered under the plan. Except for a home health aide, each visit by a representative of a home health agency shall be considered as one home health care visit. A visit of four hours or less by a home health aide shall be considered as one home health visit.

(d) Home health benefits in this section shall be subject to all other provisions of this chapter. In addition, such benefits may be subject to an annual deductible of not more than fifty dollars ($50) for each person covered under a plan, and may be subject to a coinsurance provision which provides coverage of not less than 80 percent of the reasonable charges for such services.

(e) Nothing in this section shall preclude a plan offering other health care benefits provided in the home.

(f) Nothing in this section shall relieve any plan from providing all basic health care services as required by subdivision (i) of Section 1367 except that a plan subject to this section may fulfill that requirement with respect to home health services in connection with any particular group contract by providing benefits for home health care as set forth in this section if the subscriber group has not rejected such benefits.

SEC. 2. Section 10123.10 is added to the Insurance Code, to read:

10123.10. (a) Every disability insurer transacting business in this state shall, on or after January 1, 1979, make available and offer to include in every group disability policy providing hospital, medical or surgical expense benefits payable on an expense incurred basis, to be delivered or issued for delivery in this state, benefits for home health care as set forth in this section provided by a licensed home health agency subject to the right of the group policyholder to reject

the benefits or to select any alternative level of benefits as may be offered by the insurer.

In rural areas where there are no licensed health agencies or in which the supply of home health agency services does not meet the needs of the community, the services of visiting nurses, if available, may be substituted for the services of the home health agency, subject to the terms and conditions set forth in subdivision (c).

(b) Every self-insured employee welfare benefit plan containing hospital, medical, or surgical expense benefits or service benefits delivered on or after January 1, 1979, shall make available and offer to include benefits for home health care as set forth in this section provided by a licensed home health agency subject to the right of the employer or the employee organization to reject the benefits or accept any alternative level of benefits as may be offered by the self-insured welfare benefit plan.

In rural areas where there are no licensed health agencies or in which the supply of home health agency services does not meet the needs of the community, the services of visiting nurses, if available, may be substituted for the services of the home health agency, subject to the terms and conditions set forth in subdivision (c).

(c) As used in this section:

(1) "Home health care" means the continued care and treatment of an insured person who is under the direct care and supervision of a physician but only if (i) continued hospitalization would have been required if home health care were not provided, (ii) the home health treatment plan is established and approved by a physician within 14 days after an inpatient hospital confinement has ended and such treatment plan is for the same or related condition for which the insured person was hospitalized, and (iii) home health care commences within 14 days after the hospital confinement has ended. "Home health services" consist of, but shall not be limited to, the following: (i) part-time or intermittent skilled nursing services provided by a registered nurse or licensed vocational nurse; (ii) part-time or intermitent home health aide services which provide supportive services in the home under the supervision of a registered nurse or a physical, speech or occupational therapist; (iii) physical, occupational or speech therapy; and (iv) medical supplies, drugs and medicines prescribed by a physician and related pharmaceutical services, and laboratory services to the extent such charges or costs would have been covered under the policy if the insured person had remained in the hospital.

(2) "Home health agency" means a public or private agency or organization licensed by the State Department of Health Services in accordance with the provisions of Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

(d) The policy may contain a limitation on the number of home health visits for which benefits are payable, but the number of such visits shall not be less than 100 in any calendar year or in any continuous 12-month period for each person covered under the policy. Except for a home health aide, each visit by a representative of a home health agency shall be considered as one home health visit.

A visit of four hours or less by a home health aide shall be considered as one home health visit.

(e) Home health care benefits may be subject to an annual deductible of not more than fifty dollars ($50) for each person covered under a policy, and may be subject to a coinsurance provision which provides coverage of not less than 80 percent of the reasonable charges for such services.

(f) Nothing in this section shall preclude an insurer or plan offering other health care benefits provided in the home.

SEC. 2.5. Section 10176 of the Insurance Code, as amended by Chapter 439 of the Statutes of 1978, 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 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, 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, licensee or otherwise regulated person, being expressly authorized by law to perform such services.

SEC. 3. Section 11512.20 is added to the Insurance Code, to read:

11512.20. (a) Every nonprofit hospital service plan providing hospital, medical or surgical expense benefits delivered on or after January 1, 1979, shall make available and offer to include group benefits for home health care as set forth in this section provided by a licensed home health agency subject to the right of the contract holder to reject the benefits or accept any alternative level of benefits as may be offered by the nonprofit hospital service plan.

In rural areas where there are no licensed health agencies or in which the supply of home health agency services does not meet the needs of the community, the services of visiting nurses, if available, may be substituted for the services of the home health agency, subject to the terms and conditions set forth in subdivision (b).

(b) As used in this section:

(1) "Home health care" means the continued care and treatment of a covered member who is under the direct care and supervision of a physician but only if (i) continued hospitalization would have been required if home health care were not provided, (ii) the home health treatment plan is established and approved by a physician within 14 days after an inpatient hospital confinement has ended and such treatment plan is for the same or related condition for which the member was hospitalized, and (iii) home health care commences within 14 days after the hospital confinement has ended. "Home health services" consist of, but shall not be limited to, the following: (i) part-time or intermittent skilled nursing services provided by a registered nurse or licensed vocational nurse; (ii) part-time or intermittent home health aide services which provide supportive services in the home under the supervision of a registered nurse or a physical, speech or occupational therapist; (iii) physical, occupational or speech therapy; and (iv) medical supplies, drugs and medicines prescribed by a physician and related pharmaceutical services, and laboratory services to the extent such charges or costs would have been covered under the plan if the member had remained in the hospital.

(2) "Home health agency" means a public or private agency or organization licensed by the State Department of Health Services in accordance with the provisions of Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

(c) The contract may contain a limitation on the number of home health visits for which benefits are payable, but the number of such visits shall not be less than 100 in any calendar year or in any continuous 12-month period for each member covered under the contract. Except for a home health aide, each visit by a representative of a home health agency shall be considered as one home health visit. A visit of four hours or less by a home health aide shall be considered as one home health visit.

(d) Home health care benefits may be subject to an annual deductible of not more than fifty dollars ($50) for each member covered under a contract, and may be subject to a coinsurance provision which provides coverage of not less than 80 percent of the reasonable charges for such services.

(e) Nothing in this section shall preclude a plan offering other health care service provided in the home.

CHAPTER 1131

An act to amend Section 41704 of, and to add Section 41704.5 to, the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1978 Filed with Secretary of State September 26, 1978.]

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

SECTION 1. Section 41704 of the Health and Safety Code, is amended to read:

41704. Section 41701 shall not apply to any of the following:

(a) Fires set pursuant to Section 41801.

(b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).

(c) Fires set or permitted by any public officer in the performance of his official duty for the improvement of watershed, range, or pasture.

(d) Use of any aircraft to distribute seed, fertilizer, insecticides, or other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.

(e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.

(f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.

(g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.

(h) The use of other equipment in agricultural operations necessary for the growing of crops or raising of fowl or animals.

(i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where such facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall such emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision shall not apply to any such rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to the effective date of this act, or (4) undergo a change of ownership after January 1, 1977.

(j) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards.

(k) Emissions from vessels using steam boilers during cold boiler light-off operations and while drying wet or green refractory to the extent that such emissions, excluding uncombined water vapor, are not as dark or darker in shade than that designated as Number 2 on the Ringelmann chart or of an opacity equal to, or greater than, 40 percent for periods aggregating more than 15 minutes in any one hour. This subdivision shall remain in effect only until January 1, 1984, and shall be of no force and effect on and after such date.

SEC. 1.5. Section 41704 of the Health and Safety Code as amended by Section 1 of this act is amended to read:

41704. Section 41701 shall not apply to:

(a) Fires set pursuant to Section 41801.

(b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).

(c) Fires set or permitted by any public officer in the performance of his official duty for the improvement of watershed, range, or pasture.

(d) Use of any aircraft to distribute seed, fertilizer, insecticides, or other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.

(e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.

(f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.

(g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.

(h) The use of other equipment in agricultural operations necessary for the growing of crops or raising of fowl or animals.

(i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where such facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall such emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision shall not apply to any such rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to the effective date of this act, or (4) undergo a change of ownership after January 1, 1977.

(j) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards.

(k) Emissions from vessels using steam boilers during cold boiler light-off operations and while drying wet or green refractory to the extent that such emissions, excluding uncombined water vapor, are not as dark or darker in shade than that designated as Number 2 on the Ringelmann chart or of an opacity equal to, or greater than, 40 percent for periods aggregating more than 15 minutes in any one hour. This subdivision shall remain in effect only until January 1, 1984, and shall be of no force and effect on and after such date.

(*l*) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions shall not be applicable to such equipment.

SEC. 2. Section 41704.5 is added to the Health and Safety Code, to read:

41704.5. The state board shall conduct a study in cooperation with the affected districts and representatives of the maritime industry to determine whether vessels using steam boilers can be brought into compliance with Section 41701 by January 1, 1984, or any earlier date, taking into account the age and physical condition of the affected vessels, vessel safety and operational requirements, and technological feasibility.

Following completion of such study, the state board shall conduct a public hearing to consider and, if appropriate, adopt a compliance schedule by which various classes of vessels will be brought into compliance with the standards specified in Section 41701 on and after January 1, 1984. Prior to taking any action to adopt any such compliance schedule, the state board shall report the results of its study to the Legislature, and in no event shall such study be filed with the Legislature later than January 1, 1983. The report shall also address emissions from diesel powered vessels.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 3154 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 41704 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 3154, that Section 41704 of the Health and Safety Code, as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill No. 3154, and that on the operative date of Assembly Bill No. 3154, Section 41704 of the Health and Safety Code as amended by Section 1 of this act be further amended in the form set forth in Section 1.5 of this act to incorporate the changes in Section 41704 proposed by Assembly Bill No. 3154. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 3154 are both chaptered and become effective on or before January 1, 1979, both bills amend Section 41704, and this bill is chaptered after Assembly Bill No. 3154, in which case Section 1.5 of this act shall become operative on the operative date of Assembly Bill No. 3154.

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:

Vessels engaged in commerce are being cited under the California air pollution control laws as if they are stationary sources of emissions while studies have shown that vessel power plants are fundamentally different in design and have ever-fluctuating power demands and ever-changing crews. Situations regularly arise requiring vessels to produce emissions in excess of established opacity standards over which the vessel has little or no control. The cost of compliance, especially regarding foreign flag vessels, and interference with maritime trade does not justify strict conformance with provisions of law adopted to control stationary sources.

In order that the impact of enforcement of such provisions be minimized at the earliest possible time, it is, therefore, necessary that this act take effect immediately.